

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 27th April, 2004

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

## PRAYERS

## NOTICE OF MOTION

SUPPLEMENTARY ESTIMATES (RECURRENT  
AND DEVELOPMENT) 2003/2004

**The Assistant Minister for Finance** (Mr. Katuku): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, a sum not exceeding Kshs7,117,230,446 be granted from the Consolidated Fund to meet expenditure during the year ending 30th June, 2004, in respect of Supplementary Estimates of 2003/2004, Recurrent, having regard to the proposed reduction of Kshs10,832,818,946 therein appearing.

THAT a sum not exceeding Kshs1,241,437,632 be granted from the Consolidated Fund to meet expenditure during the year ending 30th June, 2004, in respect of Supplementary Estimates of 2003/2004, Development, having regard to the proposed reduction of Kshs2,703,446,810 therein appearing.

*(His Excellency the President has given  
his consent to this Motion)*

## ORAL ANSWERS TO QUESTIONS

*Question No.004*

COMPENSATION FOR

MR. KOITALEL SAMOEI'S FAMILY

**Mr. Sambu** asked the Minister of state, Office of the President:-

(a) whether he is aware that on 19.10.1905, a British soldier, Capt. Minertzhagen, murdered the Nandi Laibon Koitalel Samoei together with 22 members of his family, and thereafter British troops, under the command of General Manning, killed 1,600 Nandis, robbing them of 16,213 cattle and 36,000 sheep and goats;

(b) whether he is further aware that the British thereafter evicted the Nandi from their ancestral land in Tinderet and the land was then annexed by the British, who occupy it up to now; and,

(c) what action he will take to have the British Government compensate the Koitalel Samoei's family and pay war reparations to the Nandi people.

**The Assistant Minister, Office of the President** (Mr. Dzoro): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government is aware that a British soldier, Capt. Minertzhagen, murdered the Nandi

Laibon, Koitalel Samoei, together with 22 members of his family.

(b) We are not aware that the British thereafter evicted the Nandi from their ancestral land in Tinderet.

(c) The Government has no intention to compensate the Koitalel Samoei's family. However, since it is evident that Capt. Minertzhagen confirms the act in his book *Kenya Diary, 1902-1906*, I recommend that---

**Mr. Obwocha:** On a point of order, Mr. Deputy Speaker, Sir. The public address system in the Chamber is not working.

**Mr. Deputy Speaker:** Could the technicians put the speakers on, if they are not on? I understand that the system was checked this morning, and it was working. So, let us try again and see whether it is working.

Mr. Assistant Minister, could you answer the Question afresh?

**The Assistant Minister, Office of the President (Mr. Dzoro):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government is aware that a British soldier, Capt. Minertzhagen, murdered the Nandi Laibon, Koitalel Samoei, together with 22 members of his family.

(b) We are not aware that the British thereafter evicted the Nandi from their ancestral land in Tinderet.

(c) The Government has no intention to compensate the Koitalel Samoei's family. However, since it is evident that Capt. Minertzhagen confirms the act in his book *Kenya Diary, 1902-1906*, I request the hon. Member to approach or seek advice from the relevant Ministry, through the Attorney-General, with a view to seeking compensation for the Nandi in the same way the Samburu were compensated for injuries caused by unexploded ordinances left behind by the British soldiers.

**Mr. Sambu:** Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for his reply, particularly to the last part of the Question. However, on his reply to part (b) of the Question, where he says that the Government is not aware that the British thereafter evicted the Nandis from their ancestral land, allow me to quote from the same book. Capt. Minertzhagen maintained a diary. He is the one who killed Koitalel Samoei, together with 22 members of his family. He had also killed other people in other parts of Kenya, including Embu.

Mr. Deputy Speaker, Sir, on page 291 of his book, Capt. Minertzhagen wrote that:-

"This was on 7th March, 1906 - Nandi Fought: Now that the Nandi have been driven out of their country, it has been thrown open to European settlement. I often wonder whether it was this idea which led the bad minds of the colonial office and the civil authorities out there when they not only sanctioned the Nandi expedition, but also defined the reserve. If this is the case, it was a most immoral excuse for dispossessing the Nandi."

It is a fact that the areas where tea is grown in Nandi Hills was Nandi land. That is where we were evicted from. That is where Mr. Tarus's and my own ancestors were evicted from, to the north. We do not want to evict anybody but we want to get compensated for the use of the land from 1906 to date. Could the Government help us to get this compensation?

**Mr. Dzoro:** Mr. Deputy Speaker, Sir, I think we should thank the hon. Member for having come up with such a Question after very many years. However, he is quoting from that book and that is why I gave my recommendation. How authoritative is the information from that book? So, it is only wise for the hon. Member to seek the necessary advice, and I am sure this Government will be in a position to help.

**Mr. Leshore:** Mr. Deputy Speaker, Sir, could the Assistant Minister also urgently determine how the British are going to compensate all the indigenous people of this country who

were removed from their land? This is because my people were also affected. They were removed from Laikipia District and one Laibon by the name of Leyaduma was also arrested and taken to Pate Island. He eventually died some time in the 1920s.

**Mr. Dzoro:** Mr. Deputy Speaker, Sir, I think that is a different Question altogether.

**Mr. ole Ntimama:** Mr. Deputy Speaker, Sir, could the Assistant Minister consider enjoining the Maasai community into this noble cause of accepting the fact that there are communities that have been historically mistreated and whose human rights were violated, like the Maasai community who were forcefully removed from the Rift Valley and taken to the malaria-infested area of the south, so that they can get compensation and reparation?

Mr. Deputy Speaker, Sir, I am saying this---

**Mr. Deputy Speaker:** Order, Mr. ole Ntimama! That is enough! You have asked a question.

Proceed, Mr. Dzoro!

**Mr. Dzoro:** Mr. Deputy Speaker, Sir, from what I am hearing from the hon. Members, I think it is evident that there were evils committed during the British colonial days. My advice would be that these hon. Members, who are here and who have all these complaints, should gather together and follow the advice that I have just given.

**Mr. Twaha:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** No, Mr. Twaha! There is no point of order! If you want to ask a question, just stand up and I will see you. Let us hear from Mr. Syongo.

**Mr. Syongo:** Mr. Deputy Speaker, Sir, first of all, I want to thank Mr. Sambu for bringing up this Question. I confirmed that the Nandis were removed from their ancestral land and they were all brought to Gwasi Constituency, where they were removed from at Independence to go back to a no-man's land somewhere in Nandi District. I also confirmed that an old man, a Mr. arap Kipnot and his son, arap Kiberenge, were in fact, in Gwasi Constituency with the whole lot of them. Given those facts; because they were moved from Gwasi by the Independent Kenyan Government, would it be in order for the Assistant Minister to consider enjoining the Gwasi community because of consequential liability?

Mr. Deputy Speaker, Sir---

**Mr. Deputy Speaker:** Order, Mr. Syongo! Once you ask one question, that is it. Please, ask one question at a time.

Proceed, Mr. Dzoro!

**Mr. Dzoro:** Mr. Deputy Speaker, Sir, I take note that some of the hon. Members have been in the previous Government for over 40 years and this matter happened a long time ago. However, I want to assure the hon. Members that the Government will look into the matter and determine whether it will be possible to compensate the Nandi and any other community.

**The Assistant Minister for Lands and Settlement** (Mr. Ojode): On a point of order, Mr. Deputy Speaker, Sir. We have a stranger in the Chamber. I have just seen Mr. Kones walk into the Chamber, and as you know, as I speak, Mr. Kones is a stranger in the Chamber. The High Court nullified his nomination to Parliament. Could you, please, clarify to us what is happening?

*(Loud consultations)*

*(Mr. Angwenyi stood up in his place)*

**Mr. Deputy Speaker:** Order, Mr. Angwenyi! On the point of order raised by Mr. Ojode, I want to confirm that we have not received any orders or ruling from anywhere to make us exclude Mr. Kones from the House. So, we cannot just act on rumours or newspapers.

Last question, Mr. Sambu!

**Mr. Sambu:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for promising that he is going to help us gain compensation. The British are the ones who demand for war reparations most on the earth. They demanded war reparations from the Japanese and on behalf of the Jews. We, the Nandis and other Kenyans as well, have a right to demand war reparations. Will the Assistant Minister, therefore, help us to file the case against the British for the war reparations and the damages inflicted on our people, because we are not demanding reparations from the Kenya Government but from the British Government?

**Mr. Dzoro:** Mr. Deputy Speaker, Sir, I will need to seek advice from the relevant history, so that we can determine how best we can go about it. Otherwise, as I promised, the Government is concerned about this Question and, definitely, it will give support.

**Mr. Deputy Speaker:** Next Question, by Mr. Marende!

*Question No.023*

RATIONALIZATION OF MILITARY PAY LEVELS

**Mr. Marende** asked the Minister of State, Office of the President:-

- (a) whether he could confirm that salary increases were awarded and effected to all military personnel in our Armed Forces in the month of July, 2003;
- (b) what explanation there is for the large difference in the increases between junior officers up to the rank of Major and the senior officers as to account for the range of 70 per cent and 5,000 per cent respectively; and,
- (c) what steps he is taking to correct the imbalance and/or rationalize the different levels of pay.

**The Assistant Minister, Office of the President (Mr. Dzoro):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) It is true that the salary increases were awarded and effected to all military personnel as from 1st July, 2003. The implementation was in two phases. The first phase was in July, 2003. This was a general Armed Forces personnel salary increment for all. The second phase in July, 2004 will provide a further adjustment of pay increases for personnel of the rank of Captain and below.

(b) The exercise of reviewing pay allowances, terms and conditions of service for the Armed Forces personnel is within the mandate of the Armed Forces Pay Review Board. In so doing, the Board, in addition to numerous visits to other public and private institutions, considers the following factors with a view to arriving at harmonised structure of salaries for the same. These factors are, inflation trends in the country, remuneration in the public sector and the Kipkulei Wages Harmonisation Commission Report. For that matter, it was observed that extreme disparities existed between Public Service salary scales at various levels and, more so, at senior managers and policy-makers level. This formed the basis of the pay, allowances review and the awards which were approved by the Government and implemented as earlier stated.

(c) In correcting the imbalance, the Government has already addressed the issue through the newly established Permanent Public Service Remuneration Board which is supposed to complete its work with the implementation of the pay award by July, 2004.

**Mr. Marende:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for the satisfactory answer he has given to this House. Seen in the light of the Government's declared policy of poverty reduction and rationalisation of our salaries, could the Assistant Minister explain why a soldier who does most of the work in the Armed Forces earns a salary of Kshs8,750 after the increase, whereas a commander earns a salary of over Kshs1 million? Could he explain that disparity?

**Mr. Dzoro:** Mr. Deputy Speaker, Sir, I have said that all the imbalances which have been there will be corrected by July, 2004.

*Question No.009*

RETIREMENT BENEFITS BILL FOR  
VICE-PRESIDENT AND SPEAKER

**Mr. Obwocha** asked the Minister for Finance when he will publish the retirement benefits Bills for a retired Vice-President and Speaker as provided for in the Cockar Report on remuneration, terms and conditions of service for Members of Parliament.

**The Assistant Minister for Finance** (Mr. Katuku): Mr. Deputy Speaker, Sir, I beg to reply.

The Vice-President and the Speaker are currently covered for pension benefits under the Parliamentary Pensions Act Cap. 196, which covers all Members of Parliament, including *Ex-officio* Members. It has, therefore, not been found necessary to come up with retirement benefits Bills specifically for the two Members of Parliament. The benefits under the Parliamentary Pensions Act Cap. 196 have been structured to ensure that a Vice-President or the Speaker who retires is able to maintain the standard of living he was accustomed to.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, first of all, this Assistant Minister appears not to be aware of what this House passed. I want to make him aware of what this House passed by tabling it.

**Mr. Deputy Speaker:** What is it Mr. Obwocha?

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I want to table this document because the Assistant Minister is not aware of the resolution of this House on the package of a retired Vice-President and the Speaker. I want to give him facts because his answer is unsatisfactory.

*(Mr. Obwocha laid the document  
on the Table)*

The President of this country is a Member of this Parliament, and yet he has a retirement benefit. I am saying this because the Assistant Minister has said that the Vice-President and the Speaker are Members of Parliament. The two positions are constitutional offices. The civil servants who drafted this answer should be sacked. I have the Act here. Where does it say, in Cap. 196, that the families of the Vice-President and the Speaker are covered? If you remember, the Member for Tigania East who served here from 1979, gets only Kshs26,000 per month. Is that the amount the Assistant Minister is talking about?

**Mr. Katuku:** Mr. Deputy Speaker, Sir, as I have indicated in my reply, the benefits contained in this Act address most of the fears the hon. Member has. I hope the hon. Member has read the Act which stipulates that the Speaker and the Vice-President are compensated adequately. The Cockar Report that the hon. Member has quoted, as far as our interpretation is concerned, covers the retirement benefits for the Vice-President and the Speaker. So, I have nothing to add, other than to assure the hon. Member that what he has raised is covered under this Act.

**Mr. Shitanda:** Mr. Deputy Speaker, Sir, you do remember that when we were debating the Presidential Retirement Benefits Bill, the package benefits for the Vice-President and the Speaker were in the initial draft. Could the Assistant Minister tell this House why the Speaker and the Vice-President were ultimately removed from the Presidential Retirement Benefits Bill?

**Mr. Katuku:** Mr. Deputy Speaker, Sir, it is true that the benefits for the Vice-President and

the Speaker were included in the draft Bill.

*(Mr. Uhuru Kenyatta was applauded  
as he entered the Chamber)*

But we realised that the interests of the Vice-President and the Speaker were covered under the Parliamentary Pensions Act, Cap. 196. That is why they were removed from that Act.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, would you sit there and allow this House to be misled, that the Parliamentary Pensions Act covers the package this House passed? I have the Act here! The Vice-President has pension, a winding-up allowance, house allowance, security, transport allowance, health and travel allowance. Is that covered under the Pensions Act? Why is the Assistant Minister misleading this House?

Mr. Deputy Speaker, Sir, could I request, with the indulgence of the Chair, that the substantive Minister comes and answers this Question?

*(Applause)*

This is because I do not think the Assistant Minister has powers to resolve this matter. We want these Bills to be brought before this House to address the retirement benefits for the Vice-President and the Speaker of this House.

**Mr. Deputy Speaker:** First of all, you know my position with regard to Questions being answered by Assistant Ministers. I have always said that an Assistant Minister is a Minister according to the definition of our Standing Orders. Therefore, the question of asking another Minister to come and answer that Question does not arise.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I have made that request because the Question has not been answered satisfactorily.

**Mr. Katuku:** Mr. Deputy Speaker, Sir, the hon. Member feels that the answer I have given this House is not satisfactory, and yet he is not pointing out the section which is not satisfactory. That is the issue we should deal with and not who is supposed to answer the Question. Even if you bring Mr. Mwiraria here--- This is the answer I have given this House, I am a capable Assistant Minister and I can give satisfactory answers. The hon. Member should raise what is not satisfactory to him. Simple!

**Mr. Oloo-Aringo:** Mr. Deputy Speaker, Sir, this is not a simple matter. The Cockar Report was laid on the Table and approved by this House. If the Assistant Minister reads the relevant Act, he will find that it provides not just for the Vice-President and the Speaker but also a winding-up allowance for Members of Parliament. That was a decision of this House and the Assistant Minister has got no choice. Could the Assistant Minister come back and answer this Question in this House and also shed light on what was passed by this House concerning the Vice-President, the Speaker and Members of Parliament?

*(Applause)*

**Mr. Katuku:** Mr. Deputy Speaker, Sir, what the hon. Member is asking is contained in the Cockar Report. It is not for me to go and bring it. It is a document that belongs to this House. It is out of that Report that we picked several aspects, including the one on the Vice-President and the Speaker of the National Assembly. In our interpretation, it was felt that it was not necessary to bring a special Pension Bill for them. That is because it is covered in the other case where the Questioner

is also covered.

**Mr. Deputy Speaker:** Next Question! Mr. Muriungi!

**Mr. Oloo-Aringo:** Mr. Deputy Speaker, Sir, you understand the status of the Parliamentary Service Commission. You are aware that---

**Mr. Deputy Speaker:** Order, Mr. Oloo-Aringo! I have not given you the chance! I gave you a chance to ask a question and it was answered. Let me go to the next Question by Mr. Muriungi.

**Mr. Oloo-Aringo:** Mr. Deputy Speaker, it is important for the House to know that---

**Mr. Deputy Speaker:** It is!

**Mr. Oloo-Aringo:** Mr. Deputy Speaker, Sir, you, yourself, was a Member of the Parliamentary Service Commission when we approved those particular allowances and pension---

**Mr. Deputy Speaker:** Order, Mr. Oloo-Aringo! I am not denying that it is an important matter. It is a normal Question. It has come through. It has been asked severally and the Assistant Minister has answered it. I rule that we move on to the next Question by Mr. Muriungi.

**Mr. Obwocha:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** No! Order! Mr. Muriungi, please, proceed!

*Question No.078*

MEASURES TO CURB UNFAIR  
TRADE PRACTICES

**Mr. Muriungi** asked the Minister for Finance:-

- (a) whether he is aware that some multinational companies are using unfair trade practices to kill locally-incorporated enterprises; and,
- (b) when the Government is going to introduce "Anti-Trust Regulators" to the Monopolies Act to control unfair trade practices.

**The Assistant Minister for Finance** (Mr. Katuku): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government is not aware that some multinational companies are using unfair trade practices to kill locally-incorporated companies.

(b) At the moment, we have a legislation in place that is aimed at taking care of issues relating to unfair trade practices. The Government is making arrangements to review that legislation, in order to make it more appropriate to do business under the prevailing circumstances, at this point in time. To that end, I am in the process of constituting a task force that will work out the modalities of reviewing the current legislation.

**Mr. Muriungi:** Mr. Deputy Speaker, Sir, I think the Assistant Minister is not being honest enough by saying that he is not aware of unfair trade practices, where multinationals are killing our local enterprises. It is very obvious to everybody. For example, we have Coca Cola Bottling Company and Kuguru Foods Industries, which are beverages manufacturing companies. That is a clear examples of where a multinational company is trying to kill a local company.

The Coca Cola Bottling Company has started even hawking canned sodas to motorists. They are also retailing soft drinks through case-lot depots.

*(Loud consultations)*

**Mr. Mukiri:** On a point of order, Mr. Deputy Speaker, Sir. We are not hearing what he is saying!

**Mr. Deputy Speaker:** Order! Mr. Mukiri, I sympathise with you. I have been informed that, as we sit here, something is going on. There are some engineers working on it. So, please, bear with us.

**Mr. Mukiri:** Could he then be allowed to speak from the Dispatch Box?

**Mr. Deputy Speaker:** No! But, Mr. Mukiri, bear with us! I think the microphone Mr. Muriungi is using is loud enough.

*(The Vice-President and Minister for Home Affairs (Mr. Awori) was applauded as he entered the Chamber)*

Order, Members! Mr. Muriungi, ask the question now!

**Mr. Muriungi:** Mr. Deputy Speaker, Sir, from the examples that I have given, every Kenyan is aware that the Coca Cola Bottling Company is selling those---

**Mr. Deputy Speaker:** Could you ask the question?

**Mr. Muriungi:** Some of those products have even been banned in other countries! What immediate measures is the Assistant Minister taking to protect our entrepreneurs from the multinationals that are killing our industries?

**Mr. Katuku:** Mr. Deputy Speaker, Sir, the Government is committed to ensuring fair-play in any entrepreneurship. As per the Price Control Act and Monopolies Act, everybody is given an opportunity to do his or her business within the law.

Mr. Deputy Speaker, Sir, in any case, where such cases occur, we are always ready to intervene. If the hon. Member has a case in point, he can report to us and we will intervene. Meanwhile, we are in the process of reviewing the laws to conform with today's business practices.

**Mr. Mukiri:** Mr. Deputy Speaker, Sir, I think it is very unfair to allow multinationals to bring down our local companies. The Coca Cola Bottling Company has been allowed to sell mineral water under the label "Dasani". We thought that Dasani was bottled from some river! I think they call it River Thames. It is brought here to compete with other companies in this country, which have invested heavily in that industry. What is the Assistant Minister doing to make sure that Coca Cola Bottling Company does not kill our local industries?

**Mr. Katuku:** Mr. Deputy Speaker, Sir, I would appreciate if the hon. Member could bring a specific Question, so that we can be able to deal with a specific issue. This issue is being generalised. He is talking about the Coca Cola Bottling Company! What specific---

**Mr. Deputy Speaker:** But, Mr. Assistant Minister, that is specific!

**Mr. Kutuku:** That is what I am asking! What specific practices is he talking about? We know that anybody who is licensed to do business in this country has a right to do business! If he or she is offended by other partners or business people, he or she can complain to us. We have not received such a complaint from anybody.

**Capt. Nakitare:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister, in his good senses, telling this House---

*(Laughter)*

**Mr. Deputy Speaker:** Order, hon. Members! Capt. Nakitare, you used unparliamentary language. Could you withdraw?

**Capt. Nakitare:** I withdraw the remark, but my question is---

**Mr. Deputy Speaker:** Order! You do not stand when I am standing! So, will you withdraw



and apologise?

**Capt. Nakitare:** I have withdrawn the unparliamentary language and apologised. But my question is---

**Mr. Deputy Speaker:** No! Order!

**Hon. Members:** It is a point of order!

**Mr. Deputy Speaker:** You did not stand to ask a question! You were on a point of order!

**Capt. Nakitare:** My point of order is: Dasani mineral water has been banned overseas because it contains a chemical which is detrimental to life! Why is it being promoted here? Is he in order to tell this House lies?

**Mr. Deputy Speaker:** Order, Capt. Nakitare! That is not a point of order! Therefore, it should be disregarded.

Next Question by Mr. M'Mukindia! Please, proceed!

**Mr. M'Mukindia:** Mr. Deputy Speaker, Sir, could the Assistant Minister tell us what led to the approval, two or three years ago, of the merger between Kenya Breweries and Castle Brewing, thereby making East African Breweries a single monopoly in this country?

**Mr. Katuku:** Mr. Deputy Speaker, Sir, that is a different Question to me. However, I want to indicate that the Government is committed to ensuring that individuals or competitors doing business in this country are given a fair ground. We came up with the Price Control Act and Restrictive Trade Practices Act and this does not restrict companies pooling together and even one pulling out. The only thing we are committed to ensuring is to outlaw omissions or commissions which may drive a competitor out of business or which may prevent one of the competitors from selling his interest. So, if it is a business whereby two partners come together in agreement, it is not an issue which touches on us.

**Mr. Muriungi:** Mr. Deputy Speaker, Sir, could the Assistant Minister tell us if he is convinced that the retailing of beverages by the manufacturers like Coca Cola is fair to the Kenyan retailer who is running his kiosk besides the case-lot depots?

**Mr. Katuku:** Mr. Deputy Speaker, Sir, what we are saying and in particular, regarding the case he is raising, whereby a businessman or a dealer is doing both production and retailing, is bad practice. We expect businessmen to be involved in production and not retailing. So, what he is saying is not fair practice and we are equally concerned and will take action against such companies.

**Mr. Deputy Speaker:** Next Question by Mr. Wamwere!

*Question No.003*

POSTING OF TEACHERS TO  
MWIRERI PRIMARY SCHOOL

**Mr. Wamwere** asked the Minister for Education, Science and Technology whether he could consider sending more teachers to Mwireri Primary School, Nakuru where three teachers have been assigned to teach six classes.

**The Assistant Minister for Education, Science and Technology (Dr. Mwiria):** Mr. Deputy Speaker, Sir, I beg to reply.

However, first of all, I would like to say that this is the third time this Question is appearing. After I asked the Ministry officers to check all records, they have established that there is only one school in Nakuru District by the name of Mwireri. According to the records, this school does not have inadequate teachers. I have spoken to the Member of Parliament, hon. Wamwere. It seems like he is referring to a different school and I have requested that he either asks a different Question or

gives me the name of the right school because this is the only school in the district going by this name and according to our records, this school has no problem in terms of teachers.

**Mr. Wamwere:** Mr. Deputy Speaker, Sir, the school that the Assistant Minister is referring to is a school that is in Mbogoini Division of Rongai Constituency. The school that I am referring to is in Kabazi Location of Subukia Constituency. Now that the Assistant Minister knows the difference between the two schools and, by the way, both schools are in Nakuru District, maybe, I can get a more correct answer about the right school because it is there. There are more than one schools known by that name in Nakuru District.

**Mr. Deputy Speaker:** Mr. Assistant Minister, what do you have to say about this?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, like I said, I have already discussed with the hon. Member of Parliament and he had indicated to me earlier on that the school is Mwireri Kabazi. Now, the Question is framed about Mwireri Primary School, as per the records, this school has no problem. I would just like to propose that the hon. Member frames the Question, giving the full names of the school and we will be quite happy to respond to that Question. However, for the Question that has been asked, there is no problem in this school.

**Mr. Deputy Speaker:** Hon. Members, the Chair is having a problem. This Question has been here for a long time. Is it not a matter that Mr. Wamwere and the Assistant Minister can sit down and sort out? I rule that the Assistant Minister and Mr. Wamwere sort out this matter rather than keeping on deferring it all the time. So, we do not have to waste time with that Question because Mr. Wamwere and the Assistant Minister are going to sort out the matter.

**Mr. Wamwere:** Mr. Deputy Speaker, Sir, do your instructions mean that the Question is not going to re-appear in the House or I give the Assistant Minister more information and have him try and give a more correct answer here, so that there is an opportunity for us to ask some other questions related to that Question?

**Mr. Deputy Speaker:** Mr. Assistant Minister, will you be in a position to sit down with Mr. Wamwere and sort out this matter?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, I had already proposed that before I answered the Question. However, if Mr. Wamwere and other Members of Parliament would like to ask questions on that, if we get a more correct Question, of course, we will be quite happy to respond.

**Mr. Deputy Speaker:** Mr. Wamwere, so there will be no need for the Question to re-appear on the Order Paper.

Next Question by Mr. Mwanacha!

*Question No.058*

COMPLETION OF KISII-NYARAMBA ROAD

**Mr. Mwanacha** asked the Minister for Roads, Public Works and Housing when the Kisii-Nyaramba section of the Kisii-Chemosit Road will be completed.

**The Assistant Minister for Roads, Public Works and Housing** (Eng. Toro): Mr. Deputy Speaker, Sir, I beg to reply.

Kisii-Nyaramba section of the Kisii-Chemosit Road is scheduled to be completed during the next financial year.

**Mr. Mwanacha:** Mr. Deputy Speaker, Sir, this road has been earmarked for completion since 1983. So, we are a little worried. Could the Assistant Minister confirm and tell us how much money has been allocated for its completion?

**Eng Toro:** Mr. Deputy Speaker, Sir, works commenced on the Kisii-Chemosit Road on 10th March 2002 and this contract is being undertaken by Put Sarajevo General Engineering

Company. The contract was to run for 20 months. However, due to the rainy weather conditions, the contract period was extended by ten months and it is scheduled to be completed on 10th September 2004. Currently, 75 per cent of the work has been completed and only 25 per cent is remaining.

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, the Kisii-Chemosit Road is a clear example of the inefficiency of the Government. Could the Assistant Minister confirm that when this road is done, the section between that road and Kisumu-Kisii Road will also be done, as it was designed earlier, through Nyamira?

**Eng. Toro:** Mr. Deputy Speaker, Sir, the priority is on Kisii-Chemosit Road because this road has, over the years, been a contentious issue and the hon. Member is aware of the politics that have been surrounding that road. When the road is completed, the section hon. Angwenyi is referring to will also be considered.

**Mr. Deputy Speaker:** Next Question by Prof. Olweny!

*Question No.111*

REPAIR OF KISUMU-MIWANI-CHEMELIL ROAD

**Prof. Olweny** asked the Minister for Roads, Public Works and Housing:-

- (a) whether he is aware that the Kisumu-Miwani-Chemelil Road C34 is threatened by gully erosion near Oroba Primary School and at a bridge near Chepsweta and;
- (b) what efforts he is making to save the road from such destruction.

**The Assistant Minister for Roads, Public Works and Housing** (Eng. Toro): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that a section of Kisumu-Miwani-Chemelil Road C34 near Oroba Primary School and at a bridge near Chepsweta is eroded.

(b) The Ministry has already started repairing those sections of the road. Repairs involve drainage, base repairs, patching and erosion protection works.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, it is true that work started at Chepsweta Bridge last year, but it stalled. No work was ever started on the gully near Oroba Primary School. Why did the work that commenced last year stall?

**Eng. Toro:** Mr. Deputy Speaker, Sir, the Provincial Works Officer, Nyanza, has been issued with Kshs3.6 million to work on the road. At Oroba Primary School, five culverts will be installed. At the Chepsweta Bridge, gabion works are in progress. This will be followed by stone-pitching for bridge approaches.

**Prof. Olweny:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, Prof. Olweny! What is it now? You have just asked a question.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, is the Assistant Minister in order to mislead this House that gabion work is being carried out at the gully near Oroba Primary School and yet no work has been done since last year?

**Mr. Deputy Speaker:** But the Assistant Minister said that money has been provided to the Provincial Works Officer whom he has instructed to do it. He has said that the work is going on.

**Mr. Sungu:** Mr. Deputy Speaker, Sir, as you know, this road passes right through my home and I use it on a daily basis whenever I am in my constituency. The entire road from Kisumu to Miwani, all the way to Chemelil and Muhoroni is full of potholes. It has such huge potholes that you can even bury someone inside them. I want to know from the Assistant Minister, what plans he has of reconstructing the entire road which is the lifeline of the communities living around it. Actually, the road serves the sugarbelt.

**Eng. Toro:** Mr. Deputy Speaker, Sir, this road is not a short one because it is 68 kilometres in length. And as the hon. Sungu said, it is in bad condition. It requires rehabilitation to bring it to a maintainable state. However, there are no immediate plans to reconstruct the road at the moment, but the Ministry will do its best to ensure that the road is as motorable as possible.

**Mr. Kombe:** Mr. Deputy Speaker, Sir, most of the Kenyan roads are in a very, very bad state. What plans does the Assistant Minister have to reconstruct the roads and put in place all the culverts that were washed away by the *El Nino* rains?

**Eng. Toro:** Mr. Deputy Speaker, Sir, part of the plans that we have, especially to deal with the culverts that were washed away, is to urge hon. Members of Parliament to access the Constituency Road Fund (CRF) because some of these culvert repairs do not need the attention of the Ministry's headquarters and some can be catered for by the District Roads Committees (DRCs). Any amount of work that is bigger than what the District Roads Committees (DRCs) can handle, can be referred to the Ministry. We will start with the known which is that hon. Members are getting some funds from the Fuel Levy. We should actually start from there.

**Mr. Deputy Speaker:** Last question from Prof. Olweny! You seem to have no question, Prof. Olweny!

**Eng. Nyamunga:** Mr. Deputy Speaker, Sir, the Question about the Kisumu-Miwani-Chemelil Road, affects many other roads within the Nyando Basin because of the nature of the soil in the area and the amount of water the soil has to handle. The drainage system along and across most of the roads is not working. Could the Assistant Minister consider allocating enough funds for the maintenance of drainage systems every year before the long rains occur?

**Eng. Toro:** Mr. Deputy Speaker, Sir, allocation of funds is being considered countrywide and it might not be possible to allocate funds to all the roads in the country at the same time in one financial year. I will ask the hon. Member to be patient until such a time when we will be able to allocate funds to the road.

*Question No.056*

SATELLITE ANIMAL DISEASES  
LABORATORY FOR IJARA DISTRICT

**Mr. Deputy Speaker:** Mr. Haji is out of the country. The Question is deferred until further notice.

*(Question deferred)*

*Question No.086*

TERMINAL BENEFITS FOR KR EMPLOYEES

**Mr. Ndolo** asked the Minister for Transport and Communications whether he could inform the House the number of employees of the Kenya Railways Corporation who proceeded on their retirement in the 1996/97 Financial Year and are yet to be paid their full retirement benefits.

**The Minister for Transport and Communications** (Mr. Michuki): Mr. Deputy Speaker, Sir, I beg to reply.

A total of 1,187 members of staff retired from Kenya Railways Corporation during the 1996/97 Financial Year and 831 of them left under the retrenchment programme, while 353 left through natural attrition. All their terminal benefits including severance pay for those retrenched, commuted portion of their pension and gratuity have been fully paid and the resultant pensioners are

presently receiving their monthly pensions.

**Mr. Ndolo:** Mr. Deputy Speaker, Sir, I thank the Minister for that answer. However, he is misleading this House. This matter is still in court and the file No.489 of 1998---

**Mr. Deputy Speaker:** What is it now, Mr. Ndolo? Please, ask your question!

**Mr. Ndolo:** Mr. Deputy Speaker, Sir, is the Minister telling this House that the retirees have been paid? Could the Minister tell this House when and where the money was paid? If the money has been paid, could he table the list of the names of the people who have been paid and the amounts they received?

**Mr. Michuki:** Mr. Deputy Speaker, Sir, the pension is obviously paid to the pensioners. It is not only that. We should be grateful that the corporation is now able to pay, not only the hospital insurance cover that is required of it, but also, the National Social Security Fund (NSSF) dues in a bid to maintain all pension payment for all ex-staff and not necessarily the ones who have been retrenched. This is applicable to all Kenya Railways Corporation staff who are eligible for such payment.

**Mr. Sirma:** Mr. Deputy Speaker, Sir, the Minister is actually misleading the House because there are workers who have retired from Kenya Railways Corporation, in Maji Mazuri and other stations in my constituency. These workers have not been getting their monthly dues, let alone their retrenchment benefits. Could the Minister assist these people who have not yet received their pensions to date?

**Mr. Michuki:** Mr. Deputy Speaker, Sir, I will appreciate so much if the hon. Member could bring to me a specific case. I will, then, be able to deal with the case either on the Floor of the House or directly.

**Mr. Midiwo:** Mr. Deputy Speaker, Sir, it is true that retrenched workers of Kenya Railways Corporation and many other employees are suffering a great deal in this country. However, I want the Minister to have a soft heart and look into this matter. Some of these people get a pension as low as Kshs300 a month. Could the Minister, in his heart, find it possible to arrange for a way so that these people do not spend a lot of money on fares travelling? He could arrange that their little money be sent to their local post offices instead of them travelling to the big towns to visit the big banks.

**Mr. Michuki:** The payment of pension is made either at the nearest post office, the office of the District Commissioner (DC) or District Officer (DO) whichever is nearest to the pensioner. If the hon. Member can come up with a better method, we shall, actually, consider it.

**Mr. Deputy Speaker:** Last question, Mr. Ndolo!

**Mr. Ndolo:** Even now as we are speak in this House, Kenya Railway (KR) workers have not been paid for the last three months. Could the Minister tell this House when these workers are going to be paid because they want to take their children to school but, up to now, they have not been paid for the last three months? Could he tell this House if the workers are going to be paid?

**Mr. Deputy Speaker:** Mr. Michuki, the question is; Since Kenya Railways workers have not been paid for the last three months, could you make arrangements for them to be paid?

**Mr. Michuki:** Mr. Deputy Speaker, Sir, I am not aware.

**Mr. Deputy Speaker:** Next Question!

**Mr. Mganga:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Yes, Mr. Mganga, what is your point of order?

**Mr. Mganga:** I think this is a case where there must be a very serious loophole between the bureaucrats and the Minister. Is the Minister in order to continue saying that workers who retired have been paid their benefits and that he is not aware that Kenya Railways staff have not been paid for the last three months, and yet we know that everywhere, including Voi, the last time when the

Kenya Railways staff were paid their salaries was in January? Surely, is it proper for the Minister to continue misleading this House?

**Mr. Michuki:** Mr. Deputy Speaker, Sir, I said I was not aware, and if I am not aware, I am not aware!

*(Laughter)*

**Mr. Deputy Speaker:** Order! Hon. Members, we have already spent one hour on Questions, and we are not doing well on this Order, we have to move on to the next segment---

**Dr. Godana:** On a point of order, Mr. Deputy Speaker, Sir. Hon. Members in the Front Bench had better choose their language carefully. When a Minister says that he is not aware, he is saying the allegation is false. We have two statements here. One hon. Member is saying that the staff have not been paid, and the Minister is saying that it is not true that they have not been paid.

Now, will you promise to go and check on this issue and then come back to the House with an authoritative Statement, and then we can pick up the issue with the hon. Member who says that workers have not been paid?

**Mr. Michuki:** Mr. Deputy Speaker, Sir, I plead with you to request the hon. Member to come up with evidence that no payments have been made, and I will look into it.

**Mr. Deputy Speaker:** We have to move on to Questions by Private Notice because we have already spent one hour on Questions. We are going to move a little bit faster.

Next Question by Mr. Ngoyoni!

### QUESTIONS BY PRIVATE NOTICE

#### COMPENSATION FOR VICTIMS OF UNEXPLODED ORDINANCE

**Mr. Ngoyoni:** Mr. Deputy Speaker, Sir, I beg to ask the Minister, Office of the President the following Question by Private Notice.

(a) Is the Minister aware that on 18th February, 2004, two boys, namely Sukule Timado (12 years) and Iltinga Mirgichan (14 years) were injured by unexploded ordinance at the British Army Training Field at Lore Soro?

(b) Is he further aware that 15 head of cattle were also killed during the above incident?

(c) What measures is the Minister taking to ensure that the families of the victims are compensated and hospital bills incurred at Wamba Hospital settled?

(d) Could the Minister halt any further military exercises until the area is cleared of any unexploded ordinance?

**The Assistant Minister, Office of the President (Mr. Tarus):** Mr. Deputy Speaker, Sir, for reasons beyond my control, I am unable to answer this Question today, until tomorrow. May I, therefore, seek for the indulgence of the House to answer it tomorrow morning?

**Mr. Deputy Speaker:** Very well. Mr. Ngoyoni!

**Mr. Ngoyoni:** Mr. Deputy Speaker, Sir, in your records, this Question was postponed from last week to today. Considering that this is a Question by Private Notice, it means that it is very urgent.

Could the Assistant Minister, maybe, tell this House why he is not---

**Mr. Deputy Speaker:** But the Assistant Minister has asked for some time up to tomorrow. He is not asking for too much, therefore, I will defer it to tomorrow afternoon.

**Mr. Leshore:** On a point of information, Mr. Deputy Speaker, Sir. The same thing is happening in my constituency, and those children who were also injured are still at Wamba Catholic

Hospital.

**Mr. Deputy Speaker:** Order, Mr. Leshore! You definitely know that you are out of order, because this is a Question---

**Mr. Leshore:** I said "point of information" because the Assistant Minister is lying!

**Mr. Deputy Speaker:** Order, Mr. Leshore! This is a Question by Mr. Ngoyoni, and it has been deferred until tomorrow. Please wait until tomorrow afternoon.

*(Question deferred)*

#### REHABILITATION OF FORMER PRISONERS

**Mr. Wamwere:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Home Affairs and National Heritage the following Question by Private Notice.

(a) What is the Government position on the rehabilitation of former prisoners?

(b) Given the recent crime wave, is the Minister aware that close to 40 per cent of former prisoners granted presidential amnesty are convicted of criminal offences almost immediately after their release?

(c) What is the Minister doing to assist former prisoners get work, avoid criminal activities and get integrated into the society?

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Dr. Machage):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government facilitates the rehabilitation of ex-prisoners through the after-care services provided by the Probation Department. Long sentence prisoners released from prisons are placed under the guidance and supervision of Probation Officers with a view to assisting them get rehabilitated into civil life. However, it must be reiterated that the family and the community at large, where ex-prisoners' come from, are major stakeholders in the prisoners' successful integration process.

(b) On 20th December, 2003, the Government released a total of 11,546 prisoners on presidential amnesty. Release of prisoners on presidential amnesty has been an ongoing exercise since Independence with the aim of de-congesting prisons. The exercise is carefully conducted on selected category of prisoners who are assessed to be rehabilitated and of low crime risk. Out of 11,546 prisoners released on 20th December, 2003, only 250 prisoners have been convicted of criminal offences after their release on presidential amnesty. This constitutes 2.16 per cent of the total number of prisoners released.

(c) It is Government's policy to promote former prisoners' opportunities for successful integration into the community. The re-integration process depends on the risk assessment conducted on every prisoner while undergoing rehabilitation and reformation in prison.

Mr. Deputy Speaker, Sir, in every prison, there is a discharge board which interviews all long sentence criminal prisoners within three months of their due date of discharge from prison. The discharge board is established under Section 121 of the Prisons Rules of 1977 and consists of prison officers, probation officers, civil leaders, and members drawn from the civil society. The role of the discharge board is to look into the resettlement needs of the ex-prisoners and recommends what assistance should be given with a view to their rehabilitation in civil life. On discharge from prison, every long sentence prisoner is placed under the after care services in the Probation Department, which facilitates his social re-integration.

The Government realizes that there is need to reform our peniological practices in order to re-orientate it with the modern good prison management and practices. This will include review of the Prisons Act---

**Mr. Deputy Speaker:** Order, Mr. Assistant Minister! I think it is becoming more like a Ministerial Statement. Could you please answer the Question without prolonging it?

**The Assistant Minister for Home Affairs and National Heritage** (Dr. Machage): Yes, Mr. Deputy Speaker, Sir. I have only one sentence to go. This will include review of the Prisons Act Cap.90 and Borstal Institutions Cap.92 in order to create the Parole Act, and half-homes to enhance prisoner's opportunities for successful re-integration into the community.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Wamwere:** Mr. Deputy Speaker, Sir, the most important way of rehabilitating and integrating ex-prisoners back to normal life is to give them work. Today, ex-prisoners cannot be employed before they produce a certificate of good conduct. However, ex-prisoners, and anybody else who has been charged in a court of law, will not be issued with a certificate of good conduct from the Criminal Investigation Department (CID) unless he pays Kshs1,000. What is the Assistant Minister doing to ensure that the CID issues ex-prisoners with certificates of good conduct to enable them secure employment? Alternatively, the Government can remove that requirement.

**Dr. Machage:** Mr. Deputy Speaker, Sir, I agree with Mr. Wamwere. I am happy he is here as an hon. Member of Parliament, himself being an ex-prisoner. My Ministry is thinking of amending the Prisons Act, Caps. 90 and 92, in order to create a parallel Act that will allow us to create that opportunity for ex-prisoners to get employment.

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, first of all, it is good to draw your attention to the fact that the public address system is not working.

**Mr. Deputy Speaker:** We know that!

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, I know you have been informed and I hope something is being done. That is why there is a lot of echo in the Chamber.

The Departmental Committee on Administration, National Security and Local Authorities made some recommendations when it visited several prisons, particularly on congestion and uniforms. The other day, when we visited some of the prisons, we found that congestion is still very high and some of the inmates do not have uniforms. What is the Assistant Minister doing about that?

**Dr. Machage:** Mr. Deputy Speaker, Sir, my Ministry is concerned about congestion in prisons, uniforms, blankets, mattresses and soap for the prisoners. However, some hon. Members think that these are luxuries. These items are expensive. We have submitted our budget to the Government and when it is presented to the House in June, we will request you to approve it to enable us purchase those items.

**Mr. Wamwere:** Mr. Deputy Speaker, Sir, prisoners are released upon the assumption that they are rehabilitated, are of good behaviour and have paid their debts to the society. Why is it so difficult for the Government to ensure that ex-prisoners are issued with certificates of good conduct, so that they can get employment, or simply waive the requirement of certificates of good conduct for ex-prisoners? I do not know why it is so difficult!

**Mr. Deputy Speaker:** Mr. Wamwere, you have asked a question. Please, let the Assistant Minister now respond.

**Dr. Machage:** Mr. Deputy Speaker, Sir, human psychology is not as easy to read as Mr. Wamwere would want to suggest to my Ministry. We assess prisoners before they are released, but we cannot be sure that they will be of good conduct after being released. However, 2.16 per cent of them are usually re-arrested and put back to prison. However, some of them are of good conduct; like Mr. Wamwere. That is why he is in Parliament. We are happy about that.

*(Laughter)*



**Mr. Wamwere:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! Order! Mr. Wamwere, we are not going to go into that!

**Mr. Wamwere:** Mr. Deputy Speaker, Sir, the Assistant Minister is misleading the House---

**Mr. Deputy Speaker:** Order! Order, Mr. Wamwere! I gave you a chance to ask the last question. Mr. Wamwere, I order you to sit down! No more points of order!

*(Mr. Wamwere stood up in his place)*

*(Question deferred)*

CLOSURE OF SIAYA MEDIAL

TRAINING COLLEGE

**(Mr. Weya)** to ask the Minister for Health:

(a) Could the Minister inform the House under what circumstances the Medical Training College in Siaya was closed on 12th April, 2004?

(b) What immediate measures will the Minister take to re-open the college?

**Mr. Deputy Speaker:** Next Question by Mr. Masanya!

SHOOTING OF MISS BEATRICE SOSI

BY ADMINISTRATION POLICE

**Mr. Masanya:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

(a) Is the Minister aware that on 19th December, 2002, at Nyaututu Primary School, Miss Beatrice Sosi and Master Patrick Ndege were shot by Administration Police who were accompanied by a former Member of Parliament for North Mugarango/Borabu?

(b) What are the results of the investigations?

(c) What action has been taken against the culprits?

**The Assistant Minister, Office of the President (Mr. Tarus):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that, on 19th December, 2002, at Nyaututu Primary School, Miss Beatrice Sosi and Master Patrick Ndege were shot by Administration Police.

(b) Investigations establish that Miss Beatrice Sosi died as a result of gunshot, while Master Patrick Ndege, who was shot on the thigh, was rushed to Nyabondo Mission Hospital, where he was admitted and discharged after treatment.

(c) Following this unfortunate incident, an Inquest File No.18/0/2002 was opened and statements from witnesses recorded. Arrangements have also been made to forward the same file to the Attorney-General for advice.

**Mr. Masanya:** Mr. Deputy Speaker, Sir, the answer given by the Assistant Minister leaves a lot to be desired. These two children were shot in front of a crowd of about 1,000 people during broad daylight. Why has it taken the Government 15 months to investigate the incident? This was an open case.

**Mr. Deputy Speaker:** Order, Mr. Masanya!

**Mr. Tarus:** Mr. Deputy Speaker, Sir, we regret that this incident has taken this long. We have undertaken to address some of the problems we experienced in the past to ensure that justice is seen to be done.

**Mr. Sasura:** Mr. Deputy Speaker, Sir, you realise that when the Government wants to cover

its officers, they normally open inquiry files or, instead of charging the officers, they put the matter as an inquest. The Assistant Minister is getting a lot of advice from the Minister for Trade and Industry. Could he now tell us why an incident that occurred in December, 2002, is being referred to the Attorney-General for advice in April, 2004? Does that make sense to him?

**Mr. Tarus:** Mr. Deputy Speaker, Sir, I wish to inform the House that, perhaps, what the hon. Member has alleged used to happen sometime ago, but it no longer happens. Whereas the incident has taken this long to be investigated, I want to assure the House that the persons involved will be brought to book.

**Mr. Nyachae:** Mr. Deputy Speaker, Sir, I happen to be aware of the incident, and I visited the place. It happened during the last general election campaign time. An Assistant Minister ordered the Administration policemen to shoot the child. Everybody at the meeting confirmed this, and we were assured that action would be taken against the culprits. That was a week before the elections. It is now 16 months and nobody, including the Administration policemen, has been arrested, yet we are being told of an inquest. Could the Assistant Minister tell us if we are protecting our officers, or what action is being taken?

**Mr. Deputy Speaker:** I think that hon. Members ought to know the rules of the House. A question has been asked, but before the Assistant Minister has answered it, there is already someone on a point of order. That is completely out of order.

**Mr. Tarus:** Mr. Deputy Speaker, Sir, certainly, we are not protecting any officer. We have said that the investigations have been completed and the relevant file forwarded to the Attorney-General for advice. I want to assure this House that whoever shot the child will be arrested and arraigned in court.

*(Mr. Masanya stood up at his place)*

**Mr. Deputy Speaker:** I thought it was agreed by Mr. Masanya that Mr. Nyachae asks the question!

**Hon. Members:** No! No!

**Mr. Deputy Speaker:** Mr. Masanya, do you still have a question?

**Mr. Masanya:** Yes, Mr. Deputy Speaker, Sir.

Could the Assistant Minister name the weapon that killed the child and when the killer will be arrested?

**Mr. Tarus:** Mr. Deputy Speaker, Sir, the most important thing is our objective. Our objective is to make sure that justice is seen to be done. We have said that since the investigations are complete, the necessary steps will be taken to ensure that those involved are apprehended and charged in court.

**Mr. Marende:** Mr. Deputy Speaker, Sir, I have no written answer but I will ask my Question by Private Notice!

RECONSTRUCTION OF EKWANDA  
PRIMARY SCHOOL ROOF

**Mr. Marende:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that thunder-storm driven winds blew off the roof and extensively damaged Ekwanda Primary School, completely destroying ten classrooms, one administration block and the school library on 14th March, 2004?

(b) what urgent steps is the Minister taking to reconstruct the school before schools re-open for the next term on 3rd May, 2004?

**The Assistant Minister for Education, Science and Technology** (Dr. Mwiria): Mr. Deputy Speaker, Sir, I was to apologise to hon. Marende.

However, as far as I am concerned, our written answers were brought to the National Assembly. Nevertheless, I will answer the Question using the answer that I have.

Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that ten classrooms, one administration block and the library of Ekwanda Primary School were destroyed by thunderstorm on 14 March, 2004. (b) Through the efforts of the District Education Office (DEO) and the school management committee, Kshs30,000 was collected on 15th March, 2004 and more meetings to mobilise additional resources are planned. With regard to funding, some American friends of the school gave a donation of US\$5,000, which is an equivalent of Kshs375,000. Parents volunteered to make 20,000 blocks for the construction of new classrooms. Currently, renovation is in progress with the assistance of Maseno Youth Polytechnic and Ekwanda Primary School. So far, three classrooms, the office and staff room have been re-roofed using the above mentioned funds. Plans have also been made with the local church to accommodate some of the classes, as we hope to re-open the school in May. I would like to say that an additional measure is to see that more trees are planted around the school to serve as wind breakers.

Finally, a modest amount of money has been sent from the Ministry to the school. This money was from the Repairs and Maintenance Item; Kshs141,000 will be sent to the school by the end of this month. Some more money was sent to the school in September last year.

**Mr. Marende:** Mr. Deputy Speaker, Sir, I find the answer by the Assistant Minister unsatisfactory. The damage to the school is estimated at Kshs2 million. When the Assistant Minister, therefore, says that the school has been given Kshs30,000, that is most unsatisfactory. Could he confirm that they are pressurising parents to contribute money to build this school, which contradicts the declared Government policy of providing free primary education? Is it a mere rhetoric or is it supposed to be implemented?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, I would like to correct the impression created. The Kshs30,000 is the amount that has been raised by parents, while Kshs375,000 is an amount that has been contributed by American friends. The Ministry has also sent to the school a modest amount of money from the Repairs and Maintenance Item.

**Mr. Deputy Speaker:** How much?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, my Ministry has sent Kshs141,000.

I would like to confirm that I am not aware that parents are being forced to contribute money to renovate the school. I would also like to say that the Ministry is banking on the support of other partners to build many schools, and doing so cannot essentially be a function of the Ministry of Education, Science and Technology. We are, therefore, going to continue relying on the support of other partners. However, whenever possible, the Ministry will contribute whatever resources will be available.

**Prof. Oniang'o:** Thank you, Mr. Deputy Speaker, Sir. Children cannot enjoy free primary education when they are in a school whose roofs have been blown off. I am aware that Ekwanda Primary School is not the only one whose roof has been blown off. In fact, this happens a lot to so many schools each time we have strong winds and a lot of rain. Could the Assistant Minister tell us what policy he is putting in place to ensure that, just before the rains come, schools are protected and children have roofs over their heads?

**Dr. Mwiria:** Mr. Deputy Speaker, I should say that Prof. Oniang'o is the one who has

urged us to have a policy on this matter because it is a recurring problem. I would like to say that we are in the process of completing the policy. The only reason why it is not complete is that it involves monetary implications which need to be negotiated with whoever is expected to provide funding for it. I agree with Prof. Oniang'o that we need to come up with a policy as the only permanent solution to this problem.

**Mr. Sambu:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has not clarified anything to the House. Is he in order to mislead the House, when the Question is on what the policy is? Parents have refused to collect any money whatsoever. Are the parents allowed to collect money or not?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, I do not think that by saying that we are working on a policy means that I was misleading the House. I would like to confirm that, obviously, nobody has said that parents and communities should not mobilise resources to renovate and reconstruct schools.

**Mr. Marende:** Could the Assistant Minister indicate where the students, who have no classrooms, are going to learn when schools re-open on Monday, and when exactly, in terms of months, the school will be reconstructed.

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, all I can say is that the school has made arrangements with the local church to use its buildings and accommodate the students as renovations take place. I cannot confirm a definite date by which the reconstruction of the classrooms will be complete.

PROVISION OF EFFECTIVE  
FIRE-FIGHTING SERVICES

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that, fire-fighting services in Nairobi and other major urban centres in the country are extremely inadequate?

(b) Is he further aware that as a result of this inadequacy, Kenyans have lost valuable assets and lives through incidents of fire in Nairobi, Kisumu, Eldoret, Mombasa, Kisii, Kitale and Nyeri in the last few months?

(c) What urgent measures will the Minister take to ensure provision of adequate and effective fire-fighting services?

**Mr. Deputy Speaker:** Is the Minister for Local Government not here? I suppose we will defer the Question and ask the Leader of Government Business to communicate with the Minister for Local Government. This Question will be deferred to tomorrow afternoon.

**Mr. Angwenyi:** Could you defer it to next week, because I will be away tomorrow afternoon?

**Mr. Deputy Speaker:** Next week? When?

**Mr. Angwenyi:** Any day next week.

**Mr. Deputy Speaker:** The Question is deferred to Tuesday, next week.

*(Question deferred)*

Hon. Members, that is the end of Question Time. I have a couple of requests for Ministerial Statements. Mr. Khamasi!

**POINTS OF ORDER**  
INVASION OF PRIVATELY-OWNED  
FARMS IN MAKUENI

**Mr. Khamasi:** On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Office of the President regarding an incident in Makueni District, where two Members of Parliament, one an Assistant Minister in the Office of the President, charged with the responsibility of keeping law and order, known as Prof. Kivutha Kibwana, and the second one hon. Kalembe Ndile, led and guided citizens of this country to go and illegally invade farms owned legitimately by other Kenyans. In the process, confrontation ensued, with the police causing some people to be injured. We would like the Minister of State in the Office of the President to tell us why the two MPs have not been arrested.

Secondly, could there be any reason why the Office of the President has to date not requested them to make a statement at a police station? Could the Office of the President advance reasons for double standards in the application of the law? Recently, we saw Mr. Ndolo record a statement for just opening his mouth carelessly.

*(Laughter)*

**Mr. Deputy Speaker:** Mr. Khamasi, are you through? Are you making a statement or asking for one?

**Mr. Khamasi:** Mr. Deputy Speaker, Sir, how about these two hon. Members, who have led people to break the law when they are supposed to uphold law and order?

**Mr. Deputy Speaker:** Is there anyone here from the Office of the President? here?

**The Assistant Minister, Office of the President (Mr. Dzoro):** Mr. Deputy Speaker, Sir, we will bring a Statement in two weeks' time.

**Hon. Members:** No! Tomorrow!

**Mr. Deputy Speaker:** Mr. Dzoro, bring the Statement next week.

CIRCULATION OF LEAFLETS  
IN RIFT VALLEY PROVINCE

**Mr. Mukiri:** On a point of order, Mr. Deputy Speaker, Sir. I rise to demand a Ministerial Statement from the Minister in charge of internal security. Last week, and over the weekend, some leaflets were circulated in my constituency. I have a copy of those leaflets.

**Hon. Members:** Koigi!

**Mr. Deputy Speaker:** Order, hon. Members! Mr. Mukiri will be heard!

**Mr. Wa mwere:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for an hon. Member to be---

**Mr. Deputy Speaker:** Order, Mr. Wamwere! You cannot just stand there and start talking! Sit down!

**Mr. Mukiri:** Mr. Deputy Speaker, Sir, these leaflets are being distributed within my constituency and I got this one over the weekend.

**Mr. Deputy Speaker:** Mr. Mukiri, are you asking for a Ministerial Statement?

**Mr. Mukiri:** Mr. Deputy Speaker, Sir, these leaflets state that certain communities should leave Rift Valley Province. I want to seek assurance from the Minister on what he is doing, because we do not know who are distributing these leaflets and why the Government has not arrested

anyone.

**Mr. Deputy Speaker:** Very well. Mr. Dzoro, you got that?

**The Assistant Minister, Office of the President** (Mr. Dzoro): Yes, Mr. Deputy Speaker, Sir.

**Mr. Wamwere:** On a point of order, Mr. Deputy Speaker, Sir. I am quite sure that you heard some of the people, who have in the past been responsible for the circulation of leaflets like these ones, making an allegation from where they are seated that I could be responsible for the circulation of these leaflets!

**Hon. Members:** Yes!

**Mr. Wamwere:** How is it possible for me to ask that I be evicted from my own home? The people---

**Mr. Deputy Speaker:** Order, Mr. Wamwere! You stood on a point of order and now you are trying to explain something. You said that some people mentioned your name. The only thing I can say is that I heard that, but I do not know who mentioned your name.

I can only say it is not in order for any hon. Member to impute improper motive on another unless there is a substantive Motion.

Mr. Mukiri, are we finished with you?

**Mr. Mukiri:** Could the Assistant Minister say when he is bringing the Statement?

**Mr. Deputy Speaker:** He will bring it next week.

#### CLOSURE OF COCA COLA BOTTLING PLANTS

**Mr. Ndambuki:** On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister of Trade and Industry. Machakos and Nakuru Coca Cola Bottling Plants will be closed this coming Friday. By that action, 20,000 workers will be left without jobs.

Could the Minister tell us exactly what he is doing to stop this, so that these people do not lose their jobs?

**Mr. Deputy Speaker:** Very well. Mr. Minister, you have heard that.

#### HARASSMENT OF CHULUNI CHIEF BY MINISTER

**Mr. J.K. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister of State, Office of the President, in charge of internal security, on an incident which happened in my constituency, at Chuluni Chief's Camp, which the Minister for Health, Mrs. Ngilu, visited and made the chief salute her several times before going to the microphone and apologising in public.

Mr. Deputy Speaker, Sir, the Minister said that from then henceforth, the chief will not work with any person other than the Minister and her allies, which meant leaving us out. We want the Minister to clarify whether civil servants are supposed to take a partisan positions when it comes to serving the public.

**Mr. Deputy Speaker:** Very well. Mr. Minister of State, Office of the President, you have heard that.

**The Assistant Minister for Energy** (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir.

**An hon. Member:** Are you the Minister of State?

**The Assistant Minister for Energy** (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, it does not matter whom you ask a question. I have my own point of order. Are you going to set a precedent in

this House by allowing hon. Members to now come here to settle their scores with others by asking for Ministerial Statements? What is the actual position of the Chair?

**Mr. Deputy Speaker:** Order, Mr. Kiunjuri! I do not know what scores you are referring to. Hon. Members have a right to seek Ministerial Statements. If there are any scores to be settled, let the Minister who has been asked for a Ministerial Statement come and raise that issue.

Let us move on to Ministerial Statements. First there is the hon. Vice-President---

**Mr. Ivuti:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, Mr. Ivuti! Sit down!

*(Loud consultations)*

Order! I think the mood of the House is that Mr. Ivuti should be heard.

**Hon. Members:** Yes!

**Mr. Ivuti:** Mr. Deputy Speaker, Sir, could we know the day when the Minister in the Office of the President will bring the Ministerial Statement which is being sought by Mr. J.K. Kilonzo, to explain why such a Minister is practising modern day political tourism?

*(Laughter)*

**Mr. Deputy Speaker:** Mr. Dzoro, tell us when you will do so.

**The Assistant Minister, Office of the President (Mr. Dzoro):** Mr. Deputy Speaker, Sir, next week.

**Mr. Deputy Speaker:** Very well. Next week!

Hon. Members, let us move on. I said the Vice-President and Minister for Home Affairs would like to make a Personal Statement. I want to draw the attention of hon. Members to Standing Order No.69 which reads as follows:-

"By the indulgence of the House, a Member may explain matters of a personal nature although there is no question before the House, but such a matter may not be debated."

So, let us give the Vice-President and Minister for Home Affairs this opportunity, as he requested, to make a Personal Statement.

**Mr. Maore:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** What is it?

**Mr. Maore:** Mr. Deputy Speaker, Sir, during debate time on Tuesday last week, the Government did undertake to bring a Ministerial Statement regarding the procurement of computers for the Immigration Department, the following day. However, at the request of the Leader of Government Business, he did send the Chief Whip to plead that the Ministerial Statement be brought today. If they deny this, let them say so on record.

**Mr. Deputy Speaker:** Order, Members! I have been informed by the Vice-President and Minister for Home Affairs that, that is a different matter. However, let the Personal Statement be read!

**Dr. Godana:** On a point of order, Mr. Deputy Speaker, Sir. We just want clarification on this issue. The Vice-President and Minister for Home Affairs is entitled to make a Personal Statement anytime. However, for the avoidance of doubt, this is a matter of tremendous public importance. We were expecting that he would make a Ministerial Statement in response to the issue.

Mr. Deputy Speaker, Sir, if he is making a Personal Statement, we will not raise questions against him, but if that is the case, do we get the Chair's assurance that the Government is still required to bring that Ministerial Statement? We also want to know from him when that Ministerial

Statement will be brought before the House.

**Mr. Deputy Speaker:** Very well. I think the Vice-President's Personal Statement does not preclude the Ministerial Statement on the matters raised. That must be very clear. However, that does not stop the Government from coming up with a Ministerial Statement on the matter.

### PERSONAL STATEMENT

#### PROCUREMENT OF EQUIPMENT FOR IMMIGRATION DEPARTMENT

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, before I make the Personal Statement, let me assure the House that the matter raised by Mr. Maore is under investigation, and that everything will be done so that this House can be apprised on the situation. I am making this Personal Statement because my name has been mentioned. This Personal Statement will be a little long, so, I would like to request your indulgence, my colleagues. It is as follows:-

I wish to respond to the allegations made by Mr. Maore on 20th April, 2004, regarding an Immigration Tender. Governments worldwide have been forced to devise new strategies to fight international terrorism which has become a real threat to peace.

In view of the 11th September, 2002, two terrorist attacks in the United States of America (USA), Kenya has similarly suffered serious terrorist attacks with the loss of human life and property, on 7th August, 1998, and again in November, 2002. One of the glaring weak points that were detected was the passport issuing system which has become infiltrated by fraudsters and other criminals who are forging our passports and using them for criminal activities, and the weak border control system in place. Indeed, you may recall our development partners indicating that our borders were so porous and could be infiltrated by terrorists, thus making Kenya a terrorist haven. In view of the above, there was an urgent need to address the modernisation of the Immigration Department and border control systems. You will agree with me that when the NARC Government came into power---

**Dr. Godana:** On a point of order, Mr. Deputy Speaker, Sir, I respect the person of the Vice-President and Minister for Home Affairs, and I hate to do this. However, we have to be a House capable of respecting ourselves. The capacity to respect ourselves is also the capacity to respect our rules. Standing Order No.69, under which the Vice-President and Minister for Home Affairs stood up to make the Personal Statement states, and I quote:-

"By the indulgence of the House, a Member may explain matters of a personal nature although there is no question before the House, but such a matter may not be debated."

The Vice-President and Minister for Home Affairs is clearly responding to the policy issue raised as a matter of public interest. It is, therefore, not a matter of personal nature. It would utterly be out of order for him to give a response to the serious issue raised by Mr. Maore under the guise of a Personal Statement and escape being questioned further on it. This is not a Personal Statement. Let him go back and bring a Personal Statement or give this as a Ministerial Statement in response to the issue which was raised.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, although this is a Personal Statement, I will be quite happy, at the end of it, to clarify anything. When I started, I mentioned quite clearly that investigations are going on. I do not think it is possible to allow my name to remain uncleared until such a time.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, Members! Let us hear more from Mr. Awori.



**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, in view of the above, there was an urgent need to address the modernisation of the Immigration Department and border control systems. You will agree with me that, when the NARC Government came into power, it inherited obsolete and corrupt systems that needed to be overhauled to meet the challenges posed by international terrorism.

Mr. Deputy Speaker, Sir, the process of procuring equipment for the Immigration Department was initiated way back in year 2000. That is when the Immigration Department identified the need for an Immigration Information Management System to be installed comprising of at least ten modules. This was in line with the September, 2000, Computerisation Project Needs Assessment Report which recommended that the Immigration Department should design modern and enhanced computer systems.

On 1st October, 2001, the Immigration Department requested authority from the Office of the President, under which it was placed at the time, for only a passport issuing system through restricted tendering---

**Mr. Salat:** On a point of order, Mr. Deputy Speaker, Sir. We have just asked the Chair to clarify to this House if what the Vice-President and Minister for Home Affairs is reading is a Personal Statement or a Policy Statement.

**Mr. Deputy Speaker:** Order, hon. Members! I had said that I wanted to listen a bit! But now, may I ask the Vice-President and Minister for Home Affairs to go into matters which are personal in this House.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, I have to continue the way I am doing in order to clear any doubt that I may have been involved in any wrong-doings! As I will show right now, there was no---

*(Applause)*

*(Several hon. Members stood up  
in their places)*

**Mr. Deputy Speaker:** No! No! No! Order, hon. Members! Will you sit down, Mr. Sasura? Will you sit down? I did say: "Let the Vice-President and Minister for Home Affairs continue because he is going towards a matter of personal nature! I am listening very carefully. I suppose that Mr. Awori has finished going round, so that he can go to specific matters.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, with all due respect, I cannot understand why some Members of Parliament, particularly those who have cast aspersions, do not want to see or understand the situation. I cannot understand!

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! Let the Vice-President and Minister for Home Affairs continue.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, that was a request by the Immigration Department to the Office of the President, which was granted vide the letter dated 5th February, 2002, forwarding the Treasury's authority on the 8th of January, 2002. Five firms were invited to tender for the supply, but only three of them namely; De La Rue Identity Systems, AIT International and PLC and Face Technologies responded. On the analysis of the bids presented, only one firm was found to meet both commercial and technical requirements. However, its quotation of Kshs622 million was found to be far in excess of the Budgetary allocation for the Item. The tender could not, therefore, be awarded due to lack of funds. Consequently, it was cancelled and the tenderers informed on 5th August, 2002.

Due to the prevailing weakness in the Immigration System and the need to counter the terrorism threat which was growing, the Department, once again, made representation to be allowed to make phased implementation of the required immigration systems to cover several years, for ease of payments. The Department sort clearance for the extension of the authority to procure the passport issuing system to cover the financial year, 2002/2003. That was granted on 17th October, 2002, by the Permanent Secretary, Office of the President.

In October, 2002, tenders were floated to six firms using revised technical specifications under tender number so-and-so. That was to cover only passport issuing system by the deadline of 28th November, 2002. Three of the firms namely; Face Technologies, De La Rue and GET Group had responded, quoting the following figures:-

Face Technologies of South Africa quoted US\$9,946,965, GET Group of the United States of America (USA) quoted US\$10,596,813 and De La Rue of the United Kingdom (UK) quoted S£7,951,025, which is equivalent to US\$12,324,445. After evaluating the bids, a technical committee comprising of Government Information Technology Services (GITS) and the Immigration Department, found out that none of the firms that had responded met the required technical specifications. That was communicated vide letter so- and-so dated 6th May, 2003. The GITS advised that the project should be redesigned to cover a comprehensive vital system, in view of the global threat caused by terrorism and border control system, or as required by the security organs of the Government.

Mr. Deputy Speaker, Sir, the need to implement a comprehensive immigration system continued to be felt due to global terrorist threats. At the same time, there were pressures exerted by our development partners to improve the immigration system of this country to acceptable international standards. Some of those countries issued travel advisories, indicating that Kenya was unsafe to visit. They also felt that the authenticity of a passport could no longer be guaranteed. The USA Government, in particular, expressed willingness to support and improve the immigration and border control systems. In fact, they introduced the personal identification secure comparison and evaluating system, which is being implemented in all our major airports, and will gradually be extended to other border controls.

In a meeting held at the Treasury on 27th August, 2003, and attended by the permanent secretaries, Treasury and Home Affairs, technical officers from the GITS and those from the Immigration Department, it was decided that, in view of the importance of modernising immigration equipment and systems, there was need for the Treasury to seek funds from donors to implement the enhanced projects, since it could not be contained in the annual budgetary allocations. That being an important security project in the country, and in view of the urgency of the project, the Government scouted for possible alternative sources of funds as donors were not forthcoming. Consequently Francois Charles Oberthur of France offered to supply the enhanced and integrated immigration information management system and to arrange credit-financing through Anglo Leasing and Finance Limited. That company is an internationally reputed company which has undertaken similar projects elsewhere.

Mr. Deputy Speaker, Sir, authority was then sought by the Ministry of Home Affairs to undertake direct procurement, as per the provisions of Public Procurement Regulations Act, 2001, which was granted by the Treasury. Among other conditions is that the financing is over a long period. It is envisaged that the phased implementation of the project would, in the long run, be self-financing due to enhanced revenue collection, which will be brought about by the introduction of high security visa stickers. The project will cover six of the required ten major components as follows:-

- (i) The production of high new generation security passports.
- (ii) A new passport issuing system.
- (iii) High security new generation visas.
- (iv) Issuance of high security visa stickers to enhance revenue collection.

At the moment, it is believed that a lot of money is being lost through the manual visa-issuing system. The system should help to collect up to about Kshs3 billion annually, as opposed to the current revenue collection of Kshs1.2 billion annually.

(v) Enhancing border control system.

(vi) Computerisation of machine readable immigration records, including an evaluation monitoring system.

Mr. Deputy Speaker, Sir, implementation of the project is just about to start, following the payment of commitment fee by the Government, which was a condition required from the Government to access the credit.

Mr. Deputy Speaker, Sir, it has been alleged that the lowest firm that tendered for the immigration project in October, 2002 was De La Rue, allegedly for US\$7,951,250. That was not true because the firm offered S£7,951,250, which was equivalent to US\$12,324,445. That was, in fact, the highest bid. The firm that will undertake the passport issuing component offered 4,515,000 Euros, which was about half the price that was offered by De La Rue.

Mr. Deputy Speaker, Sir, I would also like to clarify that it was expanded to cover various security components in line with international security requirements. The earlier one component, passport issuing system that had been tendered, was grossly inadequate. The bids that were offered were very expensive for one component.

Mr. Deputy Speaker, Sir, secondly, De la Rue Company did not have the technology that was required to meet the necessary technical specifications for the project.

I would like to emphasise that the NARC Government has stood for performance, transparency and accountability since it took over the reigns of Government. In the Ministry of Home Affairs, we are determined to make a lot of changes where we are concerned. We want to modernise, not only the Immigration Department, but also Prisons and even the National Youth Service, which require enormous support in terms of finance. We note that the Government cannot meet all those requirements on its own. If we can get assistance from any of our friends, whether in terms of direct supply of equipment or through affordable credit, we will gladly accept the offer.

Mr. Deputy Speaker, Sir, I want to assure this House that there was no impropriety involved, and definitely, there is nothing that can touch me. Give us time and you will see a new face of Immigration Department, which currently is facing numerous complaints on inefficiency, loss of revenue and archaic equipment.

Mr. Deputy Speaker, Sir, as I mentioned, I just wanted to make it quite clear that all the explanations on accountability will be given to the Ministry of Finance through the investigations that are going on.

I was reading my Personal Statement, hon. Maore was asking, when I mentioned about the company, where has the company performed this. I have got it here.

Mr. Deputy Speaker, Sir, the company has given all these---

## CONSIDERED RULING

### PROCUREMENT OF EQUIPMENT FOR IMMIGRATION DEPARTMENT

**Mr. Deputy Speaker:** The Vice-President has made a Ministerial Statement; not a personal statement. Can I, please, stop you because you have finished the statement. I have listened very carefully to the statement by the Vice-President and I want to say that it does not clearly fall under Standing Order No.69 and, therefore, I will declare it a Ministerial Statement and it qualifies for Members to seek clarifications.

*(Applause)*

**Mr. Sungu:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! I have already said what I said.

**Mr. Sungu:** Mr. Deputy Speaker, Sir, there is also the question of procedure.

**Mr. Deputy Speaker:** Mr. Salat, you can seek clarification.

**Mr. Salat:** Thank you, Mr. Deputy Speaker, Sir. I am actually surprised that you allowed His Excellency the Vice-President---

**Mr. Deputy Speaker:** Order! Order, Mr. Salat. I gave you permission to seek clarification because I said it was not under Standing Order No.69. Now, can you seek your clarification?

**Mr. Salat:** I apologise, Mr. Deputy Speaker, Sir.

**Mr. Angwenyi:** On a point of order, Mr. Speaker, Sir.

**Mr. Deputy Speaker:** Order! Order, Mr. Angwenyi! Order, Mr. Sungu; could you sit down? Proceed, Mr. Salat.

**Mr. Wanjala:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Salat:** Thank you, Mr. Deputy Speaker, Sir. I am sure Mr. Wanjala knows I am about to table more documents.

**Mr. Wanjala:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Mr. Wanjala, you are being disorderly. Proceed, Mr. Salat.

**Hon. Members:** Throw him out?

**Mr. Salat:** Mr. Deputy Speaker, Sir, I would like to seek clarification---

**Mr. Wanjala:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Can I hear Mr. Salat?

**Mr. Salat:** Mr. Deputy Speaker, Sir, I would like to seek a clarification from His Excellency the Vice-President because the document---

**Mr. Wanjala:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, Mr. Salat! Mr. Wanjala, you are disorderly and you must leave the Chamber now!

*(Applause)*

*(Mr. Wanjala withdrew from the Chamber)*

**Mr. Deputy Speaker:** Now, Mr. Salat, can you seek your clarification?

**Mr. Salat:** Thank you, Mr. Deputy Speaker, Sir. What I have with me are documents of communication between the Ministry of Finance and the Ministry of Home Affairs. The statement that the Vice-President read is all here with me and I would like to table it, because our concern is that in one of these documents, the communication between the Ministry of Finance and the Immigration Department, which is his Ministry, it is said that the supply of new computers and new passport issuing system was way beyond the Department's allocated Kshs180 million. It goes ahead and says that, "as such---

**Mr. Deputy Speaker:** Mr. Salat, please, seek your clarification on what he has just said.

**Mr. Salat:** Mr. Deputy Speaker, Sir, I am tabling these two documents which include the statement read by the Vice-President. They will actually go to show that this project, called the 'Turnkey project', once they found out that they did not have enough money to fund the project, they went ahead--- I would like the Vice-President to explain to the House the communication between the Ministry of Finance and the Immigration Department; when they came up with the 'Turnkey project' proposal to finance the project. Could the Vice-President tell the House if a new and improved 'Pattni' is in the works, seeking money and going by the name of 'Jimmy', traversing the country looking for funds to fund the 'Turnkey project'?

*(Loud Consultations)*

**Mr. Deputy Speaker:** Order, Members!

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, let me respond to that. Indeed, the Immigration Department addressed themselves to the Treasury and stated that the amount of money allocated to them was not adequate to do even the passport component, but because we were now being isolated as the country that has got archaic passports and archaic immigration system, we sought the permission of the Treasury to do the Turnkey System that he is referring to.

In this project, which is costing Kshs2.7 billion, one component alone is going to bring in an extra Kshs1.8 billion in a year. That is the Visa Section. That simply means that the amount of money that the total system is costing this Government should be recovered in less than three years.

**Mr. Sambu:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** I will allow the Vice-President to sit and note down three clarifications and so that he answers them together. First, Mr. Nyachae's clarification?

**Mr. Nyachae:** Thank you, Mr. Deputy Speaker, Sir. First, let me thank the Chair for giving a ruling that this was not a Personal Statement; it was a Government Statement. Listening to the Statement by the Vice-President, obviously, this thing has got a very winding history. We know that there is a lot more that the Vice-President has not covered. Could I seek your indulgence and your ruling that this matter should not be wished away here in the form of a Ministerial Statement. Let it be referred to the relevant Committee of the House so that it can bring a report to this House.

**Mr. Deputy Speaker:** Just to answer Mr. Nyachae, I want to confirm that the Public Accounts Committee (PAC) has already sought a special audit from the Controller and Auditor-General. As I speak, PAC is handling the matter.

**Mr. Maore:** Mr. Deputy Speaker, Sir, I did not want to dispute that direction of taking it to a Committee of the House. However, the only clarification I wanted to seek is, after the tenders and the technical evaluations done, the end user did not complain about any of the people not being qualified. The complaint came from the Treasury. At what stage did the Minister discard a tender that had already been opened so that they could go and seek another one through single-sourcing?

**Mr. Mwenje:** Mr. deputy Speaker, Sir, I have most of the documents which are involved in this matter. The issue is already before the Departmental Committee on Administration, National Security and Local Authorities. It has already been discussed---

*(Loud consultations)*

This is a matter which has emanated from immigration.

**Mr. Deputy Speaker:** Order, Mr. Mwenje! If it is a matter of which Committee, I think you know the position. If you want to seek further clarification, we can do it in the office. If you want to seek clarification, do it.

**Mr. Mwenje:** Mr. Deputy Speaker, Sir, the earlier arrangement was that the issue would go for tender. The Vice-President and Minister for Home Affairs has said that three companies that tendered. However, the company that was finally awarded this tender had not tendered. He has said that they did it through single-sourcing. Who is made that decision? Why were those companies which had tendered for the job not asked to submit fresh bids?

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Thank you, Mr. Deputy

Speaker, Sir. I think you have clarified the first issue raised by Mr. Nyachae. In fact, this was contained in my preliminary remarks. I mentioned that the matter is still under investigation. Investigation includes the Public Accounts Committee (PAC). The Committee will go into this very thoroughly and any other investigative channels.

As to the question of the tender and who should know what is workable and what is not, we have Dr. Sionik in the Ministry of Finance, to whom we referred this matter. Dr. Sionik showed quite clearly that the original job, which had one small component of a passport, was inadequate to meet the current requirements to fight against international criminology.

As to the third question that Mr. Mwenje has brought up, this is not a security issue because we have not breached security. This is a matter of accountability and, therefore, it comes under the PAC, which is going to deal with it. However, it is important that we should not forget some of the things that I mentioned. One asks: Why was the tender done through single sourcing? We know, indeed, that where matters of security are concerned, for some of the components, if you show them to about five or six tenderers, only one will win. The other four or five know exactly the systems that you are going to utilise. It is quite possible that they could compromise that system. This is a practise all over the world. I know that it gets abused and there is no doubt at all about that. However, you cannot move without certain risks. You have to trust in the NARC Government that it is just going to be accountable.

*(Several hon. Members stood up  
in their places)*

**Mr. Deputy Speaker:** Order! Let us have the next Ministerial Statement by the Minister for Energy. Is the Minister there? Mr. Kiunjuri, the Minister wanted to issue a Ministerial Statement. Are you aware about it? I understand he has left. Therefore, he will come tomorrow for his statement.

*(Mr. Kiunjuri consulted with  
the Deputy Speaker)*

*(Mr. Sungu stood up in his place)*

Order! That matter is concluded, Mr. Sungu. You are being disorderly.  
Next Order!

## **BILLS**

### *First Reading*

#### THE CO-OPERATIVE SOCIETIES (AMENDMENT) BILL

*(Order for First Reading read - Read the  
First Time and ordered to be referred to the relevant Departmental Committee)*

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! Hon. Members who want to withdraw, please, do so quietly!

Next Order!

*Second Reading*

THE PRIVATISATION BILL

*(The Assistant Minister for Finance  
(Mr. Katuku on 21.4.2004)*

*(Resumption of Debate interrupted  
on 22.4.2004)*

**Mr. Deputy Speaker:** Mr. Kipchumba, you were on the Floor. You have 15 minutes.

**Mr. Kipchumba:** Mr. Deputy Speaker, Sir, thank you. I wish to continue with my contribution on the Privatisation Bill.

I had just completed saying that the Executive Officer of the Commission and the Chairman must not necessarily be lawyers. I had also said that a Minister must not be given a lot of power in the administration of privatisation.

I wish to further clarify that in order to enhance accountability, we must ensure that Parliament is involved in ensuring that privatisation is done in the best way possible. I would like to suggest that a Parliamentary Select Committee should be formed to oversee the entire process of privatisation.

As I said earlier, parastatals are, by extension, owned by members of the public. I would like to propose the formation of a Select Committee to look into this matter, because privatisation is not a process in perpetuity. It is a process that will end as soon as all the assets of the Government and shares in the various companies have been sold. The next question is: Why then should we have that commission in place?

Mr. Deputy Speaker, Sir, I would also like to suggest that the chief executives of the companies must be approved by Parliament. The amount of money being held by the Government on behalf of Kenyans is quite enormous. Therefore, we cannot entrust those valuable assets and shares to a single Minister, namely, the Minister for Finance. That is why, whoever is appointed to head the commission, must be approved by Kenyans through their representatives in this House.

I am surprised that the Bill provides for the establishment of a tribunal. I do not see the essence of establishing a tribunal in perpetuity. In my view, that tribunal must be *ad hoc*. It should be formed for the sake of finalising certain transactions, after which it should be disbanded. It will cost taxpayers a lot of money to maintain a tribunal, which may not necessarily have a lot of responsibility. We might have a situation where only one company will be sold in a year. In such a situation, we will pay remuneration to members of a commission and a tribunal whose work could easily be by an *ad hoc* committee. Therefore, to ensure that taxpayers do not incur a lot of expenses, the tribunal should be on *ad hoc* basis.

I would also like to suggest that the mandate of the proposed committee be limited to three years. As I said earlier, the process of privatisation is not in perpetuity. Once it completes its mandate, the Commission should be disbanded. We should, therefore, through Parliament, give the Commission a mandate for only three years. That mandate should be renewable, subject to evaluation of how much work it would have done. That suggestion conforms with the requirement that the Chief Executive can only serve for three years and he is subject to re-appointment. I would like to suggest that the provision for re-appointment should be for only one more term.

Mr. Deputy Speaker, Sir, the Bill provides that the valuation shall be performed by a qualified person, appointed by the Commission. The Bill further says that the regulations made by the Minister may govern how valuations are to be performed. Why should we allow a valuation to be done by an individual? It must be done by a firm. I would like to propose that a valuation must be done under the Government procurement regulations. Valuation is a service, and a service is subject to any other Government procurement regulations. I do not see why the same cannot be subjected to the existing Government procurement regulations, so that the process can be transparent. That way, Kenyans can get cheap and quality service for that matter.

This Bill has no provision for gender. We are aware that in most of the Bills that we have passed in this House, there was consideration for gender issues. Therefore, there should be a provision that a third of the membership of the proposed commission shall be women, as has been the case in the previous Bills. We are now in the process of being gender sensitive. In everything we do, we must give consideration to women.

I would like to submit that no private treaties should be entered into when privatisation is being undertaken. I would like to suggest that all the funds that will accrue from the privatisation process must be remitted to the Exchequer. There is no reason whatsoever for establishing a Fund that is subject to direction by the proposed Commission and the Minister. I do not see any reason why, at the end of the privatisation exercise, all the funds realised cannot be remitted to the Exchequer. Once that money is remitted to the Exchequer, it should be subject to audit. That audit should be done in accordance with the new Public Audit Act. If that is done, our money will be safe.

Mr. Deputy Speaker, Sir, if we use the proceeds from privatisation to remunerate the officers and for procurement of services, then the essence of the Government selling some of its assets to raise revenue will be in futility. Therefore, I urge that this Bill be looked into.

With regard to the qualifications of the Chief Officer of the proposed Fund, I said that we do not necessarily need lawyers, and I qualified that argument. I would like to add that there must be an age limit for the CEOs. In this era and age, we cannot allow the recycling of personalities, as the NARC Government has done. We must ensure that young, dynamic and qualified personalities oversee the process. That is why I suggest a maximum age limit of 65 years in line with other constitutional offices.

Mr. Deputy Speaker, Sir, also, the Minister must not be the one to determine how much our parastatals will go for. The Bill provides that the Minister for Finance will submit a proposal to the Cabinet for approval, and then the Commission will sell our property. If we uphold that provision, all the property of this country will be sold out in a very short while and, probably, on the direction of the Minister for Finance.

Mr. Deputy Speaker, Sir, the Bill also says:

"The Minister shall lay the annual report before the National Assembly not later than seven days after the National Assembly first meets after the Minister has received the report."

This has been taken care of in the Public Audit Bill 2003. I do not see the reason why we should repeat the same in this Bill.

Mr. Deputy Speaker, Sir, I want to repeat again, that all information regarding any transaction in the sale of either shares or parastatals must not be made confidential as it has been stated here, because all that will be sold will be public assets. Therefore, there is no reason why information on the same should be made private. I do not also understand why we should not give the first priority to employees of the Department of Government Investment and Public Enterprise when this Commission is established. This is because the personalities who have worked in that department have some of the expertise that is required. In order to avoid retrenchment of workers



and ensure that we do not pay unnecessary amounts of money to the retrenchees, those personalities that work under this department should be considered for employment in the new Commission.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to support.

**The Assistant Minister for Co-operative Development** (Mr. Kenneth): Thank you, Mr. Deputy Speaker, Sir. I stand in full support of this Bill. However, there are certain areas which are in this Bill that I would like to talk about. I am aware that some of the parastatals were formed when the World Bank was thinking it was prudent to have them in this country. Most of them were actually founded using the taxpayers' money. Most of the parastatals were expected to offer services and they were supposed to be of help to Kenyans at large. I am saying this because I realise that when we speak about privatization, we are mainly talking about the improvement of the infrastructure. However, I feel that the improvement of the infrastructure would come in whether we are in a privatised situation or not. We need to look back and appreciate that some of these parastatals have offered a lot of benefits and dividends to the Exchequer. There came a time when poor governance and service delivery took the better of the parastatals. In that respect, I think that even before we embark on any privatisation, we need to look at these corporations and parastatals in terms of what they have delivered and what they have not. If need be, we can change the management so that when the time comes for privatization, we are able to offer them at the best possible price.

*[Mr. Deputy Speaker left the Chair]*

*[The Temporary Deputy Speaker*

*(Mr. Khamasi) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, I also think that we might not be taking the best interests if we assume that we can privatise all parastatals that are there. I know it is assumed that in most developed countries, governments should not be in business. However, we tend to see a situation now, where certain services are retained in government service for the sake of that government. It is important that when we talk about things like the Port of Mombasa and the infrastructure, we know that the Kenyan at large is a major stakeholder, and it is not something that you can just offer by way of privatization to somebody who just comes in and takes no notice of the sweat that the Kenyans have gone through.

So, it is very important, in my view, that we categorise the parastatals which will be earmarked for privatization so that we have a category we can privatise without much debate. We should also have a category of parastatals which we should debate on before we privatise them. Further, we should have another category of parastatals we should improve on and leave them to be owned by the Government of Kenya on behalf of its people.

Mr. Temporary Deputy Speaker, Sir, if you look at the additional Government revenue which has been included in the Bill, you will find that it will come in one financial year. We must be realistic. We should, therefore, look at it and see how much of that revenue will be enough for the budget. I am saying this because we have seen some parastatals which have been sold for amounts which were insignificant to the budget. Those parastatals should have been looked after, nursed, become better and sold for better sums of money than they were sold. So, let us not be in a hurry to get additional revenue, but let us look at what can be realised if a parastatal is nursed properly. I am saying this because I had worked in a parastatal which was due for privatisation and was offered for Kshs800 million. In the first one year, after I left the parastatal, it made a staggering profit of

Kshs702 million. That will tell you my concern about the actual revenue which would be collected.

When we talk about broadening the base of ownership in the Kenyan economy, I think it is important that we look at those parastatals and say that they were set up by the taxpayers and it is very important that they are sold to Kenyans. I, therefore, feel that any privatisation which should take place in future should be done at the Nairobi Stock Exchange (NSE). Big words, such as "Strategic Partner", are used, but we have seen that even with the privatization of the Kenya Commercial Bank (KCB), it has continued to hold on against competition from other banks. This is the case, and yet it followed the route of the IPO(?). I would like to encourage the Ministry of Finance to enable as many Kenyans as possible to own shares in all the parastatals to be privatised through the NSE. If we do that, we will make our Capital Markets Authority very vibrant through the sale of shares at the NSE.

If we look at the benefits we will gain from the proposed privatisation, I think we have, again, to look at the interests of Kenyans. I am saying this because you cannot control the continuation of that business when you dispose of it. If a parastatal is bought by a foreigner and he decides, today, to strip that business of all the very good things and it is put under receivership, we will have no control over that. Therefore, I would like to propose that in any form of privatisation, there must be a guarantee that it must continue doing the business which that parastatal was doing.

If you take the case of the Kenya Reinsurance Corporation, where I worked, it is very easy to buy the company, sell off the assets and kill all the reinsurance business. Therefore, the services which were offered by the Kenya Reinsurance Corporation will disappear from the market. The end result is that foreign exchange will be used when you place that capacity outside Kenya. We must, therefore, not lose the primary objective for which those parastatals were formed. The business for which they were formed must continue.

Again, if you look at the parastatals which fall under research, and here I am talking about our home-grown research institutions, such as Kenya Agricultural Research Institute (KARI) and KEPHIS; we must ensure that some of those parastatals are retained, and we train our best minds to work for us to have the Kenyan culture in them.

There is a clause on limitation of shares to be sold to Kenyans. I am rather uncomfortable with this clause. As I said before, I would rather that if we have to sell any parastatal, let it be sold to Kenyans through the NSE. There should be no limitation as to the number of shares any Kenyan can buy. I feel that we should encourage Kenyans to buy more shares in the parastatals to be privatised.

On the issue of valuation, which is a very critical area, and the previous speaker alluded to it, we need to be careful. We need to have the correct machinery and procurement procedures in place. This is normally a very difficult subject in privatisation. I am aware that not all of us can agree on certain values which are pegged on various assets of a company. It is, therefore, important to have as many broad views on valuation, so that a proper valuation on whatever is to be privatised can be arrived at. If you look at the previous privatisation exercises which have taken place, you will find that there has always been a dispute as to what the real value could have been. So, it is important that valuation is not left to the Ministry alone. I know that the Ministry has good intentions, but it is good to protect it by having the normal procurement rules on valuation taken into consideration. If we do that, we will arrive at a valuation which will be acceptable to Kenyans. We must pass a privatisation law which will please the majority of Kenyans. Having worked with a privatization department before, like the previous speaker has said, that department has some very good staff. But it did, in fact, lack a lot of political goodwill necessary to see some privatisation take place. I know that some people who have headed the Treasury before made the right decision to

seek guidance from this department. But not much could be achieved because the goodwill was lacking. I would like to say that when we consider a new unit, it is important to give those officers who have worked in the investment wing of the Government an opportunity to work in the privatisation wing because they have a lot of experience from the privatizations which have taken place.

Mr. Temporary Deputy Speaker, Sir, I would like to say again that we must not forget the reasons behind the establishment of some of those parastatals. First of all, they were meant to save this country foreign exchange at a time when there was a big crunch in this country. It is, therefore, important that we view the same objectives which existed in the late 1960s and early 1970s, so that they can be of more importance today, despite having liberalised the foreign exchange. We need every foreign exchange penny we can retain here. I would like to say that we also have Kenyan investors who can willingly invest in some of those parastatals.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to support this Bill and say that it is a good way forward, and we need to support it.

**Mr. Okemo:** Thank you very much, Mr. Temporary Deputy Speaker, Sir. I would like to make my contribution on this very important Bill.

Privatisation is a very technical and political subject. There are no first rules in privatisation. Every privatisation differs from the other because each requires different considerations. I would like to say that, at least, the attempt to publish this Bill and present it to the House is commendable. I know we did have a draft which was not really different from this Bill. I am very familiar with this Bill because we actually drafted it. So, it is actually a KANU Bill which has been brought before this House by NARC. But that does not matter. Good things always find their way somewhere.

**The Assistant Minister for Finance (Mr. Katuku):** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the former Minister for Finance in order to mislead this House that this was a KANU Bill when it is a NARC Bill? If it was a KANU Bill, they should have brought it then. They were not current. Is he in order to mislead this House? This is our Bill!

**Mr. Okemo:** Mr. Temporary Deputy Speaker, Sir, in fact, I would not be very proud to own it because, as we are going to point out, it has a lot of loopholes. I really need to improve upon this Bill. It gives far too much power to the Government, and leaves out Parliament. As I said, this is a politically sensitive Bill which requires very solid political support. Political support is not just going to be coming from the Government. It should be coming from the entire political spectrum, which means that Parliament should be involved.

I think the Bill has got two main parts. One is about the preparation of the privatisation programme. It creates something they call a Commission, which is going to be responsible for the privatisation programme. Then, we have the implementation programme or implementation Commission, which is the same Commission. That means the Commission will be responsible for preparation and implementation. I see a loophole in that. What I would have liked - and I would like to appeal to this House - is that, Parliament must have a very major role to play in the entire privatisation programme. What is going to happen is that we will have a programme that is prepared by a Commission, which is appointed by the President and the Minister. They will go ahead and come up with a programme that involves the privatisation of various State-owned corporations. They will go ahead and implement it. There is no mention or indication whatsoever, of what role Parliament will play from the beginning to the end of the process. I think that is dangerous.

If you look at examples in all other parts of the world, that is the developing world, the developed world and the transition economies, you will find that Parliament has a very central role to play. An improvement to the Bill, for example, would be an attachment of a schedule, to show all

the firms that are going to be privatised and when. That should form part and parcel of the Bill. But, better still, I think we should demand that the Commission prepares a privatisation programme which should be presented to Parliament for approval, before we move ahead.

When we come to the question of implementation - that is the privatisation process - what is really going to happen? That is because one privatisation is not the same as the other. They are different. But even then, before a final decision is taken, Parliament must have its input. That way, we will make sure that we are taking care of the public assets, which belong to the people.

The other thing that I would like to recommend is to seek outside expert input. Privatisation can be very technical, particularly if you go to parastatals such as Telkom Kenya and those in the energy sector. You will probably require the input of legal people who have dealt with such things. You will require the input of investment bankers who have dealt with privatisation. You will probably also involve people in the Government who have the technical expertise to supplement whatever you may be contracting from outside. So, my appeal to this House is to introduce relevant amendments that will make sure that the input of Parliament is fully incorporated. Therefore, when we come to the Committee Stage, we will be introducing some amendments to the Privatisation Bill.

When we were privatising; especially when we were trying to privatise Telkom Kenya, there was a lot of pressure to complete it quickly. We argued that time was not the issue. The issue was: Were we getting value for the assets that we were privatising? If you go for privatisation and the best offer is not sufficiently attractive, I do not see why we should be under any obligation to privatise!

We should not privatise until such a time as my hon friend, hon. Kenneth said, that you must get the best value for your assets. If you are not able to do so now, it is better to postpone it until such a time that you can be able to realise that value. Therefore, I believe that the reasons why we did not privatise Telkom at the time, was that the best offer we got was actually below the independent valuation of the corporation at the time. We argued that we could not privatise at any cost. We privatise and make sure that we get the best offer for our assets.

Mr. Temporary Deputy Speaker, Sir, on the question of ownership or transfer of ownership, I think it is very important, and this is political and not technical or a business argument. However, the political argument is that we must ensure that most of what we privatise must end up in the hands of Kenyans. We may not realise the best value by so doing, but I think for political and patriotic reasons, Kenyans must be given maximum facilities to be able to buy into a privatised organisation. In that way, the political side is taken care of because there is no privatisation that will succeed if you do not have solid political support. Political intervention must be there at every stage of the process, in order to carry everybody along with you. Hon. Katuku, your job will be a lot easier if you involve all the stakeholders, including Parliament and ordinary *wananchi*.

Mr. Temporary Deputy Speaker, Sir, of course, not every privatisation involves ownership. Those of you who are familiar with the privatisation programme that has been on the books for a long time, will attest to the example of Kenya Railways Corporation. We are not actually selling Kenya Railways Corporation unless the NARC Government has changed, and if they have, I think, they had better go back to what we thought, which is that we should concession Kenya Railways Corporation. In other words, it is a form of management contract where the ownership of the assets remains with the Government, but the management and control rests with whoever you have signed the concession or management agreement with. That really happens for very strategic parastatals like Kenya Railways Corporation and Kenya Ports Authority, where the assets remain in the hands of the Government or the State, but the management and control of that organisation goes with a concessioner who has the expertise and experience. He is going to bring technology and value. There is value addition by bringing in somebody else to run that organisation. That way, you have

your ownership but you also have the expertise, efficiency and low cost of operations, which translates to lower prices, which is a benefit directly to the consumer. I think that is the route we ought to go when it comes to Kenya Ports Authority and Kenya Railways Corporation.

Mr. Temporary Deputy Speaker, Sir, of course, the other way to go is through strategic ownership. I do not think that strategic ownership in itself is bad, if there are gains to be gained from getting somebody who is an expert, or an organisation which has a worldwide reputation, and which will actually attract more people to buy shares. For example, now with Kenya Commercial Bank, even if we have about 35 per cent which is Government owned at the moment, we do not have to put everything on the stock exchange; that is, all the 35 per cent. We can put a small percentage, maybe, 5 per cent, 7.5 per cent, or maybe 10 per cent and get a strategic partner who is actually going to bring value to the organisation, for example, IFC or any of those international banks which have got an international reputation, and their coming in will add value to that organisation. In fact, immediately they come in, the value of the shares will go up. So, that might be a valuable thing to do, but the majority of the shares should actually be off-loaded to Kenyan citizens because the asset belongs to Kenya.

Mr. Temporary Deputy Speaker, Sir, to conclude, I believe that the Bill is a bit wide and it gives too much latitude to the Government without control from Parliament. I think Parliament needs to have its input, in order to bring control because if you leave it to the Government alone, I think it will not receive as much political support as it ought to and the process will stall and slow down, and we will not be able to achieve anything. However, we should not be driven--- This is what I keep saying and I kept saying in the past, that we should not just be driven by the fact that we want to dispose of an asset because we want to close the budget deficit. In fact, that is the driving point by the World Bank and IMF. They insist that you have a budget deficit, maybe, of Kshs400 million or Kshs400 billion, and the argument is that if you sold a parastatal for Kshs150 billion, then you are going to bridge the gap and once you do that, that will release whatever money that should pay off in interest payments and so on, for the debt that you have acquired. Therefore, I do not think that we should be driven by that. We should be driven by the fact that a parastatal that is making money and is contributing to the Exchequer should be the last to be privatised. We should start in terms of priority with those parastatals that are a drain on the Exchequer; those that need to be subsidised for their existence. Those should be ridden off very quickly. For the ones that are profitable and are actually contributing to the Exchequer, if we feel that we are so debt-ridden, then we go for that as a last resort, and we go towards the end when we are in a position to get the best or the maximum out of them.

Thank you very much, Mr. Temporary Deputy Speaker, Sir.

**Eng. Nyamunga:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me a chance to support this Bill. First, immediately after Independence, it was thought wise to establish a number of parastatals to allow Kenyans to participate in the various sectors of our economy. We do understand that at that time, there were not many indigenous Kenyans with a capacity, financially or otherwise, to be able to undertake certain commercial activities in the various sectors of our economy. The unfortunate thing which happened is that some of those parastatals have been mismanaged to the extent that instead of creating money for the Exchequer, they have been a drain on the Exchequer and time has come, and rightly so, that we privatise some of those parastatals so that the Government remains largely with a regulatory function and the commercial business is left to the private sector, which can do it best. However, while doing that, it has to be done in the right manner. We know that so far, we have had some of our parastatals privatised and there have been a lot of accusations that some of them have been given out for very under-valued costs or prices. Now, that must be avoided and this Parliament must not allow that to continue.

Mr. Temporary Deputy Speaker, Sir, the privatisation process, as has been said, is a sensitive matter. One area that I do not agree with is that in the formation of this Privatisation Commission, we are leaving the appointment of the Chairman and Executive Director to the President and the Minister, and then the two will carry out the entire privatisation exercise. I think this Parliament should not allow that to happen. We must insist that we have a Parliamentary Select Committee or any other arrangement that will make Parliament supervise that privatisation, so that the elected representatives of the people who are in this House take care of the interests of the Kenyans who have invested in these parastatals up to now. We must not allow two Kenyans to control the entire privatisation process because this is a very sensitive matter and an important operation. All I am saying is that the appointment of the Chairman and the Executive Director should go through Parliament and there should be a committee of Parliament that oversees the process of privatisation. In that way, the Kenyan public will be sure that their interests are taken into account and no property is being given out for a song.

Mr. Temporary Deputy Speaker, Sir, we are aware that one of the parastatals that went under a long time ago, through mismanagement, is the Kenya Meat Commission (KMC). Now, the Government has decided that KMC should be revived. I tend to believe that will go against the philosophy that we have presently. The Government is supposed to be a regulator and leave business to those who can do it in the best way. I doubt whether KMC will be able to compete with the private slaughterhouses that are already established in this country. The matter should be reviewed, otherwise, we might end up sinking useful money into KMC and then end up with a situation where we keep on pumping money into KMC simply because it has no capacity to compete with the already established private slaughterhouses in this country. I appeal to the Government to look at this issue again and see whether it is worth injecting millions of shillings to revive KMC instead of giving it out to the private sector. That way, it will compete with the already established private slaughterhouses.

On the appointment of the Chairman and the Executive Director, the qualifications required have been spelt out. I would like to request the House to expand those limitations to include engineering. The reason why I am saying this is that some of the parastatals that are going to be privatised have a large engineering component. When you get to the stage of privatising Kenya Railways Corporation, Telkom Kenya Ltd. or Kenya Ports Authority (KPA), you are dealing with parastatals which have a very large engineering component. It will do no harm if an engineer is made the Chairman of the Privatisation Commission because whatever proposal, be it at the valuation stage or the tender stage, he will be able to understand the language that those who are bidding will be talking. After all that is what he or she is trained in professionally. So, I would urge this House to extend the limitations to include---

**The Temporary Deputy Speaker** (Mr. Khamasi): Eng. Nyamunga, we exempted this Bill from being submitted to the relevant Committee. Now, it is your responsibility, and not the House's, to draft any amendments you want and bring them to the House during the Committee of the Whole House.

**Eng. Nyamunga:** Thank you so much, Mr. Temporary Deputy Speaker, Sir, for that correction. I will then draft the necessary amendments and bring them to the House.

Mr. Temporary Deputy Speaker, Sir, in conclusion, I support this Bill and I am one of the people who believe that the Government should remain with the regulatory functions and stop participating in business because what we have seen in Kenya is misuse of the parastatals.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support.

**Mr. Mwandawiro:** Ahsante sana, Bw. Naibu Spika wa Muda, kwa kunipa fursa hii ili nichangie huu Mswada unaohusu ubinafsishaji.

Ninaupinga Mswada huu kwa dhati sana. Napinga kuletwa kwa Mswada wa ubinafsishaji wa mashirika ya umma. Ningependelea Wizara inayohusika, iwe na uzalendo na ilifikirie taifa hili. Ni sharti Wizara ya Fedha itathmini ulimwengu ulivyokuwa kihistoria, hasa katika mataifa ya ng'ambo kama vile Muungano wa Kisosholista wa Usovieti na Ulaya Mashariki. Aidha, ni muhimu izingatie falsafa na historia ya ubinafsishaji, zama hizo hadi sasa. Wizara ya Fedha yapaswa kuelewa uhusiano uliopo baina ya ubinafsishaji na maendeleo ya kitaifa, uongezaji wa ajira, ukomboaji wa chumi za mataifa ambayo yalikuwa chini ya wabeberu, na maendeleo kwa ujumla.

Ikiwa itafikiria hivyo, sisi kama taifa na kama Wafrika, tutajikomboa. Fikiria hizo zitatusaidia kujifikiria sisi wenyewe na tutaweza kubuni mikakati yetu wenyewe pamoja na sera za kuendeleza jamii katika mataifa yetu. Tukifanya hivyo kwa kizingatia rasilmali tulizonazo na tukiweka kanuni juu ya maisha yetu wenyewe bila ya kuyumbishwayumbishwa na mataifa ya kibeberu kutoka nje, basi hapo ndipo tutaweza kuwa na njia ya kuleta maendeleo na ukombozi wa kitaifa katika nchi yetu.

Bw. Naibu Spika wa Muda, ningependelea Wizara inayohusika ilete Mswada wa urekebishaji wa mashirika ya umma, sio Mswada ambao unalenga kuyaua na kuyamaliza kabisa. Kwa sababu sera hii ya unafshishaji, falsafa yake dhidi ya wafanyakazi, maskini na wananchi wengi ni mbaya mno kwa sababu inakusudia kusema kwamba uchumi unaweza kuendelea ikiwa watu wachache tu katika jamii walio mabepari na watu binafsi ambao ni matajiri watathibiti ngazi za uchumi za kila namna, na wawe milele wakiwaajiri watu wengine ili wawe waajiriwa wao; na wawe wakifanyiwa kazi na kuzalishiwa faida; eti hapo ndipo uchumi utaweza kuendelea.

Bw. Naibu Spika wa Muda, hiyo falsafa ndiyo iliyotumiwa wakati Muungano wa Kisosholista wa Usovieti, chini ya utawala wa Bw. Gorbachev, ulipoleta *Perestroika* na *Glasnost* ili kuondoa ile hali iliyokuwa zamani, ili ilete unafshishaji na uchumi wa kibepari. Matokeo yake, kwa wale watu wanaofuatilia mambo hayo, ni kuwa mataifa hayo, kama ule Muungano wa Kisosholista wa Usovieti ya zamani na Ulaya Mashariki, ambayo yalikuwa yanatoa misaada kwa watu duniani na hata hapa nchini kwetu na duniani kwote, hivi sasa yamekuwa ni mataifa ya kuombaomba kama mataifa ya Afrika na Ulimwengu wa Tatu. Makinzano yote ambayo tunakinzana nayo sasa; yawe ni ya umaskini, ya ukosefu wa kazi, ya watu kukosa posho za uzeeni, na za usalama wa jamii na uhalifu kuongezeka, hayo ndio mambo yanayoendelea huko, hizo sera mpya za ubinafsishaji zilipoanza kutekelezwa katika nchi hizo.

Ni muhimu, kwa sababu hatuishi katika dunia peke yetu, bali tunaishi katika dunia ya utandawazi. Iwapo tunaishi katika dunia ya utandawazi, basi ni muhimu tujaribu kujifundisha kutoka katika mataifa mengine, yale mambo ambayo ni mazuri kufanya na yale ambayo ni mabaya kufanya. Tukiendelea kwa mwenendo huu, tutauza mashirika yote tuliyonayo kwa ajili ya ubinafsishaji; tutakuwa tumeuza ule uhuru wetu tulionao kama taifa. Hatuwezi kuongeza ajira ya kazi kwa sababu tukiangalia katika nchi hii, kila ubinafsishaji unapofanywa, wananchi hupoteza kazi zao. Pamoja na ahadi zote zinazotolewa, hizo kazi hazirudi, na inakuwa ni uchungu mkubwa. Kama hizo sera za unafshishaji zingekuwa ni nzuri, tangu tuanze kubinafsishisha mashirika mengine, tungeona watu wakipata kazi zaidi, usalama wa kijamii ukiongezeka zaidi, uhalifu ukipungua zaidi, na kwa ujumla, tukiwa na uchumi bora zaidi wa kitaifa ambao unakua na kuendelea.

Kwa hivyo, Bw. Naibu Spika wa Muda, naomba Bunge hili na wananchi wa Kenya wanaolipenda taifa letu na Uhuru wetu; ambao tuna huruma kwa wafanyakazi wengi ambao wanateseka na wanaohitaji ajira, tuupinge kabisa Mswada huu wa unafshishaji.

Bw. Naibu Spika wa Muda, rasilmali yetu kubwa ni watu wetu ambao wako na utaalamu mkubwa. Pia, tunapeleka utaalamu wetu katika nchi zingine za Afrika na nchi zingine duniani. Ninaamini tuna wataalamu wa kufufua mashirika ya umma na kuyaendeleza. Sababu ambazo zilisababisha mashirika ya umma kuanguka zinajulikana. Kwa nini tusilete Mswada Bungeni wa

kurekebisha mashirika ya umma? Kuna kipindi ambacho mashirika ya umma yalikuwa yakifanya vizuri. Kwa nini yalikuwa yakifanya vizuri? Mashirika ya umma yalianza kuanguka katika miaka ya sabini. Nini kilisababisha mashirika hayo ya umma kuanza kuanguka? Kama kwa kweli tunataka kufufua uchumi wetu, tunaweza kuweka mikakati mizuri na kuleta Mswada hapa wa kurekebisha hali hii na kuyalinda mashirika ya umma ili yaendelee vizuri.

Bw. Naibu Spika wa Muda, sipingi watu binafsi kuweka rasilmali zao hapa nchini. Lakini si haki kwao kushindana na mashirika ya umma, kuyavunja na kuyachukua kwa bei rahisi. Hali hii inageuza nchi yetu kuwa nchi ya kibepari daima, ambapo watu wengine wanafanyia wengine kazi. Hizi ni falsafa za kibepari. Falsafa ya kibepari inahimiza Serikali ing'atuke shughuli za kusimamia uchumi. Kwa msimamo wao, kazi ya Serikali ni kusimamia sheria, kuangalia mambo ya polisi, kuweka sera na kulinda mahitaji ya watu binafsi. Huu ni ubepari. Watu ambao wanafuata sera na falsafa za kujali maslahi ya umma na wafanyikazi na kuzingatia uhuru wa kitaifa, wanasema kuwa Serikali ina uwezo mkubwa wa kusimamia hata mashirika ya umma na kuendeleza uchumi kwa niaba ya wananchi wake vizuri, tukiweka mikakati sahihi.

Mimi nimeishi Sweden kwa muda mrefu. Huko, uuzaji wa pombe unasimamiwa na Serikali, na pombe haikosekani. Maduka yote ya madawa yanasimamiwa na Serikali na yanafanya vizuri kwa sababu kuna mikakati mizuri. Dhana kwamba Mwafrika akisimamia mashirika ya umma lazima aibe, ni sera za ubaguzi wa rangi. Tunajibagua sisi wenyewe. Ninaomba nchi hii izingatie jambo hili. Ni lazima kujiheshimu sisi wenyewe kama Wafrika na tuwe wabunifu wa kuzingatia hali yetu ya siasa na uchumi, na kuweka mikakati na sera zetu ambazo zinazingatia haki na uhuru wa kitaifa.

Kwa hayo machache, ninaomba kupinga.

**The Assistant Minister for Education, Science and Technology** (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to add my voice in support of this Bill.

Already, a great deal has been said on why we should desist from continuing to have many of our parastatals as public enterprises. Examples have been given of how they have been guzzlers of public resources, how they have led to crime because of competition for those resources, tribal and other basis. It has also been said how they have been used for political patronage and resources or jobs have been allocated to persons from specific ethnic groups or communities. It has been said that when we privatise these enterprises, some of them have turned around to be profit-making institutions, and the Kenya Airways has been given as the best example.

Mr. Temporary Deputy Speaker, Sir, you will recall that before the Kenya Airways was privatised, politicians would use it for political trips. The former President sometimes would fill a whole Kenya Airways airbus with politicians, who, in addition to using a public facility, would go out of this country and fill the planes with a lot of goods for which they did not pay duty. In many ways, we have had examples of these parastatals---

**Capt. Nakitare:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to tell us that the Kenya Airways is doing well after being privatised, yet it is in the hands of foreign investors, KLM?

**The Assistant Minister for Education, Science and Technology** (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, privatisation involves some kind of partnership. Since the Kenya Airways has been working in partnership with the KLM for the last three years running, it has been voted the best airline in the continent. It has certainly been making profits.

Some of the criticisms against privatisation has been occasioned by the fact that the Dream Team that was brought in at some point got nowhere. It is important to understand the context in which they operated as a drop in the mist of so much corruption. It has also been said that because



the former President cared so much for Kenyans, he refused privatisation. We know that one of the reasons he refused to privatise parastatals was because they were being used as a way to reward political supporters. However, if well managed, even privatised public enterprises have the potential to create employment and bring a lot of benefits to Kenyans.

As we think about this, we should consider certain measures. One of these measures is the need for civic education and consultation, especially with the wider public. The public should be told what privatisation is, why it is necessary to privatise public enterprises, what they will gain and which are the best ways to go about it. If the public is informed, then they are likely to participate in a much more informed way in the whole process of privatisation, either as persons who form the process, or who actually benefit from what gets privatised.

I would also like to say that as we privatise parastatals, the private sector will relate with the public sector. In this regard, it is important to instil certain values that are good in privatisation to change the mind set of the majority of the senior persons who work in public institutions, including our universities and the Ministry of Education, Science and Technology. They include values of efficiency, discipline, time consciousness, and values that relate to respect for meritocracy. This is because even these institutions have to relate to those that become privatised. In this regard, therefore, in addition to the consultation that I have spoken about, it will be necessary to do some kind of training, capacity building, and upgrading of skills of those who will be interacting with the private sector, but who will be operating from the public sector. It will also be necessary to identify competent, flexible and innovative personnel to be key in terms of manning institutions or offices that will be the main link between the public and the private sectors.

The point about affirmative action is extremely important. I disagree with hon. Members who say that the clause on limitation should not apply. We would like to ensure that the majority of Kenyans, especially those who have not benefited from public and private enterprises in this country, get a chance. In this respect, it is important to pay special attention to women and the young people.

Mr. Temporary Deputy Speaker, Sir, it is important that we avoid cartels, racial or ethnic groups that have monopolised business to avoid a possible backlash that we have seen in countries like Uganda, where businesses have been monopolised by certain racial or ethnic communities.

As we think about national unity, I would like to say that as we privatise the institutions, we should encourage support for companies that cut across the country. Maybe this is one way of promoting the elusive political unity that we have been crying about. I would also like to say that any person who has been associated with any scandals, especially theft of public resources, should not be allowed to own any shares in any of the enterprises that might be privatised. I, therefore, propose that those who will be manning the process, and identifying organisations that will take up these enterprises, conduct thorough investigations of institutions or individuals who would like to benefit from privatisation.

I would like to talk about Clause 17 on publicity. In addition to focusing on the newspapers, we also need to publicise this through other kinds of media, particularly the radio and television. We should, in fact, go for radio publicity, because the radio reaches remote parts of this country, to ensure that the majority of Kenyans are aware of what is being planned and benefit from the newly created potential.

I disagree with Clause 21, that employees of organisations should have no access to credit. In fact, I think that employees, as some hon. Members have said, should be retained and given a chance to benefit from the new potential. If necessary, they should be trained. The important factor should be the potential for the institution to pay them and for the employees to benefit from the new development. I hope that communities, where the parastatals are located, will be given a chance to

buy ownership.

Mr. Temporary Deputy Speaker, Sir, on the issue of what the organisations will return to the public, in many countries in the West and in the United States of America, and even in South Africa, private enterprises are expected to give back to the community through outreach programmes, support for disadvantaged groups and educational programmes. It may be necessary to have a clause in this Bill that will require those who benefit from privatisation to give a certain percentage of their profits to the communities in which the institutions are based, or generally to support national programmes.

A point has already been made on the Government having too much dominance on the decision-making of the institutions. I absolutely agree that it is very wrong to leave one Minister, the President, and sometimes the Permanent Secretary, to be the ones to determine the membership of the proposed commission.

All of us are human and we have had experience where Ministers and Permanent Secretaries have abused their authority and privilege by, sometimes, appointing persons because they are well connected, they come from their communities or because they have been friends for a long time. To guard against that, it is important we ensure that the selection of the board members is not just left to the Minister because sometimes you may have a Minister who is not that well-meaning. The most important membership in this organisation should be private sector representatives. The proposal being made is that a lot of those who will be members of the Commission, including the very sensitive Steering Committee, will be Government appointees. It will be very difficult for members of this Commission not to be tempted to be more accountable to the Government than to the wider public interest, including the private sector.

Mr. Temporary Deputy Speaker, Sir, there is a requirement for degrees in law, accounts and economics. First of all, I do not know what is so magical about those three disciplines. Personally, I do not think that this is the terrain where you look for managers. My experience with a lot of lawyers is that they are not necessarily very trusted managers of public resources. In a lot of cases, accountants are more concerned about how you spend money and not how you create wealth. Here we are bringing in too much theory as opposed to practice. Instead of focusing on degrees, we should realise that there are people who have no degrees, but have done very well in the private sector. A good example is Mr. Bill Gates and our own Mr. Njenga Karume. Basically, a university degree should not be a requirement. I think we should go for experience and people who are in touch in terms of the relevant skills and experience. If we have to talk about professions, it is important to expand the possibilities to have much more than those three professions.

Mr. Kipchumba spoke about the age limit. He said it would be a good idea to limit the age of whoever is likely to be chairman to 65 years of age. I was surprised because I thought that is a bit too old. If we are looking for people who are versatile, open to new ideas and likely to want change, it is important to have the age category of between 45 and 55 years, at the very most.

Clause 36 on when a chairman could be removed, in addition to what we have got, we need to add a sub-clause (f) and indicate that any persons who have been associated with any scandal in the course of their serving as chairpersons of commissions should also be relieved of their duties. I am saying this because our experience with a lot of Africans is that even when they are mentioned in scandals, they do not resign. Sometimes we have to find a way of forcing them to resign. This happens all over in the public sector. If people are mentioned in scandal, whether it is looting of public resources or the resources of a specific commission, I think it should be possible to remove them.

On the issue of vesting too much power on the executive director, especially with regard to appointment of employees, this is a problem in view of what we have found out in parastatals. One

of the accusations against them is that persons who occupy senior offices have abused those offices, especially when it comes to employment. We have found out that a lot of employment has not had any basis with regard to qualifications, or even the important issue of national balance.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to talk about the issue of the number of meetings. I do not think we should give the Commission the power to just decide when it can have meetings. Just as in the case of the power to employ, we know that meetings have been abused, especially in terms of numbers, because of the allowances that go with them. I think it should be possible for us to say that if we will have a commission, it should only hold so many meetings within a quarter of a year, except when holding extra meetings is absolutely necessary.

With those few remarks, I beg to support.

**Mr. Kimeto:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to oppose this Bill. I would like to oppose this Bill because the privatisation process happened during the Eighth Parliament, and as a result of it, so many people lost their jobs. If our Government continues to privatise State corporations, very soon it will end up privatising itself. State corporations are meant to benefit the people of Kenya. The initiator of State corporations in this country had good ideas for running this country. There are a few people who have messed up State corporations. Since they mismanaged State corporations, they should have been imprisoned in order to teach others that State corporations are not meant to benefit individuals but the general public.

I would like to urge the NARC Government not to continue running the country the same way KANU Government was doing. They should not continue with privatisation of corporations. They should visit Israel and learn from them. Israel is a small country, but its economy is strong. They manufacture their vehicles in state corporations. If you go to Cuba, you will find the same is happening there. Parliament should allocate some money to the Government so that we can go out and learn different ways of managing our economy. We have a lot of human resources, but we are not utilising them fully.

I would like us to start reclaiming those State corporations that have been placed under receivership. We should urge the people of Kenya not to make the same mistakes that have been made in the past. The moment the Government sold the Milling Corporation in Nakuru, of which I was the chairman, it went under. Nobody is saying that this was a good move. I tried to say that this corporation should not be sold, but because of external pressure and promises of money from donors, we sold the corporation, but after we did that, the donors shifted the goal posts again. Let us solve our problems internally. Let us develop this country and pray to God to assist us improve our lives.

I feel bitter when I hear some Ministers say that they will sell these corporations. They are behaving like children. Why do they not sit down to discuss and find out exactly what went wrong? If it is difficult for the Government to run State corporations in the country, it should hand them over to the Opposition, and accuse it later if it misuses funds from the corporations. If the running of State corporations is done by the Opposition you will see changes.

**The Assistant Minister for Trade and Industry (Mr. Miriti):** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that Ministers are behaving like children? Is that parliamentary language?

**Mr. Kimeto:** I was just saying that some Ministers have been misled from outside this country that money will come into the country. When the hon. Members who are now in the Opposition were on the Government side, they used to say that it was difficult and expensive to run State corporations. That is why I was saying that Government Ministers should not be cheated. We can live without donor funds, which, when they come, go to areas other than the needy ones.

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Kimeto, I have now heard you. You are using unparliamentary language. We do not use the word "cheating" here! Could you withdraw it?

**Mr. Kimeto:** Mr. Temporary Deputy Speaker, Sir, I beg to withdraw the use of the word, "cheating".

I would like to say, if, for example, the Postal Corporation of Kenya (PCK) is to be privatised, various branches of the PCK should be licensed to start operations in other areas of this country. This is because not all Kenyans have access to postal services. If there are local investors interested in investing in the energy or water sectors, they should be given the licence to do so. This will give freedom to our local investors to choose what they want to invest in. If this is followed, you will never hear anybody talking about the privatisation or the sale of any State corporation; they will stop.

Mr. Temporary Deputy Speaker, Sir, the people who are pressing for the privatisation of State corporations are doing so because they would like to enjoy some fringe benefits from the sale of these corporations. So, in one way or another, the privatisation process is a magnetic pull of money to others who want to benefit from the sale of these corporations, while others do not understand that these things are going on. Therefore, I beg to say that the State corporations should not be privatised.

I would also like to see the Kenya Meat Commission (KMC) re-opened, with the Government running it fully. I would like to see the Kenya Pyrethrum Board (KPB), the PCK and the Kenya Ports Authority (KPA) continuing to offer services to Kenyans without them being privatised. I have given you enough examples to show why our State corporations should not be privatised. If the Minister for Finance will not understand why I am opposed to this Bill, he could contact me, so that I could elaborate more on this issue.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to oppose.

**Capt. Nakitare:** Mr. Temporary Deputy Speaker, Sir, I am privileged to contribute to the Privatization Bill. As the previous speaker has said, this Bill is very important to Kenyans. I would like us to broaden our minds so that we understand what we are doing.

I look back at Kenya from 1963. When we attained our Independence, Kenya had a lot of property. When our first Government was in power, we boasted of: "Buy Kenya, build Kenya". There was a lot of improvement of the economy with the introduction of State corporations and other avenues of the Government. For example, we had the East African Airways (EAA) which was run by the three East African States. Unfortunately, we witnessed the collapse of this airline which was a State corporation.

When we look at what we are now, and where we were, we should have said we have improved. We have many examples from other countries. Kenya should own something; Kenya is a parent; this country should not be a partner of quality when she has sold all her property and remains begging.

Mr. Temporary Deputy Speaker, Sir, it is now time for the Government to be a tenant to its own property. A tenant in the sense that, after selling the State corporations, the Government will start borrowing or begging from the investors, most of whom, as we know, will come from outside the country. I do not think there is any Kenyan who would stand in front of us and say that he is capable of buying all the shares from Kenya Railways Corporations or Kilindini Harbour. Those are very sensitive areas. The Government has a secret code. We had areas where the Government had a subscription. The military had its own code, which was protected under the Government. That was also within telecommunications. Of late, telecommunications have been simplified. Now, secrets are seen and read all over the world. The country is not protected. Our borders are now porous and open

to the world. Our Government should have an affirmative position where we boast of our trained skilled nationals. Our children should grow up knowing that our country is capable of running its own affairs. We have seen countries where employees were shareholders in private businesses; for example, Enron in the United States of America (USA). I am telling you, with due respect, that if we privatise all our organs, and sometimes, the major shareholder is a foreigner---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, hon. Members! You know you are very few here and if you consult loudly, you disrupt the Member on the Floor. Can you consult quietly, please?

Continue, Capt. Nakitare.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Chair to refer to an hon. Member as "the man on the Floor"?

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Wetangula! Continue, Capt. Nakitare.

**Capt. Nakitare:** Mr. Temporary Deputy Speaker, Sir, I was talking about the senseless issue of workers buying shares in the corporations. It is a very simple fact! When the main stakeholder collapses, the entire corporation also collapses. If we invest and vest our trust in privatisation of sensitive areas, where the Government strength is, that is in communication, education, health, defence and other organisations, we are not actually looking at the future of this country. We have the example of the Agricultural Development Corporation, which was the food security of this country. The previous Government manipulated our economy by sending thieves into such corporations. They were mismanaged and, therefore, all the assets were misused. Instead of wanting to sell everything that Kenya has, we should find a way of improving it. Let us build our own house. We should not expect expatriates to come and build our own house. What is the country going to boast for? We should look at areas where people have done better. We should look at areas where people have failed. You have been given examples of countries like Cuba. I have lived in those countries. I have lived in a small country called Belize, which got its independence in the 1980s. Belize is the size of Israel. They are self-sufficient. Why should Kenya not embark on self-sufficiency, instead of turning our assets over to the external forces? We have experience inside our country.

Mr. Temporary Deputy Speaker, Sir, as I said, our economy is in the hands of foreigners. When we sell our corporations, our common people are not going to benefit. You say that you are going to take the money to the Exchequer. Yes, the money is going to the Exche---

**An hon. Member:** Exchequer!

**Capt. Nakitare:** Excuse me! I have to swallow slightly. That is why we are introducing Bills so that this money can reach the common man. But are we teaching the common man to fish or are we encouraging him to accept handouts? If we had state corporations, we would have taught our people to work hard. In Israel, as an agriculturalist, a botanist or an economist, when you go into the farm, you do not eat the fruits from the farm. You wait until the fruit is harvested and you find it on the dining table. We have started eating the fruits from the gardens. We have started eating the fruits from the tree. We went and ate the leaves. We are now eating the branches and now you are telling us that we have to eat the roots.

**Mr. M. Kariuki:** Then, it will dry up!

**Capt. Nakitare:** And the tree will dry up and when it collapses, we say, yes, we have done

a good job. Is this why we are here? Is this the pride of Kenya? These are the areas we are supposed to look at. We have failed to run educational institutions. We have diluted the standards in our own country. We are now borrowing ideas from countries which have failed. I have looked at the Constitutional Review and we have borrowed information from some of the federal governments that have not succeeded, and we want to elaborate and emphasise issues of devolution yet we do not even know the outcome of it. It was rejected in 1963, why should it come up here now? If it does come, what improvements is it going to give to your children?

So, as we say privatisation is okay, there are classified areas where the Government has to have a say. I do not see how we can privatise our international airports. If we privatise Jomo Kenyatta International Airport, we are going to privatise the Kenya Air Force and Nanyuki Air Base. If we privatise Kilindini Harbour, we are going to privatise the Kenya Navy. It becomes a private enterprise, and across it is our navy. Where is the logic? Where is the privacy? Where will the Government stand to say, "Yes, this is our own?" It is a Government of the people of Kenya! Are we looking at ways Kenya has to boast by itself or are we looking at Kenya as a whitewashed rail, which is clean outside, yet inside, it is rotten with broken bones? This is exactly what it is going to look like. By privatising, you are selling your own clothes and you are going to remain naked.

Mr. Temporary Deputy Speaker, Sir, I appreciate the contribution by our colleague, the Minister for Finance, who is an expert and the other experts in the private sector. But it is a long way to go. If we sell what was meant for Kenya, we are not going to recover it. We have seen what has happened in the urban centres. When this question of privatisation was brought here, it was from International Monetary Fund. It was a bargaining power density and Kenya does not have that bargaining power density. If we sold all our corporations, which should have brought a lot of employment which would have produced what is Kenyan, we would have bargaining power density.

Right now, our Ministry of Trade is in trouble. We cannot enter the Africa Growth and Opportunity Act (AGOA) because we are given conditions. We have no cotton, for example. When the Americans want clothes, they want clothes made of cotton grown in Kenya. Instead of growing cotton which would benefit our nationals, we are growing tobacco for the few who smoke.

*(Applause)*

This is an area where we have to look at. This is a senseless issue, we are not preaching or doing anything. But why do we have to look at the value of money and we do not look at our own investments? Where is our heritage? By word of mouth, we would say yes, we would like to sell and walk tall. We will be like people who have put on very nice new shoes but without a sole. You step on broken bottles, on thorns and hot ashes. This is not what Kenya wants. This is why we are saying 'no' to privatisation. It has to be selective. It has to be a slow movement.

*(Applause)*

But this question of privatisation is a language that was introduced immediately after 1978. That is why councillors and other well-connected people were able to get to areas where they were able to buy Government houses. They were able to buy plots in town. If they are doing well by having a plot and have improved our economy, that is fine. But where is the improvement? Look at the streets filled with unemployed people. On the question of the 'golden handshake', how many of the people who were retrenched got it? They never got it.

Still on retrenchment, why should somebody come into your house and tell you to extinguish all the fire in the cooking place, drive away your wife, sell your children, sell your bed, and you remain naked? What is the purpose of this man telling us to sell everything that we own? Are we going to sell all the mines and minerals that we have in our country? When we said we wanted to drill our oil, they said it was not economical. When we said we wanted to improve our social status, they said, you do not have enough insurance to cover the enterprises. This is exactly what they did. They did not allow us to grow coffee in the beginning. But when we started to grow coffee, they spoiled our market. Now, privatisation is a top issue, but we have to know which way out. We have to know what is going to be good for our country.

With those remarks, I oppose the Bill.

**Mr. M. Kilonzo:** Thank you, Mr. Temporary Deputy Speaker, Sir. I am extremely grateful for giving me this opportunity to contribute to this Bill.

Lest I be misunderstood, I must at the very outset say that I support privatisation as a general principle. But privatisation under this Bill would be ridiculous. This is a Bill that has no foundation whatsoever, except only in tracing it to IMF. Before I go much further, I would recommend that the Government buys a book written last year by Mr. Stigglis, a former economist in the World Bank, and he will demonstrate to you, for the reasons I am going to give, that privatisation done in this manner is a complete waste of time, and if anything, it undermines sovereignty and the very structure of any country.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, if you look at this Bill, first of all, there are no guiding principles. What it suggests is something called 'desired effects'. The lawyers present here, including the other professionals, will tell you freely that a 'desired effect' can never be a legal provision. You cannot say that you 'desire' that the sun comes out tomorrow, because if it does not come out, you cannot enforce it, and even if it comes out with clouds, you will have to accept it the way it comes out. Therefore, a Bill like this should have stated guiding principles, like hon. Members have been saying, because if you apply this Bill, in the end, you will not only sell your clothes and be naked, you will probably end up selling yourself because it is a Bill that has no limit or foundation.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, the other thing that you notice, is that the general principle of privatisation envisages creation of a free market; so that a person in Busia who buys shares in a parastatal that you are privatising, can be able to sell those shares down the line for profit. Therefore, you increase capitalization of your stock exchange in the country. Arising from that, no country in the world, right now, will accept privatisation or principles of privatisation as prescribed by the International Monetary Fund (IMF) unless, first of all, an efficient stock exchange has been established; an exchange whereby after privatisation, that capitalization can be distributed evenly across the country. If, today, this law was enforced, and we start privatising the Kenya Commercial Bank and you go to the North Eastern Province or the majority of the country's rural areas, who has money to buy shares in any issue that is being put in the stock exchange? In the recent months, the stock exchange has more or less died. This is because we are going through a depression. That is one of the conditions that would have to be put in a law like this, so that when we have a depression in any part of the country, we do not go through privatisation, but make sure that we wait until each citizen can participate.

The other thing that is very important here is this: Market forces. I had the privilege of serving in the Board of Kenya Airways when we privatised it. I want to say, without fear of contradiction, if this law was enforced then, that privatisation would have succeeded. This is because what the Government is setting up here is a bureaucracy that we cannot even drive through. They are setting up a permanent Commission for privatisation as though Kenya will be privatising every day. We also notice that they are saying that privatisation will be recommended to the Cabinet. If we take the Cabinet of today, it is a Cabinet that never speaks with one voice. Is that the sort of Cabinet that we are going to entrust with privatisation? They will be going to their particular regions and saying that they support this, and the others will say they do not support it. Parliament must be involved in privatisation.

*(Applause)*

This could be either through a permanent committee overseeing privatisation, or alternatively a sessional committee so that every time Parliament sits, it appoints a committee that will be the one that vets, supports, recommends, supervises and oversees privatisation. One of the main reasons for saying so is because of my experience when I was in the Kenya Airways. Parliament is an essential feature of privatisation because more often than not, we are not privatising a profit-making organisation. We are privatising an organisation that probably is in debt and, therefore, we need Parliament to decide how that debt is going to be handled.

Mr. Temporary Deputy Speaker, Sir, all of a sudden, the Government is coming up with a law that cuts off Parliament completely, and also says: "We will go to the Cabinet". The recent experience of the past 16 months has shown that the Cabinet of Kenya is not a Cabinet under Section 16. It is a creature that I quite honestly cannot describe.

Mr. Temporary Deputy Speaker, Sir, we must appreciate one very major factor; that the moment we privatise an organisation, we go to market forces. Therefore, when you read the book of Stigliss(?) and if you talk to economists - This country has wonderful economists, like the current Governor of the Central Bank of Kenya - they would tell you that the moment I buy a company, I have a right to sell it off the following day. That is another principle that must be set here, so that we know that our workers are not going to be laid-off merely because we have privatised and given somebody our corporation. We want to know that if you start spinning off, because that is what you do; we buy the company then you isolate a few items which you do not like, but which may be useful to the country. In the process, we subject a country that does not have a perfect market to principles of standard markets in the developed world. I am afraid that from perspective, I cannot stand here and support a law like this. Whoever has drafted this law has not considered those factors. We noticed even with the successful privatisation of Kenya Airways, what did they do? They have stopped flying to some of these local places like Eldoret. They are saying that it is not profitable. They are reacting to something different. They are no longer reacting to the national desire and needs of the country. They are reacting to the profit motive. Those who say that money is the root of all evil are right. When we are looking at national policy, money should not be the guiding principle. There are citizens in this country who are somewhere in Mandera, Malindi, Mwingi and Kisii. If you only consider privatisation from the perspective of World Bank and IMF, and then bring a law like this, as a Government, you are betraying the trust that this country has vested in you.

**ADJOURNMENT**



**The Temporary Deputy Speaker** (Mr. Khamasi): Order! Mr. M. Kilonzo, we would like to hear you continue with that when the debate resumes.

Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 28th April, 2004, at 9.00 a.m.

The House rose at 6.30 p.m.