

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 7th October, 2004

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.539

PROMOTION OF POLICE OFFICERS

Mr. Speaker: Mr. Salat is not here? His Question is dropped!

(Question dropped)

Question No.556

DEATH OF MR. NZARO CHAI
IN POLICE CUSTODY

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

- (a) whether he could state the circumstances surrounding the death of Mr. Sammy Nzaro Chai in police custody at Kilifi Police Station on 18th March, 2003; and,
- (b) what steps he has taken to apprehend those behind his death.

The Assistant Minister, Office of the President (Prof. Kibwana): Mr. Speaker, Sir, I beg to reply.

(a) The late Sammy Nzaro Chai was arrested by members of the public for the offence of stealing a bicycle and creating disturbance on 15th March, 2003. He was escorted to Kilifi Police Station on the same day. During the night of 17th/18th March, 2003, at about 4.00 a.m., the deceased fell unconscious. He died while being rushed to Kilifi District Hospital. A postmortem done on 24th March, 2003, revealed that the cause of death was head injuries.

(b) An inquest file No.12/2003 was opened and forwarded to the Attorney-General in July, 2003, for further direction.

Mr. Rai: Mr. Speaker, Sir, I have not received any written answer. However, the truth of the matter is that Mr. Nzaro was arrested and handed over to the police and on the following day, his family members were told that he had died. Could the Assistant Minister tell this House whether Mr. Nzaro died in the hands of the police or in hospital?

Prof. Kibwana: Mr. Speaker, Sir, the information I have is that Mr. Nzaro died in Kilifi District Hospital. There was another person who was also arrested by members of the public, beaten up and he subsequently died while in police custody. Unless the hon. Member has different

information, the information we have is that the deceased died in Kilifi District Hospital.

Mr. Onyancha: Mr. Speaker, Sir, is there a policy in place to make police stations user-friendly?

Prof. Kibwana: Mr. Speaker, Sir, that is an important question. The issue is currently being addressed in terms of police reforms. All police stations in the country must be user-friendly. Police stations are feared and we want to get away from that, but obviously, re-orientation of the police is going to take a while. We are very serious about initiating police reforms, so that police stations and the police force have a different face.

Mr. Khamisi: Mr. Speaker, Sir, the Kilifi Police Station where this gentleman died has one of the smallest cells in this country, and we have had several cases of suffocation in that cell. Could the Assistant Minister tell us when he will expand the cells to avoid suffocation and acts of violence?

Prof. Kibwana: Mr. Speaker, Sir, the issue of police cells and prisons requires serious attention. Of course, this is subject to the availability of funds voted by this House. I agree with the hon. Member that this is a matter that Parliament must focus on to provide the requisite funds, so that police stations and prisons are redone to avoid problems.

Mr. Rai: Mr. Speaker, Sir, could the Assistant Minister tell this House what were the findings of the inquest? He has said that the inquest file was sent to the Attorney-General. What were the directives of the Attorney-General? What is the current position of the inquest?

Prof. Kibwana: Mr. Speaker, Sir, the Attorney-General has not finalised working on the inquest file. This is a matter that my office is following up in order to get to the bottom of it. I would like to share with the hon. Member the information that I have from the Attorney-General in the next one week.

Question No.557

SHOOTING OF MR. JACOB KATANA NGALA
BY BANDITS

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

- (a) whether he is aware that Jacob Katana Ngala of Sosoni Village of Gongoni Location in Magarini Division, Malindi District, was shot dead by bandits in his home on 30th May, 1993, leaving behind a widow and two children; and,
- (b) when the Government is going to compensate the family and all other families similarly affected in the area for failure to provide security.

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

(a) Yes, I am aware that Jacob Katana Ngala was shot dead on the night of 30th May, 2003 by people believed to be bandits when he went to rescue his wife who was being attacked at their shop.

(b) The issue of compensation by the Government does not arise before establishing beyond reasonable doubt the person or persons responsible for the murder of the late Ngala.

Mr. Kombe: Mr. Speaker, Sir, the law protects persons and their property. In this case the wife and shop are the property of the deceased. He died while trying to defend the wife when she was attacked by bandits of Somali origin. That warrants compensation. What findings has the Assistant Minister found so far that make him feel that the prevailing circumstances do not warrant compensation?

Mr. Wanjala: On a point of order, Mr. Speaker, Sir. I do not know whether you heard hon. Kombe say that a wife is a property of man. How do women become property of men?

Mr. Speaker: Mr. Kombe, did you say that?

Mr. Kombe: Mr. Speaker, Sir, I said that he was protecting his wife who was in a shop which belonged to him.

Mr. Speaker: Very well. Proceed, Mr. Assistant Minister!

Mr. Mungatana: Mr. Speaker, Sir, as far as the question of compensation is concerned, the Government is simply saying that we must establish, without any reasonable doubt, who were concerned before any such action can be taken. So far, the bandits have not been found. We just know for sure that there was an attack by bandits of Somali origin, Gongoni sub-location, Fundisa Location. But we have not been able to trace them. That is all I wish to say.

Mr. Waithaka: Mr. Speaker, Sir, it appears that there is doubt as to who actually shot this man dead; whether they were bandits or some other people, and that is why the police, are still investigating to establish beyond reasonable doubt. Mr. Assistant Minister, was this man shot by bandits or police to warrant compensation by the Government of Kenya or what are you trying to tell this House?

Mr. Mungatana: Mr. Speaker, Sir, I have just said that those people who shot this person are bandits of Somali origin. So, there cannot be any question of the Government or police being involved.

Mr. Kombe: How long is it going to take the Assistant Minister to find out who actually killed this gentleman? It is now 11 years since he was shot dead.

Mr. Mungatana: Mr. Speaker, Sir, on the basis of the information that I have, with due respect to the hon. Member, the incident took place on 30th May, 2003. As far as we know, that is not 11 years ago. At the same time, I would like to say that investigations are taking place. We have got to be patient and let the law take its course.

Mr. Kombe: On a point of order, Mr. Speaker, Sir. The Question reads, "1993" and not 2003.

Mr. Speaker: But what is the fact?

Mr. Kombe: The fact is: The year 1993 is when he was shot dead, on 30th May.

Mr. Speaker: Mr. Assistant Minister, is that the position?

Mr. Mungatana: Mr. Speaker, Sir, from our information, it is 2003, but I stand corrected if there was a typographical mistake.

Mr. Speaker: All right; you can sort it out.

Next Question by Mr. Mwanzia!

Question No.506

STOPPAGE OF KALAMA
TEACHERS' HARDSHIP ALLOWANCES

Mr. Mwanzia asked the Minister for Education, Science and Technology:-

- (a) whether he is aware that the payment of hardship allowance to teachers in Kalama Division within Machakos District was stopped; and,
- (b) what he is doing to reverse the above action.

The Minister Education, Science and Technology (Prof. Saitoti): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the payment of hardship allowance to the teachers in Kalama Division within Machakos District was stopped.

(b) The current position is that Kalama Division is not gazetted as a hardship area.

Mr. Mwanzia: Mr. Speaker, Sir, I appreciate the answer given by the Minister. But I do not know whether he read his answer correctly. I think he has said, he is not aware, but, the answer says: "I am aware."

Prof. Saitoti: The hon. Member is correct.

Mr. Speaker: Will you, please, sit down. Could we listen to one at a time. Would you like to respond to that, Mr. Minister?

Prof. Saitoti: Mr. Speaker, Sir, may I actually re-read the answer once again.

(a) I am aware that the payment of hardship allowance to the teachers in Kalama Division within Machakos District was stopped

(b) The current position is that Kalama Division is not gazetted as a hardship area.

Mr. Mwanzia: Thank you very much. Mr. Speaker, Sir, it is true that hardship allowance to teachers in Kalama Division was stopped. My wonder is: Kalama Division was in Makueni District. When it was moved to Machakos, that is when the hardship allowance was stopped. The climatic and physical conditions of Kalama Division have not changed by the fact that it was transferred from Makueni District to Machakos. So, what the teachers are asking is: Why was the hardship allowance stopped? Secondly, what is the criteria which you used?

Mr. Speaker: Please, ask one question at a time, Mr. Mwanzia!

Prof. Saitoti: Mr. Speaker, Sir, let me just inform the hon. Member that, indeed, as he knows, Kalama was part of Makueni District then, created in 1992. Then, the same division that we are talking about, in 1993, reverted back through a gazette to Machakos District. As far as Machakos District was concerned then, the other two divisions had actually been gazetted for hardship. Being in Makueni, that particular gazette did not refer to Kalama Division as one which qualified for hardship allowance.

Mr. Bifwoli: Mr. Speaker, Sir, you heard the Minister say that when Kalama Division was in Makueni District, the teachers were paid hardship allowance. But when it was transferred to Machakos District, they stopped paying them hardship allowance. The question is: Did the climate or environment change after the transfer? Could he tell the House?

Mr. Speaker: Rather to put it correctly, did the hardship cease to exist?

(Applause)

Prof. Saitoti: Mr. Speaker, Sir, the position is as follows: Makueni District is the one which was then to declare again those teachers eligible for hardship allowance. However, when it went back to Machakos, and because by that time it belonged to Machakos, then it was not eligible for hardship allowance because only two others were actually placed there.

Prof. Oniang'o: Mr. Speaker, Sir, the Minister has shown the whole House that he was not ready to answer this Question. He does not understand the issue. He is confusing all Kenyans and he is actually upsetting the teachers. With changing weather and climate, there are many areas that are being rendered hardship areas. Could he tell us what criteria they use to determine a hardship area? Could you, therefore, defer this Question until the Minister comes ready to answer it?

(Applause)

Prof. Saitoti: Mr. Speaker, Sir, first, I want to reject the insinuation made by the hon. Member that I am not ready to answer the Question. I am very sorry, I am so ready to answer the Question and I have stated the position of the matter clearly.

Mr. Speaker, Sir, Kalama Division was carved from Machakos District as part, now, of the

greater Makueni District. A year later, it reverted back to Machakos District. I think the point of the matter here is that once Makueni District was created, it was then considered to be a hardship district. But by virtue of Kalama Division having gone back to Machakos District, it was, therefore, not designated as a hardship area.

An hon. Member: No! No!

Prof. Saitoti: Yes, this is the position. Hon. Members must understand that you do not just merely come and announce a division to be a hardship area. There has to be a gazettelement. So, only a third of the district was gazetted as a hardship area. When it went back to Machakos District, it ceased to be a hardship area.

(Several hon. Members stood up in their places)

Mr. Speaker: Order, all of you! For the dignity of the House, and to bring this Question to rest, who does the gazettelement?

Hon. Members: The Minister!

Mr. Speaker: Is it the Ministry or somebody else?

Prof. Saitoti: Mr. Speaker, Sir, it is the Ministry of Education, Science and Technology that does the gazettelement. If, indeed, an area is felt that it deserves to be a hardship area, the District Education Board (DEB), along with the District Development Committee (DDC), make a recommendation to us. It is forwarded to the Office of the President, and then the Office of the President makes the gazettelement.

Mr. Mwanzia: Mr. Speaker, Sir, I think the hon. Minister has not told the House what criteria they use when declaring an area a hardship area. I thank him very much because he has said we can go to the DEB. It is even frustrating that after the degazettelement, the Government recovered all the amount which the teachers had been legally paid as hardship allowance. We raised this issue even with the President. Why can these people not be refunded what was paid to them legally in the first place? They are suffering. The Government is actually stealing from the teachers.

(Applause)

(Prof. Saitoti stood up in his place)

Mr. Speaker: Order, Mr. Minister! Mr. Mwanzia, would you withdraw that word?

Mr. Mwanzia: Mr. Speaker, Sir, I withdraw.

Mr. Speaker: Proceed, Mr. Minister!

Prof. Saitoti: Thank you very much, Mr. Speaker, Sir. I wanted to rise particularly on that point. As I said, Kalama was degazetted as such and then it was considered that those teachers who had continued to enjoy those allowances after the gazettelement of the cancellation, the money could not be sustained legally.

Mr. Speaker: Order! I think we must get what the hon. Member is complaining about rightly. A situation exists which made it lawful for the teachers to be paid hardship allowance. That situation ceases. It does not make it illegal what was legal initially. This is what the hon. Member is saying; that what they were paid legally should not be recovered from them because it was legal until it was stopped.

Prof. Saitoti: Mr. Speaker, Sir, the position is that once the division reverted back to Machakos District as per gazettelement---

Hon. Members: Ah! Ah!

Prof. Saitoti: This is the position. I am stating the facts as they are---
Mr. Speaker, Sir, I must be allowed to answer the Question!

(Loud consultations)

Mr. Speaker: Order! Can we hear what he has to say?

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

Order, Members! Let us hear what he has to say!

Prof. Saitoti: Mr. Speaker, Sir, I am stating the position as it is, which is that, once there was a gazettelement which then took back Kalama to Machakos District, there was a legal notice which made it no longer eligible for teachers to enjoy hardship allowances. The payments continued even after that gazettelement while during that particular time the teachers were not eligible for those payments. That is the position which existed then.

Mr. Speaker: Very well. Next Question by Mr. Karaba!

Question No.616

ESTABLISHMENT OF HEADQUARTERS
FOR NATIONAL EXAMINATIONS COUNCIL

Mr. Karaba asked the Minister for Education, Science and Technology:-

- (a) whether he is aware that the Kenya National Examinations Council (KNEC) is located in four different premises in Nairobi;
- (b) whether he is further aware that the above makes provision of services cumbersome besides wasting resources in form of rent; and,
- (c) if he could undertake to put KNEC under the same roof to promote efficiency and reduce wastage.

The Minister for Education, Science and Technology (Prof. Saitoti): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the Kenya National Examinations Council (KNEC) is located in four different premises, namely; National Housing Corporation Building, National Bank of Kenya Building, Mitihani House on Dennis Pritt Road and Government Supplies Branch in Industrial Area.

(b) I am also aware that the four locations make provision of service cumbersome. The location presents unsuitable operating environment for the Council and keeps the risk of security and confidentiality of the examination unnecessarily high.

The facilities are congested and their location, especially in the Central Business District, demands that the Council pays a lot of money in form of rent apart from other operating costs.

(c) In an attempt to put the Council under one roof, the Government of Kenya Commissioned the New Mitihani House project in 1986. It stalled in 1989 due to lack of funds when it was 20 per cent complete. The Ministry has made a request to the Treasury to accord this project the priority it deserves and allocate adequate funds for its completion.

Mr. Karaba: Mr. Speaker, Sir, I thank the Minister for that answer. You note that the Minister is trying to allude that the building was stalled in 1989; 15 years down the line. Every year,

we pass budgetary allocations for the Ministry and I think it is very sad to hear that examinations are not given priority in the development of this country. Since that time, what has prevented the Government from allocating more funds for this project?

Prof. Saitoti: Mr. Speaker, Sir, as I have just said, indeed, the project stalled out of lack of funding. I would also like to say here that submission has already been made to the Treasury in order to be able to make allocation so as to build and complete that project.

Prof. Oniang'o: Mr. Speaker, Sir, we are, therefore, not surprised that there are so many examination leakages in this country. Examinations are so sensitive and need to be protected. We just approved Kshs50 billion to rehabilitate and complete unfinished constructions. Could the Minister tell us why he did not include some building to house examinations and whether he is going to do it in the coming year?

Prof. Saitoti: Mr. Speaker, Sir, like I said earlier, we have written to the Treasury in the hope that in the provisions of the coming financial year, funds will be made available so as to ensure that, that particular building is completed.

Mr. Muchiri: Mr. Speaker, Sir, could the Minister tell us where the stalled headquarters of the KNEC is located? Could it be the building between Belle Vue and St. James Hospital? Could the Minister tell us how much the Ministry had spent before the building stalled and how much is required to complete the stalled building?

Prof. Saitoti: Mr. Speaker, Sir, the building is located along Mombasa Road around the same area Mr. Muchiri has just described. By the time the building stalled, a total sum of Kshs31,299,052.50 had already been paid.

Mr. Karaba: Mr. Speaker, Sir, we have had a number of irregularities related to examination leakages. Who will be held responsible when such leakages occur? It appears that the examination irregularities could arise as a result of the dispersed buildings. I believe the KNEC should be held responsible.

Prof. Saitoti: Mr. Speaker, Sir, there is no doubt that, that is an additional Question. If the hon. Member wants me to come with an answer to that Question, then I can do so. However, there is no evidence at all to show that, because the KNEC is not housed in one building, there have been leakages of examinations.

Question No.580

POSTAL SERVICES FOR TANGULBEI DIVISION

Mr. Kamama asked the Minister for Information and Communications:-

- (a) if he is aware that Tangulbei division with a total of 30,000 people has no access to postal services; and,
- (b) what the Ministry is doing to address this perennial problem.

The Assistant Minister for Information and Communications (Mr. Were): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the people in Tangulbei Division in Baringo District have no access to postal services. This is because in the past, it was in the opinion of the Kenya Postal Corporation of Kenya that it was not economically viable to put up a post office in the division.

(b) I wish to inform the House that the Postal Corporation of Kenya in August 2004 conducted a feasibility study and recommended the establishment of a sub-post office in the division in line with universal service obligations requirement and also to enhance economic activities in the area. It is expected that this implementation will commence by the end of this month.

Mr. Kamama: Mr. Speaker, Sir, I want to point out that my people in Tangulbei Division actually depend on charity. If they have to send their letters to Nakuru or Nyahururu, they must wait for somebody along the road who will deliver the message. So, they get letters by hand. I am, however, happy and satisfied with the answer that Kenya Postal Corporation will commence operation in October. I only hope---

Hon. Members: It is already October!

Mr. Speaker: Order, Members! Mr. Kamama, address the Chair and ignore everybody else.

Mr. Kamama: Mr. Speaker, Sir, I am satisfied with the answer and I only hope that Kenya Postal Corporation will stick to its implementation schedule.

Question No.546

PROVISION OF GEOPHYSICAL EQUIPMENT
TO COAST PROVINCE

Mr. Kingi asked the Minister for Water:-

- (a) if she is aware that the entire Coast Province does not have Government geophysical equipment for hydro-geological surveys; and,
- (b) what plans are in place to purchase this equipment for the region.

The Minister for Water (Ms. Karua): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the two sets of geophysical survey equipment deployed in the Coast Province have broken down; one in the year 2000, and the other in 2002. They are, therefore, not in a working condition.

(b) The Ministry is faced the problem of inadequate geophysical equipment for hydrological survey work. However, we have plans to procure one set, which we will issue to the province to ease the problem during the current financial year.

Mr. Kingi: Mr. Speaker, Sir, I want to thank the Minister for the comprehensive answer she has given and through which she has admitted that Coast Province does not have this important equipment. In view of the fact that we now have the Constituency Development Fund (CDF), part of which we would like to use for the drilling of boreholes in our areas, could the Minister be more specific and tell us when exactly we should expect this equipment? How many days or months should we wait before we get the equipment?

Ms. Karua: Mr. Speaker, Sir, I cannot be more specific than I have already been. However, I can add that we are also considering sending that procurement. We intend to obtain one set of the equipment from provinces that have more than one for use in Coast Province, pending the procurement.

Mr. Khamisi: Mr. Speaker, Sir, the Minister has admitted that the Ministry is checking the problem of inadequate geophysical equipment. Could she tell this House how she intends to address this issue countrywide so that each area has equipment to use on a reliable basis?

Ms. Karua: Mr. Speaker, Sir, through the same method I have outlined. We intend to procure one or two sets every financial year.

Mr. Rai: On a point of order, Mr. Speaker, Sir. Could the Minister tell this House---

Mr. Speaker: That is a supplementary question!

Mr. Kingi: Mr. Speaker, Sir, the Minister has said that she will consider withdrawing some of this equipment from the provinces that have more than one equipment. That is something she can do next week or one-and-half week from now. Why can she not be more specific?

Ms. Karua: Mr. Speaker, Sir, I have been specific. It will be so soon that you will be happy.

*Question No.600*REHABILITATION OF KOCHIA
WATER PROJECT

Mr. Speaker: Eng. Okundi! He is not here. The Question is dropped.

(Question dropped)

*Question No.346*MISMANAGEMENT OF BUTESERO
CO-OPERATIVE SOCIETY

Mr. Oparanya asked the Minister for Co-operative Development and Marketing:-

- (a) if he is aware that Butesero Multi-Purpose Co-operative Society in Butere/Mumias District was run down by its management; and,
- (b) what action is he taking to ensure that the shareholders get back their money.

The Minister for Co-operative Development and Marketing (Mr. Ndwiga): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the society was run down by the management as there is no evidence implicating the society's management in an act of malfeasance or breach of trust.

(b) The society bought a Nissan *matatu*, registration No.KAM584Y, in April 2002, but unfortunately, the same was stolen on 25th May, 2002. This was the only investment for the society by then. Soon after the incident, the society started drifting into dormancy since this was its main income-generating activity. However, if the society would be able to get compensation from insurance for the theft of the vehicle, the members will have to decide whether to continue with the business or venture into other areas or liquidate the society and share out the proceeds realised from the disposal of assets. My Ministry has in the meantime asked the former officials to submit all the books of accounts plus other records as soon as possible to facilitate an audit since no audit has been carried out since registration in 1998.

Mr. Oparanya: Mr. Speaker, Sir, you heard the Minister say that this vehicle was stolen in April 2002, which is now about two-and-half years. Could the Minister tell this House why it has taken that long for the insurance company to compensate the members' vehicle. I am aware that the vehicle was comprehensively insured.

Mr. Ndwiga: Mr. Speaker, Sir, the society went to court and sued the insurance company. So, that is an issue which we cannot discuss here.

Mr. Oparanya: Mr. Speaker, Sir, I have information that Kshs500,000 was stolen from this co-operative society. The Minister ordered investigations to be carried out three

months ago. Could he tell us why it has taken three-and-a-half months to have the report filed to the members?

Mr. Ndwiga: Mr. Speaker, Sir, I have already said that an inquiry is going on in the society. As soon as that is completed, we shall make the report public.

Question No.562

LEGAL STATUS OF ZONE HOLDING
AND CREDIT INVESTMENT COMPANY

Mr. ole Metito asked the Attorney-General:-

(a) whether he is aware that between June and July, 1999, Zone Holding and Credit Investment Company Limited collected Kshs3,216,225 from farmers in Oltiasika and Namelok Sub-locations of Mbirikani Location as deposit for loans which were never given;

(b) whether he could inform the House the legal status of this company and its physical address; and,

(c) what steps he will take to ensure that the money is refunded to the farmers and the company penalized for their action.

Mr. Speaker: Is the Attorney-General not here? Mr. ole Metito, you can see the predicament in which we are. The Attorney-General is not here.

Mr. ole Metito: Mr. Speaker, Sir, I have not even received a written answer, but we can have the Question deferred to Tuesday next week.

Mr. Speaker: All right. I will defer the Question to Tuesday.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

IMPOSITION OF CURFEW IN LAIKIPIA DISTRICT

(Mr. Ndolo) to ask the Minister of State, Office of the President:-

(a) Could the Minister confirm that the Government has imposed a dusk-to-dawn curfew in Laikipia District?

(b) If the answer to (a) above is in the affirmative, what is the rationale?

Mr. Speaker: Is Mr. Ndolo not here? The Question is dropped.

(Question dropped)

NON-GAZETMENT OF DR. J.T. ROTICH
AS KACC ASSISTANT DIRECTOR

Mr. Bett: Mr. Speaker, Sir, I beg to ask the Minister for Justice and Constitutional Affairs the following Question by Private Notice.

Why was Dr. J.T. Rotich not gazetted as an Assistant Director of the Kenya Anti-Corruption Commission (KACC)?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Speaker, Sir, I beg to reply.

Dr. Rotich, was not gazetted as an Assistant Director of the KACC along with the other directors because the President declined to appoint him to that position.

Mr. Bett: Mr. Speaker, Sir, in declining to appoint Dr. Rotich was the President aware that there was an enabling legislation on the matter? Why did he not do it?

Mr. Muite: On a point of order, Mr. Speaker, Sir. The issues which are raised by this Question and the answers given are weighty, fundamental and complex.

The KACA Act, just like the Kenya Human Rights Commission Act, are the two first Acts

where this House has devolved powers from the institution of the Presidency to this House. So, they are constitutional issues raised. The five or so minutes accorded to each Question may not enable this House to do justice to this weighty constitutional matter. I was asking whether it would be in order to commit this matter to the Committee on the Administration of Justice so that it can do thorough investigations and find out whether the information which the President may have relied upon was available to the Government. Will the Government table those names on the Floor of the House? The Committee should write a report and bring it to this House so that we can debate and do justice to this weighty matter.

Mr. Githae: Mr. Speaker, Sir, I am not aware when Committees started answering Questions in Parliament. Secondly, there is nothing weighty about this Question. There are good reasons why the President acted the way he did. I expected the hon. Member to ask me the reasons and I would have given them.

Mr. Speaker: Order, hon. Members! Sometimes, I do expect that we have as a House a collective memory of events and debates of this House.

The House will recall that when this issue came to this House the first time the Chair suggested that the whole issue of vetting individuals for appointment should be done at committee level. In your collective wisdom, you refused to take my counsel which unfortunately, you now regret. So, it is always good for the House to look at these things very carefully. I am not worried about the answer of an individual one way or the other. What the Chair is worried about is future activities of parliamentary appointments as are stipulated in the KACA Act and also in the Human Rights Commission Act and other such bodies that this House may wish to have a direct involvement in its appointment.

Hon. Members, you will recall that I did say, at that time, that you must get it right now. If you do not get it right now, we will leave to regret. That day has come. I will not refer the Question to the Committee for an answer. I am referring to the Committee to get into the bottom of this issue. It should first of all find out what ways the House will be satisfied that a person is fit for appointment to an office before we give our stamp of approval.

Secondly, if we make a mistake as is likely to be made either by this House or by any person or authority, what is the avenue for redress and how will we go about it? On that basis, I will ask the Committee to proceed. Let us have answers to future avenues. That is the best I can say for now. It is so ordered.

(The Question was referred to the relevant Departmental Committee)

Dr. Khalwale: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Just a moment. I hope you are not going to question the Speaker's rationale for doing this. This does not mean that Committees are authorised to answer Questions. In fact I am on record as saying that when a Question has come to the Floor of the House, it will be dealt with on the Floor of the House. Any hon. Member who wishes to refer it to a Departmental Committee knows the procedure and they will go that way. We will not have it both ways. I have done this in the interest of the future procedures of appointment of persons who must be approved by this House. That is the understanding upon which I referred to this matter.

What is it, Dr. Khalwale?

Dr. Khalwale: Mr. Speaker, Sir, I am rising to seek clarification from you. The way I understand it is that when Dr. Rotich's name was brought here, it came here collectively with other names. Therefore, if your ruling is that the Committee may look at that name; since we did not vote

for an individual name, could you also rule that it discusses all the other names that were there collectively?

Mr. Speaker: You have misunderstood me absolutely. I think I have made myself clear to this House. The Committee should look into the whole issue of vetting and approval by the House of persons to whom this House is empowered to approve, and what happens about the question that follows next when the House has approved the appointment and the appointing authority has declined to so appoint. Those are weighty issues! We need to look at it not merely because of Dr. Rotich, but for the future and in the interest of future management of Parliamentary and Government affairs, that must be looked into. We must leave that issue now.

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

Mr. Speaker: What is it again, Mr. Angwenyi?

Mr. Angwenyi: Mr. Speaker, Sir, I would like to get some clarification. I thought that when we touched on this matter last time before we went on recess, you did say that we need to have a Vetting Committee which will be established through Standing Orders. We should amend our Standing Orders so that we can accommodate that Committee for the purpose of vetting appointments. Maybe, you have changed your mind since that time. But if my memory serves me right, I think that is the conclusion that you made last time.

Mr. Speaker: Your memory has served you very badly!

(Applause)

Order! Order! I never said anything of that sort. In any case, the body that we have for the time being responsible for these matters is the relevant Departmental Committee chaired by hon. Muite. So, we are not in a vacuum! We have a Committee in place. But yes, indeed, if that be the recommendation of the Committee that we do have a Vetting Committee, then let it come out from that Committee!

The next Question by Private Notice belongs to hon. Wamwere! The hon. Member has received some communication from Dr. Kulundu that the Minister for Labour and Human Resource Development is indisposed, and that for some strange reason, he could not get his Assistant Minister to stand in for him. Is the Assistant Minister anywhere here?

(Loud consultations)

Is he here?

Hon. Members: He is not!

Mr. Speaker: All right, Mr. Wamwere, can I defer your Question to next week?

Mr. Wamwere: That is all right, Mr. Speaker, Sir, as long as you ask the Secretariat not to deny me to ask any other Question that might come from me for next week, because the argument is that---

Mr. Speaker: That is reasonable! It is so directed by me, because it is not your fault that we could not deal with this Question today.

Mr. Wamwere: Thank you very much, Mr. Speaker, Sir.

NON-PAYMENT OF SALARIES TO SUBUKIA YOUTH POLYTECHNIC INSTRUCTORS

(Mr. Wamwere) to ask the Minister for Labour and Human Resource Development:-

When will the following instructors of Subukia Youth Polytechnic be paid their salaries that have not been paid since October, 2003:-

Messrs David Magembe; Dominic M. Mwangi; Benson Karanga; David Kebira; Francis Waweru; Emerencia Kiriama; Preciah Mungai; Esther Wanjiku; Evans Njihia; Hezekiah and Samuel Gachuki?

Mr. Speaker: Very well. Next Question, Dr. Ojiambo!

Dr. Ojiambo: Mr. Speaker, Sir, allow me to make a correction on the name "Susan Wairimu" appearing on the Question before I ask the Question.

Mr. Speaker: Proceed!

Dr. Ojiambo: It is supposed to be Susan Wanjiru and not Susan Wairimu.

EXPULSION OF ORPHANS FROM NYUMBANI
CHILDREN'S HOME

Dr. Ojiambo: Mr. Speaker, Sir, I beg to ask the Vice-President and Minister for Home Affairs the following Question by Private Notice.

(a) Could the Minister inform the House why John Rashid, Meshack Ndirangu and Susan Wanjiru, all orphans, were thrown out of Nyumbani Children's Home in 2003?

(b) Is the Minister aware that Susan Wanjiru was consequently gang-raped while sleeping on the roadside at Karen Shopping Centre?

(c) Are the children still on ARV wherever they are?

Mr. Speaker: I am sure the same applies here. Where is the Vice-President and Minister for Home Affairs? Does he not have an Assistant Minister?

(Loud consultations)

Is there any Minister who is ready to step in? Mr. Tarus?

The Assistant Minister for Local Government (Mr. Tarus): Mr. Speaker, Sir, may I apologize to the House, because I had been given the responsibility to assist the hon. Minister to answer that Question yesterday, but the Question did not come before the House yesterday, and so I did not come with the written answer today. Can I answer this Question on Tuesday next week?

Mr. Speaker: I see. Had I ordered that this Question be brought to the House today or yesterday?

The Assistant Minister for Local Government (Mr. Tarus): Mr. Speaker, Sir, it was supposed to come back yesterday.

Mr. Speaker: Is that all right, Dr. Ojiambo?

Dr. Ojiambo: Mr. Speaker, Sir, you had ordered that this Question be brought to the House this afternoon.

Mr. Speaker: Well, I think there must have been a mix-up, and since Mr. Tarus has been very generous to step in, shall I now defer the Question to Tuesday next week? Is that all right with you, Dr. Ojiambo?

Dr. Ojiambo: Mr. Speaker, Sir, it is all right, but you know this Question concerns children who do not have a voice, and as we are talking, they are in the streets. We do not know whether they are on treatment at all. I would like the Government to take it seriously.

(Loud consultations)

Mr. Speaker: Order! Order, Members! Indeed, I do appreciate and I think we are all thankful that you have become the voice of the children. Therefore, I order that this Question be deferred to Tuesday next week, and that it be taken seriously. Thank you.

(Question deferred)

Next Order! Shall I begin with hon., Dr. Machage?

MINISTERIAL STATEMENTS

DISTRIBUTION OF RELIEF FOOD IN MAKUENI DISTRICT

The Assistant Minister, Office of the President (Dr. Machage): Thank you, Mr. Speaker, Sir. Following the request for a Ministerial Statement by hon. Ndambuki of Kaiti Constituency over the status of relief food distribution in Makueni District, I would like to state the following.

My Ministry and, indeed, the Government, has not stopped the supply of relief food to Makueni District as alleged. From January to August this year, the Government has spent Ksh174,870,693 for the same in the district.

Indeed, in August only, my Ministry has sent to Makueni District 20,979, 90-kilogramme bags of maize; 2,850, 90-kilogramme bags of beans, 5,701 cartons of six by three litre cooking oil; 2,000 cartons of 12 by a half litre milk, and an AIE for transport purposes of Kshs3,926,045.

As at yesterday, 6th of this month, the following was at Makueni District Headquarters ready for distribution:- 21,000, 90-kilogramme bags of maize; 4,000, 90-kilogramme bags of green grams; 3,000 cartons of cooking oil, and 2000 cartons of milk powder.

Today, my Ministry has despatched 30 metric tonnes of assorted foodstuff through the Kenya Red Cross, and food worth Kshs200,000 through the World Vision to Makueni District.

Mr. Speaker: Mr. Ndambuki, it is not time for debate or for asking Questions. It is time for seeking clarifications.

Mr. Ndambuki: Thank you, Mr. Speaker, Sir. I thank the Assistant Minister for his Statement. I was in a meeting where it was announced that only five out of 17 divisions are the ones which were going to get relief food. I would like to know from the Assistant Minister how many people they are feeding in Makueni District.

Secondly, I would like to know when was the last time food distribution was done in Makueni District. You know, delivering is one thing and distribution is another one. We never got anything during the month of August. So, I would like the Assistant Minister to tell us how many people they are feeding. There is a difference between Machakos and Makueni. Makueni is a district by itself, and it is old enough to take care of its affairs.

The Assistant Minister, Office of the President (Dr. Machage): Mr. Speaker, Sir, I am very much aware that Makueni is an independent district. Whoever made the announcement in that meeting spoke his own mind. What I have said today is the Ministry's directive. I may not be able to give you the exact number of people we are feeding in Makueni, but I can give that information to you any time, if you need it.

Mr. Kembi-Gitura: Mr. Speaker, Sir, what I would like to understand from the Statement, which is very good as pertains to Makueni District, is the Government's policy on famine relief. It should not be assumed that only certain places in this country are affected by famine. Many times, it has been left to Members of Parliament to plead with the Ministry officials so that they can assess a

situation in particular places in the country. There is famine in Murang'a District, just like in so many other places, but nothing has been done despite several appeals that we have made. Do we have a policy? Does the Government know where the famine is ravaging people and what does it propose to do so that we have an equitable distribution of famine relief food countrywide?

Dr. Galgalo: Mr. Speaker, Sir, I applaud what the Government is doing. It is addressing this issue as much as it could. We recall that the President made an alert that we need assistance from other donors and everybody to come and support us. How far have these efforts to get support from donors and other well-wishers gone? What are we getting from our brothers and sisters whom we have appealed to?

The Assistant Minister, Office of the President (Dr. Machage): Mr. Speaker, Sir, in the Ministry we have a comprehensive system where we get information every day on the identification of affected areas. Indeed, it is true that we are not addressing every district in this country as regards famine relief distribution. We cannot afford it. We get this information and decide at the ministerial level which areas need addressing much faster than the others. It is true that some areas might not have been addressed as much as others, but it is because of this index that we use.

On hon. Dr. Galgalo's question, as to how much we have received, indeed, I would like to take this opportunity to thank donors, both locally and internationally, for what we have received. Local donors have given us about Kshs79 million in cash. We have also received slightly above Ksh32 million worth of different assortment of foods, giving a total of Kshs110 million from the local donors only. We have received about Kshs122 million worth of food from the World Food Programme (WFP). We have also received about US\$4.2 million, which is about Kshs52 million, towards the same.

Mr. Ogur: On a point of order, Mr. Speaker Sir.

Mr. Speaker: What is happening, Mr. Ogur?

Mr. Ogur: Mr. Speaker, Sir, there is a problem of this microphone hanging behind me instead of in front of me.

Mr. Speaker: Order! You should sit in front of the microphone all the times. Okay, go ahead.

Mr. Ogur: Mr. Speaker, Sir, I heard the Assistant Minister saying that this Government cannot afford to feed its people who are dying of hunger. Nyatike Constituency, for instance, has received rains for three months in a year only. Is the Assistant Minister saying that we are not going to get food because the Government cannot afford it? Is that in order?

Mr. Speaker: That is not a point of order. Will you sit down? Mr. ole Metito, what is it?

Mr. ole Metito: Mr. Speaker, sir, I would like to know from the Assistant Minister, who meets the transportation cost of that relief food from the district headquarters to the distribution points? A lot of food is brought to the district and it lies there for so many months and the same needy people are being asked to meet the transportation costs from the district headquarters to the distribution points.

Mr. Speaker: Dr. Machage, could you now respond to all the various questions?

The Assistant Minister, Office of the President (Dr. Machage): Mr. Speaker, Sir, we have to accept the reality. His Excellency the President did, indeed, agree that we needed some help on 15th July, 2004, in terms of food distribution to our people. That is the truth, and it is a fact. I cannot say otherwise. The Government takes a lot of initiative to distribute food from the district headquarters to the targeted populations. However, as you may realise, my Ministry is also depending on donor funding, both locally and internationally. Indeed, I am not very happy because a lot of food is now stagnating at the district level. My appeal is also to the Members of Parliament to participate in arranging for transport where we are not able to do so in time to alleviate the

situation.

Mr. Ndambuki: On a point of order, Mr. Speaker, Sir. I am just concerned with the District Commissioner (DC), Makueni. What the Assistant Minister is telling us is not true. We are not getting food as he says. Could he tell us why we have been deleted? He must give me a true answer, not just what he has been given. We are not getting food, and the DC is the one in charge and who represents the

Office of the President in Makueni, and we are not getting food.

The Assistant Minister, Office of the President (Dr. Machage): Mr. Speaker, Sir, as far as I am concerned, I have sent food to Makueni. Maybe, I should not under-estimate the hon. Member's statement. I will have to investigate.

Mr. Ndambuki: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! Ministerial Statements are not basis for debate. I have advised the House several times that you must ask a Question so that the relevant Minister comes with an answer. Mr. Ndile, on a totally different issue.

Mr. Ndile: Bw. Spika, kuna jambo ningependa Waziri Msaidizi atufafanulie kuhusu hayo mambo ya chakula kwanza.

Mr. Speaker: Bw. Ndile, la. Uliuliza nikupe nafasi---

Mr. Ndile: Bw. Spika, hayo maneno kuhusu chakula ni muhimu sana---

Mr. Speaker: Utatoka nje ukiendelea hivyo!

Mr. Ndile: Bw. Spika, Wizara isipotupatia mbegu na mvua karibu inanyesha, Wakamba watapatikana tena na njaa.

Mr. Speaker: Please, Mr. Ndile!

POINTS OF ORDER

OUTBREAK OF STRANGE DISEASE IN KIBWEZI

Mr. Ndile: Bw. Spika, ninaomba niulize Taarifa ya Serikali kutoka kwa Wizara ya Afya. Kuna ugonjwa umezuka kule Kibwezi, kwa shule moja inayoitwa Moi Girls. Sasa hivi, hiyo shule imefungwa kwa sababu ya watoto kuwa wagonjwa, na huo ugonjwa haujajulikana ni wa aina gani.

An hon. Member: Ni wa njaa.

Mr. Ndile: Kwa hivyo, ninaomba Waziri atueleze huo ni ugonjwa gani.

MODE OF DRESS IN THE HOUSE

Jambo la pili, Bw. Spika, unajua mimi ni mgeni katika Bunge hili. Sisi tuko na shida hapa. Jana mwenzangu hapa alinitusi na Naibu Spika ambaye alikuweco hakunitetea. Ukiangalia nguo yangu na ya Bw. Angwenyi, hata saa hii, utakuta yangu ni ya bei ya juu hata kuliko yake. Lakini, jana, alisema kwamba nilikuwa nimevalia kunguru; ati nimevaa nguo kama ya jela. Yule Naibu wa Spika aliyekuwa amekaa hapo hakunitetea kwa sababu alileta siasa zake za LDP hapa.

(Laughter)

Mr. Speaker: Order! Order! Two things first. This House will not be an arena for the contest of who is the shaggiest dressed Member. That will not be allowed. This House will not be the arena for the contest of the shadiest dressed Member. Every Member must come to this House in

respectable attire.

Mr. Ndile, secondly, and a more serious issue, is your assault on the Chair. You said the Chair did not protect you because the Chair believes in a certain political ideology. I think this is serious and an assault on the Chair! It is not enough for me to send you out. I think, to earn the gravity of your mistake, I demand that the hon. Member be named for gross misconduct.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. The hon. Member was yesterday dressed in a *Kitenge*. The Chair ruled that we should dress decently---

Mr. Speaker: Order, Mr. Angwenyi! I am not on the issue of dressing any more! I have said that the hon. Member be named. Is there any hon. Member prepared to move that Motion?

MOTION

SUSPENSION OF HON. NDILE FROM THE HOUSE

The Minister for Co-operative Development and Marketing (Mr. Ndwiga): Mr. Speaker, Sir, it is true that we must maintain the dignity of this House. The Chair is the custodian of that dignity. We cannot have hon. Members of this House assaulting the Chair.

Therefore, I beg to move the following Motion:-

THAT, Mr. Ndile be suspended from the services of the House.

(Applause)

Mr. Speaker: Order, hon. Members! As I said, this is a matter of grave import. The continuous disrespect of the Chair and the cultural attitude of some hon. Members to take on the Chair must come to an end! The Chair must be respected.

*(Question, that Mr. Ndile be now
suspended, put and agreed to)*

Hon. Members: Division! Division!

*(A number hon. Members stood up
in their places)*

Mr. Speaker: Hon. Members, I am sorry the requisite numbers are not there!

(Loud consultations)

Order, hon. Members! For the benefit of all the hon. Members, I will read the requisite Standing Order and the import of it. Standing Order No.89 says:-

"Whenever a Member shall have been named by Mr. Speaker or the Chairman then-

(a) if the offence has been committed by such Member in the House, then a Motion shall be made by any

other Member present "That, such Member (naming him) be suspended from the services of the House", and Mr. Speaker shall forthwith put the question thereon, no amendment, adjournment, or debate being allowed;

(b) if the offence has been committed in a Committee of the whole House, the Chairman shall forthwith leave the Chair and report the circumstances to the House; and Mr. Speaker shall, on a Motion as aforesaid being made, forthwith put the question, no amendment, adjournment or debate being allowed, as if the offence had been committed in the House itself."

Now, Standing Order No.90 says:-

"If a Member be suspended under Standing Order No.89 (Member may be suspended after being named) his suspension on the first occasion shall be for three days including the day of suspension; on the second occasion during the same Session for seven days, including the day of suspension; and on the third or any other subsequent occasion during the same Session for 28 days, including the day of suspension."

So, Mr. Ndile now stands suspended as an hon. Member for three days. He is not excluded from the House; he is suspended!

He is no longer an hon. Member; he is suspended!

(Applause)

Now, for the next three days upon which he is suspended, he will be excluded from any benefits accruing to an hon. Member. He will resume his membership on the lapse of three sitting days. We will not count the non-sitting days.

Mr. Ndile, that is your punishment. You are now a suspended hon. Member. You must move out of all the precincts of Parliament forthwith! Will the office of the Serjeant-at-Arms ensure that the suspended hon. Member is removed from the precincts of Parliament.

(Mr. Ndile withdrew from the Chamber)

The Assistant Minister for Energy (Mr. Kiunjuri): On a point of order, Mr. Speaker, Sir. May I, first of all, say that your decision is right. However, it is the first step that you have taken. I am aware that no hon. Member was named during the last Parliament. I hope that our rules will be strictly observed. Every hon. Member should know that this could happen to any hon. Member who is in gross misconduct of the House, including me.

Mr. Speaker: Mr. Kiunjuri, just attempt to do what Mr. Ndile did and you will see what happens!

(Laughter)

Now, the House will recall that I did, in fact, on the very first day, serve notice that we will restore the dignity of this House. This is the course of restoring the dignity of this House and we must proceed on that line. In fact, I want to commend the House because the proceedings of this afternoon during Question Time were done in a very orderly and honourable fashion. That is how it should be.

Mr. Mungatana, you may proceed to issue your Ministerial Statement!

PRIMARY SCHOOL

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Speaker, Sir, on 3rd August, 2004, Dr. Khalwale rose on a point of order to request a Ministerial Statement on attacks of pupils of Kakamega Primary School. He wanted to know what action has been taken against the employees of one, Mr. Michael Odwoma, who allegedly attacked pupils, resulting in one pupil, Michael Amwami being hospitalized with a fractured leg. He further wanted to know the ownership of the disputed plot and how it came into possession of Mr. Michael Odwoma. The facts of the incident are as follows:-

On 26th July, 2004, 300 pupils of Kakamega Primary School invaded Plot No.11292, being the private property of Mr. Michael Odwoma. The incident was reported to the police who went to the scene to control the rowdy pupils. Four pupils were taken to Kakamega Hospital, three of whom were treated and discharged. A pupil by the name Hosea Omwami, aged 15 years, was admitted in ward No.2 at Kakamega General Hospital suffering from soft tissue injuries and was discharged on 28th July, 2004. There is no pupil of Kakamega Primary School who is still in hospital in connection with injuries that occurred during the said riots. During the incident, the pupils smashed, using stones, a windscreen of a Peugeot motor vehicle, Registration No.KZS 914; office windows, iron roof sheets, security bulbs amongst other things.

Mr. Speaker, Sir, two adults, Alice Akhonya and Denis Mbaranga, sustained head and left-hand injuries respectively. The police recorded statements from four of the injured pupils who never identified their attackers in their statements, other than saying that stones were thrown from all directions at the disputed parcel of land. The facts relating to the ownership of the disputed land are as follows.

According to the Kakamega Municipality Development Plan, the plot that belongs to Kakamega Primary School is Block 11/31. Next to the school is plot No.11/32, which has never been part of the school land and has been used by the Kakamega Municipal Council as a yard. Until 1993, plot No.11/32 was re-planned into six plots, namely, 252, 292, 293, 294, 295 and 296.

In 1994, plot No.292 was allocated to the school as an extension of the original Block 11/32, by the Commissioner of Lands. The remaining plots, including the controversial plot No.292, were allocated to individuals. In 1994, plot No.292 was allocated to Jemima Kavere Kaisha, vide allotment letter No.144/640/18 dated 22nd February, 1994. This letter was signed by the Commissioner of Lands. On 31st October, 1995, the said Kaisha was issued with a leasehold title No.796 of 1995 for a period of 99 years. On 26th May, 1998, Ms. Kaisha sold the Parcel of land to Manesse Bismark Etemesi Wandege at an agreed price of Kshs400,000. Upon the transfer, the lease was registered under the name of Mannese Bismark Etemesi Wandege. Leasehold certificate No.796/1195 remained the same.

In 2004, Mannese Bismark Etemesi Wandege sold and transferred the same plot to Michael Odwoma. The certificate of leasehold dated 26th May, 2005 remained the same. The current owner of plot No.11/292 is still Mr. Odwoma and at no one time has this plot ever belonged to Kakamega Primary School.

Police are still looking for the adults who organised and incited the pupils to riot into violence.

Dr. Khalwale: Thank you, Mr. Speaker, Sir. While I would like to thank the Assistant Minister for that very long and thorough answer, may I state quite truthfully in this House that the owners of the three plots that belonged to Kakamega Primary School and are in dispute are, an Assistant Minister, a caveator who was working at State House for the President and a KANU operative. These people were allocated these particular plots when they were hived off. I just want

to clarify that.

Mr. Speaker: Order, Dr. Khalwale! You are not the one who is supposed to clarify that. You should seek further clarification on the Ministerial Statement that the Assistant Minister has issued. You are now debating, and on the look of it, in fact, making very interesting remarks. Please, seek a clarification on the Ministerial Statement that the Assistant Minister has made!

Dr. Khalwale: Thank you, Mr. Speaker, Sir. Is the Assistant Minister convinced that the report he has regarding the ownership of that property is authentic? Has that property not been grabbed?

Mr. Khamasi: Mr. Speaker, Sir, this is a very serious matter. This is a public utility land which has been allocated to people illegally. Could the Assistant Minister check with his counterpart in the Ministry of Lands, Settlement and Housing to find out whether that parcel of land can be returned to the school, which really deserves it?

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Speaker, Sir, while preparing this statement, we conferred with all departments of the Government, including the Department of Lands. With respect to the hon. Members, the records, as I have read out, clearly show that, that primary school had never owned that parcel of land. As far as these records are concerned, the plot which is in dispute has exchanged hands three times and it is private property. If the initial allocation was done illegally, it will be investigated in another avenue. But as of now, this is a private property as far as the records are concerned.

Mr. Speaker: Very well! Let us move on to the next Order!

MOTION

ADOPTION OF SESSIONAL
PAPER NO.4 ON ENERGY

THAT this House adopts Sessional Paper No.4 on Energy laid on the Table of the House on Tuesday 15th June, 2004.

*(The Assistant Minister for
Energy (Mr. Kiunjuri) on 8.7.2004)*

*(Resumption of Debate
interrupted on 15.7.2004)*

Mr. Speaker: Who was on the Floor when this Motion was interrupted?

Hon. Members: It was Prof. Maathai!

Mr. Speaker: Prof. Maathai is supposed to continue for another 25 minutes, but I understand that she is absent! Under our Standing Orders, she is deemed to have forfeited her time!

Yes, Mr. Kipchumba!

Mr. Kipchumba: Mr. Speaker, Sir, I would like to make my comments on the Sessional Paper on energy. The energy sector plays a very critical role in the economic development of this country. There are so many problems facing this sector that at times we do not know where to start. I want to address these issues systematically. I would like to start with the electricity sub-sector which is the most critical.

First of all, I would like the Minister to ensure that the various recommendations which have been made in the technical report be implemented. There is no point of spending colossal sums of money on a report that will, indeed, not see the light of the day. We saw various recommendations

being made with regard to mismanagement of the Kenya Power and Lighting Company (KPLC). The biggest problem we have in this country is mismanagement of our various parastatals. The problems of electricity are numerous. They range from losses, which account for almost 20 per cent; outages, access, especially, by the majority of our rural population; low consumption because of low incomes; prohibitive costs and the monopolistic aspect which is enjoyed by the KPLC when it comes to distribution of power. I do not need to belabour on the benefits or the advantages of monopoly. The biggest problem we have as a result of this monopoly is that year in, year out, the Government has to convert the debts of this parastatal into equity. There is a limit to that. The Government cannot, continuously, convert the KPLC debts into equity because it will finally reach a dead end. The KPLC is both a Government and a private investment. This is to the extent that the Government gets money from the taxpayer every year to invest in this industry. This is quite unacceptable. I have said that the biggest problem that we have in this industry is prohibitive cost. If anyone cared to look at his electricity bill that comes from KPLC, one will be shocked that it is not only a round figure. There are so many other hidden costs. We have the fuel cost adjustment, forex adjustment, ERB levy, rural electrification programme levy and VAT in addition to the deposit that Kenyans have to pay to this company so that they can enjoy this facility.

Mr. Speaker, Sir, the biggest problem that KPLC has, and in extension KenGen, is over reliance on hydro resources. We do appreciate that hydro resources are indeed very cheap but continuous reliance on nature, like water which we receive in this country, is not under the control of man. We depend on weather patterns and the will of God and when we get water shortage, it is felt instantly by KPLC. Then the question is: "What do we do with this electricity sub-sector?" The first issue must be a deliberate policy by the Government to ensure a reduction of tariffs. We must ensure that the tariffs that are charged by KPLC are indeed affordable by many Kenyans. Like I have said before, there are so many hidden costs. We must ensure that the deposit that is paid by Kenyans is very low. We must ensure that the taxes that are charged are low because, if you charge a lower tariff then there will be many consumers. KPLC will be able to sell to as many people as possible and in the process KPLC will reach many Kenyans and it will enjoy economics of scale. Consequently, very many Kenyans will be able to use this commodity.

Mr. Speaker, Sir, the Government must ensure that the cost of spare parts that are imported for the repair of related facilities is low. The taxes on the same must be removed including those of transformers and drop wires. We must ensure that we do not go to the extent of importing even poles from South Africa. It is a shame that this country can import everything; including trees which we have in abundance. It is a shame and it must not be allowed to happen again.

Mr. Speaker, Sir, the other issue that must be done is to minimise the outages. We understand there are problems but it is quite unfortunate that many Kenyans lose quite a lot of their equipment as a result of these power outages. I would like to suggest that if KPLC cannot be able to contain the power outages, they must be able to compensate Kenyans who lose their property as a result of the outages which is not their problem. This is because, if you read through the agreement and the way KPLC has been protected when your equipment is destroyed as a result of power failure, you are not entitled to any compensation. Therefore, we are saying that as a result of this problem, the policy must be such that Kenyans are entitled to adequate compensation.

Kenyans and industries must also be compensated for failure by KPLC to provide power as and when it is required because it is a contract. There can never be a lopsided contract in the world. There can never be a contract that only favours the provider. It must also favour those who pay for the same, those who enjoy the facility and, therefore, the Government must come up with a legal framework to ensure adequate compensation both in terms of property and failure by KPLC to provide, at all times, the much needed electricity. This will go a long way in ensuring that we attract

investments. There is nothing more embarrassing than establishing an industry and along the way, you realise that you cannot maximise production as a result of inability by KPLC to give you a guarantee in terms of adequate power.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, I welcome the establishment of the Rural Electrification Agency. That is a welcome move. We would like to ensure that activities pertaining to provision of electricity in the rural areas are handled separately because, as we know, the Government has claimed in the past that it always provides extra funds to this programme of rural electrification. However, when this is separated, I am sure it will go a long way and, in the process, ensure that all Kenyans are given power arising from the benefits of rural electrification equally because all Kenyans who consume electricity pay for this facility. If we are going to pay, all our brothers and sisters who are disadvantaged to live in the rural areas must enjoy this facility. We must develop a policy where all the funds that accrue from the same must be ploughed back to all the constituencies of this country. They might not be sufficient but at least the money will go a long way in ensuring that at least every Kenyan feels that the Government values their existence.

Mr. Deputy Speaker, Sir, there is a programme that has been started by KPLC and I must commend it for this. It is called the Customer Creation Programme. I want to commend KPLC because, in the past, we have had cases where only one Kenyan is given a transformer to use alone. You will find that in a village of 1,000 people only one human being is using a transformer which could easily be used by 50 or more other Kenyans. It is not because the other Kenyans cannot afford but because there has never been a deliberate policy to ensure that the other Kenyans afford this facility. In ensuring that this Customer Creation Programme succeeds and I have seen it in my own constituency--- It will ensure maximisation of resources. Instead of one human being, and it used to be in most cases politicians--- It used to be that one politician would pull power all the way for about ten kilometres just to his own estate or house, ignoring all the other Kenyans and even those where the power line has passed through their farms. It was a shame and a selfish act. However, we are happy that KPLC, in its own wisdom, has introduced it. I did not understand why it could not, at that time, have supplied power to all Kenyans but, at least, there is a beginning and the Government must put in more money to this Customer Creation Programme. Through this programme, KPLC will have additional customers and, in the process as well, satisfy as many Kenyans as possible.

Mr. Deputy Speaker, Sir, the Government must implement its policies and ensure that dams are constructed all over the country. It is a shame that only one river in this country has more than 70 per cent of the dams which supply hydro-electric power to this country. I am happy that Sondu Miriu Hydro-Power Project is now in progress. I am also happy that the Turkwel Hydro-Power Station can now provide extra electricity, but it is not sufficient. We must explore other rivers in this country which can generate hydro-electric power.

We are unable to harvest all the water during the rainy season. In fact, all the rain water flows into Lake Victoria or the Indian Ocean. We should use our resources to ensure that, that water is collected in a dam so that it can be used for the generation of hydro-electric power. I would like dams to be diversified because, if you construct all of them along one river, when there is a shortage of rain in that particular region, they will not have enough water. For example, right now, a lot of rain is being experienced in some parts of Rift Valley Province and, yet there is no rain in Eastern and Central Provinces, whose rivers feed 70 per cent of the dams we have in this country. If

the Government had constructed dams in different parts of this country, they would have been utilised during the dry season.

On electricity, we should not rely only on hydro-electric power. There are numerous geothermal resources in Rift Valley Province although I know that the Government is constrained by resources. In spite of the fact that it is initially expensive to explore geothermal power, in the longrun, it becomes the cheapest source of energy. The Government should not only concentrate on Rift Valley Province, but explore other areas in this country which are capable of producing geothermal power.

We should also ensure that we minimise the losses. As I said earlier on, we lose about 20 per cent of the power which is distributed by the Kenya Power and Lighting Company (KPLC). That problem should be addressed immediately.

The biggest problem that the Government must address is mismanagement. When I began my contribution, I said that the Government has not acted on the technical report which was laid on the Table of this House concerning the KPLC, the National Oil Corporation of Kenya (NOCK) and the Kenya Pipeline Company (KPC). I am now concerned with the KPLC and not the other two parastatals. The report recommended that action should be taken against the former management team of the KPLC, but up to now no action has been taken against them. Action was taken against the management of the KPC, but for reasons known to the Government, no action has been taken against the former management of the KPLC. I do not think that removing them from office was enough when Kenyans lost a lot of money through the KPLC.

Mr. Deputy Speaker, Sir, the problems of the KPLC started when Independent Power Producers (IPPs) came into being. I used to know the KPLC before the IPPs came into being; it was financially sound and had a lot of money. The IPPs sold power to the KPLC at exorbitant prices. That is why we should not allow the KPLC to be the only distributor of power in this country. The monopoly enjoyed by some parastatals has destroyed this economy. We know what happened with Telkom Kenya Ltd., but we are happy that something is being done about it. Nobody is saying anything about the KPLC! I do not know whether the KPLC will enjoy the monopoly in perpetuity. That must come to an end. There must be a time-frame within which the KPLC will be protected because it already has the infrastructure, and I do not see the reason why it should fear any competition. The energy sector is the most profitable in the world but, in this country, it is the other way round.

I want to talk briefly on the fossil fuel sub-sector. The biggest problem that we have in this country is that the Government has allowed the Kenya Petroleum Refineries Ltd. (KPRL) to produce substandard products. Those products are substandard because they have high proportions of lead and sulphur which are forbidden all over the world. I do not understand why this should be the case. Kenyans must be very healthy people. The Kenya Bureau of Standards (KEBS) is charged with the responsibility of ensuring that Kenyans access high quality products and, yet it continues to certify the production of products which are banned in the world. Every year, the KPRL is given a waiver to produce substandard products. This must come to an end!

The Assistant Minister for Energy (Mr. Kiunjuri): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to tell this House that the KEBS really recommends for substandard products to be sold in the market? We clearly know that it is only that we have not met the actual standards of the day. According to the KEBS, we have been selling those products for the last 40 years.

Mr. Kipchumba: Mr. Deputy Speaker, Sir, I do not understand what his point of order is because what I am saying is a fact. I am just trying to put the facts as they are. He can either take them or improve on them. I am saying that the KEBS has continued to give waivers to the KPRL to

produce products which are unacceptable in the world. When the KEBS says in black and white that the KPRL must produce products with a sulphur content of less than 0.5 per cent, but it produces products with a sulphur content of 1 per cent and applies for a waiver, what will we call that? The Assistant Minister must consult and come up with facts. They are there in his Ministry. I am saying that the KBS must not continue to give waivers to the KPRL. If the KPRL cannot produce products which meet the standards which have been set out by the KBS, then it should be shut down or be made to import products which meet the specification. That is a fact!

The KPRL is an obsolete refinery in the world. If it was in another part of the world, it would have been shut down a long time ago, but because we are a poor country, we continue to rely on a refinery that is dangerous; a refinery that loses 4 per cent of the initial product which it is supposed to process, when we are supposed to make a gain. The KPRL loses 4 per cent of the initial product because it uses very old hydro-steamers. There is no reason why we should allow such a company to continue producing substandard products in this country. I would like to urge the Government to divest from the KPRL. There is no reason why it should not do that. The Government owns 50 per cent of the KPRL's total shares, but the biggest problem is that there has never been any meaningful investment. Whenever the KPRL declares dividends, the Government is happy to receive them, but it is not happy to plough anything back to the same "cow" which has given it dividends. That is where the problem lies. If the Government divests from the KPRL, probably, the private sector will put in money.

I am aware that, at some stage, Mobil could not continue being a shareholder of the KPRL which produces substandard products because it would like to maintain its high standards. The KPRL cannot produce high quality products because it is obsolete. We can close down that refinery, because it produces substandard and very expensive petroleum products. My argument is very simple. Let us not say that we cannot shut it down, because it provides employment. How many companies in this country have laid off their workers? This company must not be an exception at the expense of Kenyans. High sulphur level in petroleum is dangerous to the health of our children, and this must not be allowed to continue. The whole world now uses unleaded petroleum. We continue to produce substandard products, which have high levels of lead. Why do we allow that to happen?

Mr. Deputy Speaker, Sir, we have the capacity to import 100 per cent refined oil products. The only problem we have is, of course, Liquefied Petroleum Gas (LPG) and the Government has admitted that. In the current Budget, some funds have been provided for the Government to invest in an LPG handling facility. That must be done expeditiously, so that this country can be able to import LPG without any limitations. Once we have the LPG facility in place, the excuse that the Kenya Petroleum Refinery Limited is our source of LPG will be a thing of the past.

Another problem facing this industry is the mushrooming of substandard petrol stations. You will agree with me that some petrol stations have been built in people's houses. That is very dangerous and unacceptable. Surprisingly, if you talk to the people operating those petrol stations, you will find that they all have licences. You wonder how one would be issued with a licence to put up a petrol station in a house. In view of this, I want to suggest that there must be a deliberate Government policy to ensure that licensing of petrol stations is co-ordinated or undertaken by one agency. As it is now, oil storage licences are issued by the Provincial Administration, while operating licences are issued by the Ministry of Energy. There is a licence which is issued by the National Environment Management Authority (NEMA) to ensure that the environment is sound. There are other licences which are issued by the local authorities.

If the issuance of licences is not co-ordinated, we run the risk of having some people with only two of these licences, but being in operation. There is nothing that can bar such a person from

operating. Therefore, the Government must establish an authority that will issue licences to all dealers of petroleum products under one roof, so that one does not have to be licensed separately by the Provincial Administration, the Ministry of Energy, the local authorities and NEMA. In the past, issuance of operating licences used to be restricted, but because of laxity in the Ministry of Energy, many substandard petrol stations have been built all over the country.

Mr. Deputy Speaker, Sir, the oil industry enjoys an oligopolistic kind of competition. It is better than the power subsector, but there is still room for improvement. In any oligopoly, there are risks of collusion, especially in terms of pricing. I know that there was a deliberate policy by the Government to establish the National Oil Corporation of Kenya (NOCK), so that it can compete with the other players in this industry. However, in my view, the NOCK could be described as stillborn. The Government has probably not invested much in the NOCK. If the Government is interested in assisting the NOCK, then it must invest some money in it. Otherwise, it should divest from the NOCK. If it cannot invest in it, it has no business owning the company. So, the Government should invest in the NOCK. If the Government does not have adequate funds, then it should divest, so that private investors can buy shares from the NOCK, give it a new image and provide the much needed competition in this sub-sector.

In addition, the NOCK must have a deliberate policy to ensure that it builds petrol stations all over the country. You realise that the private sector is basically driven by the profit motive. That is the case in all other industries. As I speak, in the banking sector, the Barclays Bank (Kenya) Limited is closing down most of its branches, because it wants to maximise on profit. What will happen if there are no petrol stations in certain parts of the country, like in Turkana District and the North Eastern Province, because of low profit margins? Therefore, the Government must invest in the NOCK, so that it can put up petrol stations in strategic areas of this country; so that all Kenyans can enjoy the fruits of Independence. The Government must ensure that they get fuel and service their vehicles at petrol stations that will be built by the NOCK.

Mr. Deputy Speaker, Sir, when the Petroleum Development Levy Fund (PDLF) was established, it was initially meant to fund the Oil Exploration Department of the Ministry of Energy. These funds have been included in the Printed Estimates but, at times, they are diverted to fund other projects. There can never be anything worse than taxing Kenyans to fund oil exploration and use those funds for other projects. That is dishonesty. The Government must ensure that, at all times, this money is used to fund oil exploration, because this country has the potential to strike oil. If Sudan, which is in the same geological segment with Kenya, can strike oil, why not Kenya? We are even on a lower level than Sudan. Probably, we are better placed to strike more oil than Sudan.

Our biggest problem has been inadequate funding in the Exploration Department. In order to enhance oil exploration, we should ensure that all the funds that are collected through the PDLF are ploughed back to oil exploration. I know that exploration is not a short-term profit-making activity but, with adequate investment in this area, Kenya will probably strike oil in the long run. People look for short-term activities, but we must not look at things from that angle.

The Government must also ensure that the petroleum sub-sector is totally liberalised. As it is now, there is only a partial liberalisation of this sector. We have only liberalised the pricing of petroleum products, but the importation of petroleum products is still being co-ordinated by the Ministry of Energy. I know the merits and the demerits of doing that. I do not want to belabour this issue. In order for us to ensure that this sector is totally liberalised, as I said earlier, the Government must quickly use the money that we voted for the establishment of an LPG storage and handling facility. That is the most critical thing to do.

In addition, the Government must invest adequately in the Kenya Pipeline Company (KPC). I have read the articles of association that established the KPC. There was a deliberate reasoning

that the KPC would surrender very little money to the Exchequer. The Ministry must look into this position, because that is the cause of corruption in the KPC. The company must surrender all its revenue to the Exchequer, so that when it needs funds, it can approach the Exchequer for releases. We have seen white elephant projects being undertaken by the KPC just because the company has a lot of money in its possession. Therefore, it is time all the profits were surrendered to the Exchequer and subsequently, for long-term investment, the Kenya Pipeline Company can request the same from the Exchequer. That is not difficult.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Mr. Khamasi) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, for us to sustain the energy sector, we must ensure that the afforestation programme works in this country. We cannot continue to rely on the hydro resources when on the other side, we continue to allow companies such as the Pan African Paper Mills to destroy the vegetation of this country. In whatever we do, we must ensure that we have adequate forest cover. The water that is used to generate electricity cannot be obtained unless this country has adequate forest cover. Therefore, we should not look at these things in isolation. The Minister for Energy must co-ordinate with the Ministry of Environment and Natural Resources which, unfortunately, has been the biggest cause of destruction of forests in this country. They have destroyed all the trees that we had in this country by allowing the Pan African Paper Mills to destroy our heritage.

That brings me to wood fuel. Ideally, wood fuel would be the cheapest source of energy for this country. We do not have adequate foreign exchange to import fuel; we do not have adequate hydro resources to produce electricity and we do not have nuclear resources. Wood fuel, which is used by all of us especially the poor segment of this country, is cheap but the biggest problem is that forests are being depleted.

Secondly, in the absence of alternative cheap liquefied Petroleum Gas (LPG), Kenyans will continue to destroy forests. You cannot tell Kenyans not to destroy forests without giving them an alternative source of energy. You must allow Kenyans to use wood fuel as long as you have not given them an alternative. The Government should develop a policy to ensure that the LPG facilities, including the gas cylinders and the valves, are affordable. The Government must subsidise these products. If you want to increase your forest cover through stopping Kenyans from using wood fuel, you must give them an alternative source of fuel. Kenyans must use charcoal and firewood. Reducing tax on the product itself is not adequate because the initial investment of about Kshs3,000 to Kshs4,000 is unaffordable by the majority of Kenyans. If this could be reduced to Kshs1,000, the initial subsidy by the Government could appear very high, but in the long-run, you save our forests and ensure that Kenyans get very clean fuel.

Mr. Temporary Deputy Speaker, Sir, there is one very cheap source of energy; the solar energy. Solar energy is very cheap in the sense that once it is installed, you will not be receiving a bill at the end of the month. What has the Government done to promote solar energy in this country? It has done nothing! Either the Government is not aware of the existence of solar energy or it has never bothered to ensure that Kenyans use this source of energy.

I want to justify why the Government must invest in solar energy. First, the subsequent costs are nil and it is clean. In addition, Kenya receives adequate amounts of sunshine for the longer period of the year. Hardly a day passes by without a Kenyan seeing some sunshine. Solar energy is

used in other countries which receive sunshine probably twice a month, because they know the benefits of the same. Given our advantage of being situated in the tropical climate, there is no reason why every Kenyan should not be encouraged to instal solar energy in his home. I want to suggest that the Government must ensure that the initial cost of installing solar energy is very low; by ensuring that there are no taxes levied on equipment that is imported for the installation of solar energy. This will go a long way in ensuring that Kenyans use solar energy.

Mr. Temporary Deputy Speaker, Sir, you cannot connect electricity to every part of the country, but, at least, you can get sunshine everywhere. It is in North Eastern, Coast and the Rift Valley Provinces. There is sunshine everywhere in this country. The Minister for Education, Science and Technology should ensure that every school in this country utilises solar energy.

Recently, the Ministry encouraged schools to harvest water from their roofs. In the same breath, the Ministry in collaboration with the Ministry of Energy, should ensure that every school in this country has installed solar energy. If you visit any school, they want you to raise money for them to connect electricity to their school and once the bills come, they will tell you that since you are their Member of Parliament, you must pay the bills. Nowadays, Members of Parliament cannot afford this because of the bad economic times. To avoid this situation, there must be a policy to assist many institutions to use solar energy, especially for heating purposes.

Mr. Temporary Deputy Speaker, Sir, the easiest way for the Government to ensure that there is energy all over the country would not be through electricity. It is by ensuring that Kenyans utilise solar energy. It is said that once you rely on more than 20 per cent of electricity from one source, you are in danger. What would happen if the source collapsed? Even nuclear power sources have caused problems in the past. The hydro resources that we have in this country have caused us problems in the past. When there was drought in this country, we relied mainly on fuel energy and the amount of money that this country had to pay was substantial. Therefore, we must first ensure that we diversify. The Government must develop a policy to ensure that the country does not depend on more than a certain percentage on one source of energy. There was a Sessional Paper to this effect. It is known all over the world that once you rely on more than 20 per cent on one source of energy, you are in danger and you must look for alternative ways of generating power.

Finally, we must utilise power resources that are in our neighbouring countries in the best way we can. This can be expensive, but there is nothing more expensive than our failure to have power. All over the world, studies have shown, and it is common knowledge, that whenever there is economic growth, the consumption of energy will grow by, probably, the same margin. Therefore, instead of us staying without energy, we should explore the possibility of importing energy from our neighbouring countries. We have heard severally that the southern grid has excess energy. There is no reason why this country cannot be connected to the same.

We must also ensure that the Independent Power Producers (IPPs) sell their power at a reasonable price. The Kenya Power and Lighting Company (KPLC) must never buy power at a price that is higher than what they can sell. It is common business practice. You cannot buy power at Kshs8 and sell it for Kshs6. It shows you that at one stage you must collapse and, indeed, you will. That is a predicament the KPLC has faced in the past. We know they signed very unfortunate agreements under circumstances which, if you read the technical report, you will understand. But because our Government is very selective in the application of the law, it has decided that those who did the same must go scot-free, so that they can enjoy the wealth of this country at the expense of the poor Kenyans.

With those few remarks, I beg to support.

The Minister for Roads and Public Works (Mr. Raila): Thank you, Mr. Temporary Deputy Speaker, Sir, for this opportunity. This is a very, very important policy document on energy.

This is because energy is the nerve of an economy. Without a clear policy on energy, an economy cannot develop and grow. That is the reason why I am very happy that the Ministry has come up with this policy finally. I am also happy to have been part of the process of initiating the formulation of this policy document.

The availability and cost of energy determine the pace of economic development in a country. I hold a view that this country generates too little energy if we have to realise our dream of one day becoming an industrialised nation. That is the reason why I want to begin by saying that we have not addressed the issue of our destination sufficiently in this document. I believe very strongly that, at 1,200 megawatts, we are a sleeping economy. That is less than the consumption of a city. The city where I lived in Germany, for example, consumes much more than what we generate annually. This basically underscores our level of under-development. We need to find ways and means of encouraging more generation.

At the moment, the cost of energy in this country is also very high and this is driving away investors. It is an open secret that a number of companies have been relocating from this country to other countries, like South Africa and Egypt, basically because of the high cost of energy in this country. This, in my view, is associated with the low levels of generation. This is because, if you liberalise, then conventional economics says: "The law of supply and demand dictates." If you generate too little and there is high demand, the cost goes up. That is the reason why we should fully liberalise to allow people to generate more. When you are liberalising, you also introduce this phenomenon of IPPs, and therein lies the problem. This is because these IPPs came in and shackled the Government with what I considered to be unequal agreements. This is because the argument here was that, Kenya was a high-risk investment destination and therefore, we had to agree to A,B,C and D. There were several conditionalities which were put in those agreements, tying the Government to very high costs of purchasing power from these IPPs over a long period of time. The high cost of purchasing from IPPs is responsible for the very high cost of energy in this country. We need, therefore, to find a way of freeing ourselves from these unequal treaties. When Britain forced China to sign an agreement on Hong Kong over 100 years, later on the People's Republic of China reasoned rightly that, the Republic of China Government with which Britain signed a contract in 1899 was a very weak government and, therefore, the treaty was unequal. It was enforced on the government at that time. Therefore, they said the independent People's Republic of China was fully justified in repudiating the provisions of that contract. I would like to say that these treaties with IPPs are unequal and the Government is justified in repudiating and opening up afresh.

Our national access to electricity is still very low; at 15 per cent overall. At 3.8 per cent in the rural areas, we rank among the lowest countries in as far as electricity provision is concerned. Some developing countries are at 20 per cent. India, for example, has it at over 50 per cent. So, we need to do something about the national coverage. We should bring in more people to use electricity, because a higher consumption is in itself going to also reduce the amount that will be paid for electricity. At the moment, our electricity cost is almost 9US cents per unit, compared to 2.5US cents in South Africa and Egypt respectively. Therefore, our industries cannot be competitive if their purchasing power is at three or four times higher than their competitors in Egypt and South Africa.

The system loss which has also been touched on in this document is something that needs to be addressed urgently. This is because our level of generation is low and, at the same time, our system losses are very high; at over 20 per cent. This is something that needs to be addressed and reduced as is proposed in the policy document; to something like 15 per cent. I would myself say, we can still even go lower than 15 per cent. We need to carry out some investments in our transmission system to reduce system losses.

I agree that we also need to diversify our sources of generation. Here, first of all, over 70 per cent of our generation is hydro-based. Hydro-generation, of course, is the cheapest, but our own potential is also limited in hydro-generation. We have put a lot of investment in the Seven Forks Project. Again, we are almost exhausting our capacity on the Seven Forks Project. As we turn westwards and develop Phases I and II of the Sondu Miriu Project, we should look at what we can generate in Nzoia and also encourage minimal standard loan systems on a number of our other rivers. I agree totally with the Shadow Minister for Energy, hon. Kipchumba, when he says that we need to conserve and protect our catchment areas. That is very important.

If we deplete our forests, we must learn to live with the fact that we will not have sources of generation. We will not be having water. That is why it is very important. I remember that we had a big task trying to convince the Japanese Government to fund the Sondu-Miriu Hydro-Electric Project. The project had come under severe criticism from the Non-Governmental Organisations (NGOs) because they felt that the Mau Forest, which is the catchment area for River Miriu, was being depleted. Therefore, we were going to put up very heavy equipment and a lot of investment downstream on Sondu-Miriu, but within very few years, the river was going to dry up. As a result, all that investment would go to waste. It was a difficulty task to hire consultants to move around and come up with a paper that was giving the justification that the catchment area was not going to be depleted.

I have flown over that area myself, and I must say that I am a very worried person. The last general elections in 2002, gave me a very unique opportunity to travel around this country on a chopper and look at our forests and catchment areas. I want to say that, I did not believe that the 1.8 per cent forest cover that we talk about is not even there! This is something that needs urgent attention and redress. That is the reason why I am thoroughly opposed to the so-called *shamba* system.

(Applause)

Mr. Temporary Deputy Speaker, Sir, the people who speak about the this may not be fully conversant with the gravity of the situation we are dealing with. The situation is sufficiently grave enough to warrant emergency measures. I know, for a fact, that a human being is a human being. No one can tell you that he is responsible enough and will be able to live in the forest and plough and yet conserve it. We run the danger of destroying the little that is remaining of our forests. Therefore, that way we are going to have to contend with the fact that we have hydro-electric power stations put there which will be dormant and we can say, "once upon a time, this facility used to generate electricity"

Mr. Temporary Deputy Speaker, Sir, I want us to look at and urgently explore our geothermal potential. At the moment, it is put up at about 2,000 megawatts, but this is only what has been explored. However, scientists say that it can go as high as 12,000 megawatts; making Kenya second only to New Zealand in terms of geothermal potential. This is something that we need to exploit. It is a natural resource we need to exploit either by investing in it ourselves or inviting other private sector investors so that we can exploit it.

Mr. Temporary Deputy Speaker, Sir, whenever we talk about nuclear energy, people shy away. Much as I am concerned about the environmental conservation, I want to say that nuclear energy has been sufficiently developed and right now a new generation of nuclear power plants are being developed and installed in developed countries. Therefore, there is no reason why we should shy away from looking at other alternatives which other people are looking at.

Mr. Temporary Deputy Speaker, Sir, I want to talk about the Rural Electrification

Programme. I have said that, at the moment, our national cover is only 3.8 per cent in the rural areas. This explains the reason why we are poor. We continue to gravitate around what we call the vicious circle of poverty; that we are poor because we are poor and as a result we cannot save. We cannot save and, therefore, we cannot invest. We cannot invest and, therefore, we cannot develop and hence, we are poor. We must make a conscious effort to break this vicious circle of poverty. One way of doing this is by bringing electricity to the rural areas. It has been established all over the world that by bringing electricity to the rural village, you trigger off a number of economic activities which generate wealth to the population in that locality and hence, reduce poverty. Therefore, we must look at rural electrification not from the commercial point of view or returns on investment. We must look at it as an infrastructure; like we do roads and water because it is essential. If we supply electricity to the rural areas, the local *wananchi* will be able start *Jua Kali* industries, manufacture furniture, ploughs, jembes and casements and take them to the urban areas to sell. That is the reason why I am fully supporting the proposal that we establish a Rural Electrification Agency separate from the Kenya Power and Lighting Company (KPLC). Also, it should be fully put under the Ministry of Energy as an agency that will spearhead the process of rural electrification in our country.

Mr. Temporary Deputy Speaker, Sir, I also would like to urge the Ministry to liberalise the distribution of power. Although we have liberalised the generation of power, we have still monopolised transmission and distribution. I am suggesting that whereas we maintain the transmission as one unit, we should liberalise distribution so that we can have several other agencies and companies tapping in and signing contracts with generating agencies and then distributing power to consumers.

There is no reason why there should be monopoly in provision of transformers. I want to say, from an engineering point of view, that a transformer is just a tank.

(Laughter)

The reason why we do not manufacture transformers at the East Africa Spectre International is because very few are consumed. So, it is just a tank and we put oil in it to cool it. This is what has made rural electrification too expensive for the local people. It is put at Kshs200,000 per unit yet it does not cost more than Kshs20,000 to manufacture the standard transformer that we require for those rural markets. That is the reason why I am saying that, the Government should allow those who want to import transformers to do so. Let there be a type-testing of the transformers, so that they can be made readily available to the people in the rural areas. It will be much cheaper and it will lower the cost of transmission and distribution of power in the rural areas.

On the hydro-carbon exploration, I could not agree more with some proposals here and the views which have been expressed by my predecessor. It is true that we need to put in more in hydro carbon exploration.

Mr. Temporary Deputy Speaker, Sir, Saudi Arabia is the biggest crude oil producer in the world. Some people do not know that it took over 100 years for oil to be struck in the Arabian Peninsula and a lot of investments were put into the exercise. They drilled so many wells before they eventually struck the oil. There is no way you can know that where I am standing now inside this august House, deep down three kilometres, there is oil. Up to now there is no other way of discovering it until we drill. We must, therefore, encourage more investment in exploration. We must lead the way.

Three years ago, I went to Sudan. You will remember that I was criticised, very heavily, that I was trying to bring blood oil from Sudan into this country. I was accused of trying to betray our

brothers in Southern Sudan who are trying to fight for their Independence. I said that nothing could be further from the truth. At that time, we were importing sugar from Sudan. In fact, you will find so many agencies all over in our country selling sugar from Sudan. I wondered why they were talking of blood oil and not blood sugar. The reason for my going to Sudan was to find out exactly what different thing Sudan did that enabled them to discover oil. Since I went to Sudan officially as a Minister at the invitation of my counterpart there, I was given State treatment. I was taken to Southern Sudan. I visited the area with a team of journalists and experts from this country. We actually went to see the Sudanese Oil Fields. We saw and we learnt just like Shakespeare said: "We came, we saw, we did not conquer, but we learnt."

Mr. Temporary Deputy Speaker, Sir, what Sudan did was this: Sudan made an arrangement with the Government of the Peoples' Republic of China which invested in a state-of-the-art laboratory in Khartoum. It was completely computerised. They also invested in prospecting facilities and training their own people. So, Sudan is able to use the satellite images which are now readily available. They take the satellite images to the laboratory for processing and narrow down the area of search. They then send their seismic team to the field to go out and carry out exploration. When they come up with data, it is processed in the computer and they are able to locate areas of high potential where they then direct their drilling teams to go and drill there. If you go down to Southern Sudan, there are oil fields in places like Bentiu and Farzan. These places have a similar terrain like that in Lodwar, Lokichoggio or Wajir here in Kenya. This belt runs right from the northern part of Kenya all the way to Southern Sudan through Chad, Niger, Cameroon, Nigeria and up to Equatorial Guinea. In all these countries, oil has been discovered. It is only in Kenya that we have not discovered oil.

Mr. Temporary Deputy Speaker, Sir, if you look at the offshore of this region, in a place called Songosongo in Tanzania, they have discovered natural gas. They are already exploiting it. They have now converted the power generation plants in Dar-es-Salaam from oil production to natural gas production plants. The gas is obtained in Songosongo offshore. Up north, around Kismayu, Total Company is exploring and it is almost striking gas there. I want to believe that God could not have been so unkind to Kenya that we are surrounded by countries that are endowed with natural gas and oil and yet we have nothing in this country. That is why I am a very strong believer in the fact that there is oil and gas in this country. It is only that we are yet to discover it. So, we need to invest more and we will find it.

Regarding our oil refinery, I could not agree more that, perhaps, this oil refinery has outlived its usefulness. The refinery was brought to this country in 1961 for purposes of monopolistic gain. The only reason it has been maintained up to now is that there is lack of facilities to import Liquefied Petroleum Gas (LPG) in bulk. It is only LPG that we are not able to bring in bulk otherwise the rest of the products the refinery produces can be brought in any other form. So, we need to invest in facilities that can be used to store LPG.

Mr. Temporary Deputy Speaker, Sir, the National Oil Corporation of Kenya (NOCK) has its share of problems. It should be allowed to run as a commercial enterprise. You cannot expect NOCK to compete with international companies such as Shell and Caltex when the decisions of the NOCK's Board have to be approved by the Permanent Secretary (PS), Ministry of Energy. Allow that corporation to operate as a company and as a commercial enterprise. The civil servants will not understand such operations. So, decisions have to be made speedily because it is as a result of those decisions that you gain profits or you lose. If NOCK has to suspend a decision because the PS has travelled to China and he has to come back to look at the decision, you cannot expect it to run well. It is either we allow NOCK to operate as a commercial enterprise or close it down. I, personally, hold the view that NOCK has not delivered because it has not been allowed to deliver. If it were

allowed to operate commercially, it would help regulate the prices of oil. There would be a healthy competition in the oil industry. What we have now is a cartel of oil companies although we say that we have liberalised the oil industry. The cartel actually fixes prices because there is no competition. If allow and empower NOCK to go into a joint venture with another company that has the capacity, then, it would be able to compete properly with the other companies and the prices of oil will go down.

The existing oil companies are very fast at increasing pump prices when there is notification that the price of crude oil has gone up. However, when the price of crude oil goes down, they take a very long time to reduce the pump prices. The excuse they advance is that they are still selling the products they had imported at a high price. I always wonder why the same reasoning does not apply when they are supposed to be selling the products they had purchased at lower prices.

Mr. Temporary Deputy Speaker, Sir, LPG will help us move away from being dependent on wood fuel. We need to make LPG available and affordable. We should expand its distribution by taking it to the rural markets in the countryside. We also need to make the appliances that go with LPG cheaper. That way, we will remove our people from over-dependence on wood fuel.

My colleague talked about substandard products being produced by the refinery. Anyway, that has to do with technology. For example, we are talking of 0.5 per cent of sulphur. But where is the sulphur at the rate of 3.5 per cent? It has already been purchased in the international market by a country such as Japan and even if you wanted to import it, you would not find it available. Lead-free gasoline is now the standard. In Europe, they are completely using Lead-free gasoline. In our country, we cannot do so because our refinery is not able to produce it. So, let us make a decision, once and for all, to wind up the refinery and then allow importation or go into a joint venture with another country and bring a more modern refinery. We could manage to get a bigger market if we joined with a country like Nigeria which has offered to engage in a joint venture with us. Let us look at that possibility because it will enable us enjoy economies of scale. We have a country like Nigeria that can produce quality products for our people here so that we avoid pollution which is hurting the health of our people. This way we will also be able to produce goods at a cheaper price.

With those few remarks, I beg to support.

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this important Motion. As the outgoing contributor said, energy is the nerve of our economy. Without adequate, accessible and affordable energy there is no way we can make our economy grow.

I would like to thank the Government for coming up with this type of Paper. This is what we should be getting on major issues that affect the lives of Kenyans. Energy is what has made us not grow economically. We keep on saying that we want investors in this country so that we can create jobs for our people and tackle the poverty that our people are experiencing. How can we do it without affordable and accessible energy?

Three months ago I attended a conference in Bonn, on renewable energy. Papers were presented as to how certain countries have developed sources of energy from renewable energy. An example was given of the Filipinos where they have been able to develop programmes on the use of solar energy. They have also been able to provide rural electrification to 5.6 million households. This means that about 18 million Philippines have been able to access electricity through the use of solar energy.

We have more days in a year of sunshine than the Philippines. Twenty-five years ago we were better developed as a nation economically than the Philippines. Since we have got this strange culture of mega-projects, we embarked on large hydro-electric projects in this country and invested heavily in them on one river system. If we had spent a portion of the amount we have invested on

those hydro-electricity projects we could have been able to provide electricity to a much larger portion of our population than we are doing today. If we harvest solar energy, we will be able to provide electricity to the pastoralists of this country.

This country needs to address the issue of renewable energy. We have got rivers with waterfalls in the western part of this country where we could construct small hydro-electric plants. Take for example River Gucha which traverses Kisii and Migori Districts. It has got large waterfalls on that system where we can construct small hydros and provide electricity to the people of that region who are slightly more than 4 million. If you take Nzoia River, instead of allowing that water to flood Budalangi, we could use some of it to construct small hydros on that river. This way the people of Western Province will not need to receive electricity from Eastern Province.

There are many other rivers, like River Yala and River Nyando, where we could harvest energy through small hydros. When I was in Bonn, we were informed that Kenya lies on the back of the global wind system. In areas like Malindi and Lamu, we could harness wind energy and provide those areas with electricity. This country is endowed with large reserves of geothermal energy, but it needs to be exploited. We are following the advice of developed countries and multinationals. They want to make us use the energy they sell to us. We can produce a lot of biogas from our sugar factories and provide electricity to the residents of the areas where we grow sugar-cane.

We have depended mainly on petroleum products which are imported to this country by multinationals. I am shocked to learn that the same people have convinced even our Ministers, like the one who has just been speaking, that we can do away with our East African Oil Refinery. If we did that we would have to import all our products refined from overseas. What sense does that make? We are saying we want to be industrialised and yet we want to destroy our own industries! I thought we would have gone on the way of expanding and innovating the East African Oil Refinery in Mombasa. Why would we want to import the refined products from overseas? Supposing we strike oil in this country, will we be exporting it to those countries to have it refined? We are saying on the one hand that we want to explore for oil in this country but on the other hand we are saying that we should destroy the only refinery that we have in East Africa!

I would be opposed vehemently to the idea of destroying that one plant that we have for refining petroleum products in this East African Region. We should find ways of constructing a pipeline to import crude oil from Sudan and refine it in our country. This way we will create jobs for our people. We have provided electricity to a very small population of our country; 3.5 per cent of our rural homes can access electricity which is not affordable. Why can we not make a deliberate effort to provide rural electrification in each of the constituencies in this country especially in areas where there are people who can afford it? Most people in Western Province, Nyanza Province, Rift Valley, Central Province, most parts of Eastern Province and Coast Province can afford rural electricity if it is provided to them. Why can we not have that programme so that we can industrialise our country? We need to provide affordable energy to our industries.

Mr. Temporary Deputy Speaker, Sir, we with regard to the energy policy, I understand that Egypt has started exporting cement into our country. Therefore, Egypt is going to destroy cement plants in this country, which will result in the loss of jobs and technology. Egypt has also started exporting brews into our country because their production is much cheaper in Egypt than in Kenya, because of the cost of energy. In Kenya, power costs US13 cents per unit as compared to US5 cents in Egypt and US3 cents in South Africa. So, if we want to compete and be industrialized, we must make our power affordable to our industries. That is the only way we can industrialize.

Mr. Temporary Deputy Speaker, Sir, we have destroyed our forests, and yet we burn 98 per cent of the Liquefied Petroleum Gas (LPG) that is produced in the East African Petroleum Oil Refinery in Mombasa. If you drive towards Mombasa, you can see it burning, because we can not

utilize it. It is burning because we want to make it scarce so that its price can go up! The Government should come up with a deliberate policy to utilize all the LPG that is produced in our refinery and make it accessible and affordable to our rural folk, so that we can protect and conserve our forests.

Why do I say that we should conserve and protect our forests? I want to quote from that conference that I attended in Bonn in June, 2004. When this Parliament shot down the Forests Bill, a chairman of one of the sessions in that conference said that Kenya will be without water in the next 15 years. The implications of that is that we will have no power because all our power generating plants on River Tana and Sondu-Miriu River will be useless, because there will be no water. There will be no water even for our own consumption and even for our animals because we have destroyed our forests. This Parliament should come up with a law prohibiting any authority to dish out forest land to anybody, because that is a national resource. When we dish out land in Mt. Kenya to the residents of Mt. Kenya, we do not consult the rest of Kenyans, because that action will affect them. It affects every Kenyan. When we destroy the Mau Forest and the ecosystem there, we affect everybody in this country, and we do not consult them. One person decides to give 1,000 hectares to squatters. In the process, he makes many more Kenyans squatters. If Kenyans cannot get water, they will become squatters. So, we may need to have a referendum for Kenyans to say,

"Yes, we want this part of the forest to be excised for the settlement of squatters".

I would rather have squatters than destroy forests, because the enormity of the problem that will arise by destroying our forests is a human catastrophe.

Mr. Temporary Deputy Speaker, Sir, we need to have an integrated energy policy and programme that includes all the Ministries that are concerned, for example, the Ministry of Trade and Industry and the Ministry of Transport. As you know, today, we are dependent on the road system instead of using our rail system, because we have not been able to electrify our rail system, so that we can make our railway transport faster and more efficient. We need to involve the Minister for Roads and Public Works, the Minister for Environment and Natural Resources and the Minister for Water. Instead of placing the National Aids Control Council (NACC) in the Office of the President, probably we should place the Ministry of Energy there because it affects every Kenyan in this country.

There are some people who are talking about liberalization, as if it is a panacea to our problems. We keep on aping other cultures. I was surprised by our competition to ape other cultures. When we were at Bomas of Kenya, some people were introducing some amendments to the Constitution, so that we could accommodate the whims of the Western people on homosexuality. It is the same way we want to ape liberalization. We liberalized our communication system by introducing the cellphones for a small fee and destroyed Telkom Kenya. As a result, they are going to increase the price of the cellphones and the cellphone services.

So, Mr. Temporary Deputy Speaker, Sir, let us be very cautious when talking about liberalization. There must have been a reason why we nationalized some or most of these industries. All we need to do is to make them efficient. If you go to Dubai, an emerging industrial nation in the world, most of its industries, for example, the Port of Dubai is a public port. It is managed professionally, but it is owned by the Government. The supply of electricity is owned by the Government, but there is efficient management. The road system is also owned by the Government and they are much more efficient. One cannot say that they are liberalized. If you go to the City of Sydney in Australia, which is a capitalist state, electricity is supplied by a public company which is owned by the Government. If you go to Melbourne, the airport and port are all owned by the Government, but they are working efficiently and can compete with any private company in the world. We have not inculcated the idea of professional management, and then we expose ourselves.

Those people who are demanding that we should liberalize are going to ask us next time to liberalize our homes! They will tell us where to sleep in our homes! No wonder, we get a diplomat abusing our country and leadership, and we applaud him! We are a nation that is going to the dogs; a nation where we are abused by a diplomat simply because we beg from them. Even though they give us peanuts, they tell us to liberalize our energy industry. They will also tell us: "Before we can give you money, you must only have one child. Before you have one child, you must stay as a bachelor or a spinster until you are 45 years old". Until you do that, they will not give you money! They will make demands upon demands on us!

Mr. Temporary Deputy Speaker, Sir, it is time we put our foot down and said we are a nation, let us use our resources efficiently and effectively, however meagre, and you will see how this country will develop. This has happened elsewhere. It has happened in Malaysia and China. Why are we rushing to ape the Westerners? We should only embrace liberalisation maybe as an aspect of management for a period. The Djibouti Government was forced to liberalise its ports. But, instead, the Government hired a management team from Singapore to manage the Port of Djibouti for a period of six years. In that period, the income generated from that port was more than we generate in Mombasa, yet at that time, Mombasa was bigger than what Djibouti. So, let us not give out our assets. Let us copy the effective management styles from wherever they are.

Mr. Temporary Deputy Speaker, Sir, the use of electricity can assist us in combating crime. If we have street lights in our towns, crime will go down. If we had functional traffic lights, people would not be mugged at the roundabouts. Our problem is inefficient management. When we say we are going to liberalise like we did with the PPS, for six years, we have been paying US\$1.5 million to Westmont, whether or not they produce any electricity. When they do, we pay them four times what we pay to KenGen. Is that what we want in this country? These are conduits for corrupt people in this country to make money and deprive our people of resources that could be used elsewhere.

Mr. Temporary Deputy Speaker, Sir, Members have talked about nuclear energy. If we set up a nuclear energy plant, it is a very expensive endeavour. But if you are able to construct a small nuclear plant, you would be able to get power for a very large area of this country. Other countries are using waste energy. Since we eat *ugali* in this country, with vegetables, our waste can be a very good source of energy. Just imagine the *Wazungu* who eat biscuits and they produce energy from their waste, how about somebody who eats a whole bucket-full of *ugali*? This can produce a lot of energy. So, let us be pro-active so that we can channel all our waste to some plant and our waste in Nairobi alone can produce electricity for the entire City of Nairobi. So, we would benefit from that. We would make the cost of energy cheaper. We would have street lights and electricity in Kibera and Mathare slums. Your own electricity bill would come down.

Mr. Shaaban: On a point of order, Mr. Temporary Deputy Speaker. Is the hon. Member in order to demean the African man in the manner he has spoken? He has just uttered unprintable words about the African man!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, this is the problem with the African man. He does not want to admit what he is. We eat *ugali*; I eat a lot of it myself, with a lot of green vegetables. We went to Melbourne, Australia, recently and we saw that they recycle their waste, it produces power and their sewage water is cleaned and recycled back to the city for drinking. There is nothing wrong with eating. It is a metabolic system. It is God's creation. God created us to eat *ugali*. He made it available to us. Why are we ashamed of it? You are the type of person who wants to eat biscuits when you see a *Mzungu*. Eat your *ugali* and get the maximum from it. That is all I am saying. I am not saying anything else. Use the waste matter instead of sending it down there and pollute the air. Have you crossed Nairobi River and seen how polluted it is?

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Angwenyi! That is enough!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I am saying let us have an integrated system and use all the Ministries that are concerned. Let us not liberalise because that would not be a solution to our problems. Let us use all the sources of energy, especially solar energy, wind energy, waste energy and biomass energy from our cows. The pastoralists have got a lot of cows. Hon. Shaaban has got a lot of cows and he has no electricity in his home! He should create a biogas source of electricity in his village in Mandera. Let us also make use of hydro-power, for instance, Nyakwana Falls in River Gucha and Keera Falls in River Charachani and even Nyamokenye Water Falls near my home, and we move on. I am also saying that let us invest adequately, both in resources as well as management in power and lighting and the Kenya National Oil Corporation. If we did that, I am sure then, and only then, would we be able to industrialise this country.

With those remarks, I beg to support.

Mr. Munya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Since the Motion has been debated long enough and most of the issues have almost been exhausted, I would like to move that the Mover be called upon to reply.

The Temporary Deputy Speaker (Mr. Khamasi): Order! Actually, I have been restrained from invoking Standing Order No.87, because I had the pleasure of sitting here before we went on recess, and the material being used by the current Members who are contributing is exactly the same as that was being used. So, I am bound to put that question.

(Question, that the Mover be now called upon to reply, put and agreed to)

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, I would like to request the Chair if Mr. Omingo and Mr. M. Kariuki could contribute for three and two minutes of my time respectively?

The Temporary Deputy Speaker (Mr. Khamasi): Very well!

Mr. Omingo, you may proceed!

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, I almost felt like Mr. Munya has got a personal vendetta. Nonetheless, thank you for the---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Omingo! You are now wasting your three minutes!

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, I would like to congratulate the Ministry for having come up with this wonderful Sessional Paper. I would like to suggest that other Ministries take the cue.

As a matter of fact, without fear of contradiction, I would like to state that this is one of the Ministries, after the Ministry of Water, that is sensitive to the needs of the people. If you walk to the Ministry of Energy, and you have a plea to make, they listen to you. For instance, in the past 40 years, South Mugirango Constituency has never had power. In fact, we are landlocked with power. However, with this new policy; with the listening ears of this Ministry, we hope we will get power supply save for a few issues that we must bring to light here.

Mr. Temporary Deputy Speaker, Sir, the cost of power is excessive and unaffordable. In the end, we are talking of an issue where you will find efficiency of distribution is put to question. We have a lot of black-outs simply because of inefficiencies in terms of distribution and the leakages that occur since oversight functions are not proper in that Ministry. The Kenya Power and Lighting Company (KPLC) must behave in a business-like manner. There is no person who goes into business and is asked for 100 per cent capital to start. That is why people go to banks to borrow loans to invest. Therefore, KPLC, as a matter of fact, needs to advance people with the initial costs

of connection so that people can organise to pay them back as they consume. This is only a prudent business management endeavour and they must stand up to the occasion.

Mr. Temporary Deputy Speaker, Sir, I would like to say a few things regarding what has been happening in the energy sector; on the issue of cost that has been escalating simply because KPLC in those days was a conduit to lubricate the sustainability of their stay in office through State House handbags. That is a thing of the past and I am suggesting that we need, more often than not, to plough back the profits we make to develop consumer needs.

The Independent Power Producers (IPP), for a fact, have been a rip-off in this country. People used to enjoy free monies. They generate power and are paid ten times, sell to KPLC at whatever price and KPLC must recover that cost. In this case, it becomes very expensive to run.

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

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I also wish to support the Sessional Paper on Energy.

I would like to emphasise that it is important that we invest some money in exploration particularly of energy-related products, for example, petroleum, natural gas and coal. If you look at the recent history of the emerging economies, those that have been able to make a breakthrough in petroleum exploration, coal and natural gas are the ones that have the highest Gross Domestic Product (GDP) levels. Today, if you look at Chad, Sudan, Tanzania; because of discovery of coal, New Guinea and Norway, these are really the strongest economies today.

Kenya is placed in such an advantageous position, given the Persian Gulf, and the fact that Sudan has heavy deposits of petroleum. There is a potential that we might be able to discover petroleum for our country. That will be a major springboard towards ensuring that we are self sufficient as far as energy is concerned.

Mr. Temporary Deputy Speaker, Sir, we also need to diversify our sources of energy. We have too much dependency on petroleum and other traditional sources of energy. We should be able to stand as a country that is looking forward towards moving to the First World. My colleague here, Mr. Angwenyi, says that nuclear energy is expensive, but nuclear energy is the way forward for any emerging nation that wants to be in the First World.

As a result of the shortage of clean water, if we were to desalinate the ocean water; the massive water in the Indian Ocean today, we would be able to satisfy our entire coastline with fresh sources of water. So, I recommend that we look forward to new sources of energy; nuclear energy among them.

Mr. Temporary Deputy Speaker, Sir, finally, let me say that 90 per cent of the sources of energy that we use for household purposes is from charcoal. We have to balance between our policy towards reviving a proper environment for our people and also being able to reduce the dependency on charcoal and firewood. In that regard, therefore, we should look forward to other alternative sources of energy. They have been outlined in the Sessional Paper; I do not wish to emphasise more.

Mr. Temporary Deputy Speaker, Sir, on that note, I wish to support this Sessional Paper.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, let me first of all say that I am really humbled by the overwhelming support that I have received from the Floor of the House and the positive contributions that have been made by hon. Members. This clearly shows that they are willing to support us while implementing this Sessional Paper.

It should also be noted that this is the first ever comprehensive Sessional Paper on energy since Independence. Being the first one, I would like to assure hon. Members that this Sessional Paper, No.4 of 2004, will not be treated as another Paper to be kept in the shelves, to gather dust, but I would like to assure hon. Members that this Sessional Paper will begin in earnest once it has been adopted by Parliament. This Sessional Paper will be used to turn round the sector, make it vibrant

and make sure that this sector is envied by every Kenyan and people the world over.

Mr. Temporary Deputy Speaker, Sir, in the course of debate, hon. Members raised very pertinent issues. I would wish to respond to almost all of them. Several hon. Members raised the issue of flooding of dams. This issue has been causing havoc. May I particularly mention the Masinga Dam. However, notwithstanding their arguments, I would like to call upon hon. Members to appreciate that dams control flooding by holding excess waters during the rainy seasons. Besides this, the Ministry is promoting tree planting in all our catchment areas which is meant to protect our dams and also stop rapid siltation. I agree that there are floods sometimes, but it should be noted that this is only during the rainy seasons. In any case, we only open our gates for waters to flow downstream during the dry season to enable generation downstream.

At this juncture, I would like to call upon the Ministries of Water, Environment and Natural Resources to come into partnership with us so that at least we can address these issues. There is no way the Ministry of Energy will address the issues of conservation alone. The Ministry of Water must come in because, once rivers are destroyed, we shall have no water to generate electricity from. At the same time, the Ministry of Water will have no water to distribute to consumers. For the first time, a serious committee must be set up to co-ordinate the three Ministries. As it is in other countries, whereby we have the combination of the Ministries of Water, Energy and Environment and Natural Resources being together, unfortunately, this is not the case in this country. I would wish that the three Ministers will be able to sit down and come up with this committee so that we are able to salvage the country and conserve our resources.

Mr. Temporary Deputy Speaker, Sir, the question of diseases associated with toxic waste in North Eastern Province was also a matter of concern. May I address it this way; that following complaints, the Ministry of Energy set up an Inter-Ministerial Committee constituting of representatives from the Ministries of Roads and Public Works, Water and Energy to investigate the issue. The team's report has confirmed that there is no toxic substance at the Hothori site in North Eastern Kenya. Arising from this report, and in order to clear the site, the Ministry of Energy has given the National Oil Corporation (NOC) the go-ahead to auction all the equipment left at the site. It should be noted that we confirmed this through the Government Chemist.

Mr. Temporary Deputy Speaker, Sir, to make sure that our relationship is cordial with the people of North Eastern Province, we have been able and for the first time, this region has been marginalised; it was marginalised by the first and second regimes, but this regime is so sensitive to the people of North Eastern Kenya to an extent that in a bid to improve the education standards in the ASAL areas, my Ministry---

Mr. Shaaban: On a point of order, Mr. Temporary Deputy Speaker, Sir. Arising from the Assistant Minister's statement that a team has been sent to investigate whether, indeed, toxic waste has been placed in North Eastern Province, could he confirm or deny if the public have been informed?

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Shabaan! You are asking a question, you are not on a point of order!

Proceed, Mr. Kiunjuri!

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, you should know that he even refers to me as "8-4-4"! He must be having an agenda!

In our bid to improve the education standards in the ASAL areas, my Ministry has participated in supporting the programmes to supply solar electricity to 17 secondary schools in North Eastern Province for the Financial Year 2004/2005. This will be followed by electrification programmes for 24 boarding primary schools in the Financial Year 2005/2006. This, I believe, will enhance our relationship and also make sure that this area will no longer be marginalised again. This

will also be able to give them hope that at one particular day, they will also be receiving adequate power. I will also be addressing the issue of how they will be able to access power as I go through the issues of this Sessional Paper.

Mr. Temporary Deputy Speaker, Sir, the issue of coal exploration has also been raised. I would like to inform the hon. Member who raised it that my Ministry has intensified exploration in the search of coal. Currently, the Ministry is concentrating on Kitui and Mwingi Districts, where preliminary results of coal samples compare very well with those found in coal-producing countries such as South Africa. If this exploration succeeds, we will use coal to produce electric-power and hence increase electricity to the national grid. Once coal potential is assessed, potential investors will be called for exploration.

On fiscal regimes, the country's fiscal policies are blamed for the lukewarm responses to electric-power generation by the private sector. To attract adequate investment in this sub-sector, there is need to address the cited factors, including income tax regime, urgently. Other incentives, which are proposed, include granting tax holidays to hydro-electric power generation, geothermal and fossil fuels power projects. Other measures include exempting duty and other taxes on plants, equipment and accessories for power generation and transmission during project implementation.

Mr. Temporary Deputy Speaker, Sir, the Ministry also intends to license charcoal production. The bulk of the charcoal produced in this country is sold in bags by traders who mainly target urban centres. It has been proposed to make charcoal business illegal in order to conservation our environment. We are also encouraging farmers to plant more trees. The Ministry encourages larger tree plantations like the ones being implemented by Kakuzi Ltd. for the production of charcoal as another source of energy.

On licensing of Independent Power Producers (IPPs), the Energy Bill 2004, recognises the enormous contribution made by small generators of electricity. In this regard, competitive independent power producers will be encouraged as follows:-

(i) Isolate power generators in the remote parts of this country. It should be noted that anybody who would like to venture into the market will be allowed to do so.

(ii) Wheel turbines and solar energy will be promoted to empower those in marginalised areas;

(iii) Mini-hydro power stations to serve organised communities, and;

(iv) Producers will be allowed to use biogas and other agro-industry residues for electric-power generation. Individual electric-power producers will be licensed to sell excess power within a defined radius as long as they meet safety standards. On this aspect, we are in agreement with hon. Members of Parliament and members of the public, that we should allow private ownership in the production of electric-power. You can now go, buy solar panels, connect them and sell power to your neighbours as long as you meet the safety standards set out by the Ministry. On the Rural Electrification Agency, due to the inadequacies associated with the current institutional arrangements, the implementation of the Rural Electrification Programme is unsatisfactory. To address this shortcoming, the proposed Agency will deal with rural electrification planning, resource mobilisation, system expansion and system operation.

Mr. Temporary Deputy Speaker, Sir, on prices, the Energy Bill, 2004, has recommended the creation of the Energy Regulatory Board (ERB) which integrates all types of energy services. This body will be expected to ascertain the prices of various products and send appropriate signals both to the consumers and the producers of such products. This will enable us eliminate the cartels, who determine prices in the market. We know for sure that most of the market prices we have today are exaggerated because we have no control over them. However, with the introduction of the (ERB), we will make sure that the prices will respond to the free market.

Mr. Temporary Deputy Speaker, Sir, lastly, it is our conviction that the implementation of the above policies will make Kenya a preferred destination for both local and international investors. This will in turn make our energy sector more responsive to the country's needs.

With those few remarks, I wish, once again, to thank the hon. Members for supporting this Motion. I want to assure them that this Policy Paper will not be left to gather dust in the shelves.

(Question put and agreed to)

The Temporary Deputy Speaker (Mr. Khamasi): Next Order!

MOTION

ADOPTION OF PAC SPECIAL REPORT
ON PROCUREMENT OF PASSPORT
ISSUING EQUIPMENT

THAT, this House adopts the Report of the Public Accounts Committee on Special Audit Report on Procurement of Passport Issuing Equipment by the Department of Immigration, Office of the Vice-President and Ministry of Home Affairs, laid on the Table of the House on Tuesday, 6th July, 2004.

(Mr. Omingo on 4.8.2004)

*(Resumption of Debate
interrupted on 4.8.2004)*

The Temporary Deputy Speaker (Mr. Khamasi): Who was on the Floor before we went on recess?

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I was on the Floor!

The Temporary Deputy Speaker (Mr. Khamasi): How many minutes were you left with?

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, 15 minutes!

The Temporary Deputy Speaker (Mr. Khamasi): Proceed!

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Thank you, Mr. Temporary Deputy Speaker, Sir.

QUORUM

Mr. Omingo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think this House is being taken for a ride. There were consultations being made and the Vice-President and Minister for Home Affairs requested that since the Minister for Finance was not in the country therefore, this Motion was to be deferred. The matter that is on the Floor is a matter of great concern to this nation and there is no quorum. We cannot go on like this!

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Omingo! Yes, that is what you need to stand up and say! Do not go into irrelevancies! Yes, there is no quorum. Ring the Division Bell.

[The Division Bell was rung]

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, due to lack of quorum, we now have to adjourn the House until Tuesday, 12th October, 2004, at 2.30 p.m.

The House rose at 6.05 p.m.