

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 15th August, 2007

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Mr. Deputy Speaker: Hon. Members, let us start with the first Ordinary Question by the hon. Member for Samburu West, Mr. Lesrima.

Question No.048

NUMBER OF OPERATIONAL PUBLIC DIPS IN SAMBURU DISTRICT

Mr. Lesrima asked the Minister for Livestock and Fisheries Development:-

- (a) how many public dips are operational in Samburu District; and,
- (b) whether he could re-introduce subsidised dipping infrastructure in the interest of the public and overseas markets.

The Assistant Minister for Livestock and Fisheries Development (Mr. ole Ntutu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) There are a total of 22 communal dips in Samburu District, but only one is operational. In addition, there are two other dips, one being operated by Kenya Youth Service and the other by Nomotio Livestock Improvement Centre.

(b) The management of dips countrywide was handed over to farmers in 1991, as it was realized that the community could manage the dips. The Government was left with the responsibility of supporting farmers by continuously sensitizing them on the importance of dipping their animals and ensuring that only effective acaricides are sold to them.

As a supportive measure, I have been urging hon. Members to chip in through the Constituencies Development Fund (CDF) and the local authorities through the Local Authorities Transfer Fund (LATF) to revive some dips within their localities.

In addition, my Ministry intends to undertake a countrywide survey with a view to coming up with comprehensive data identifying key factors which led to the collapse of dips in some areas, and confirm areas in dire need of dip services. That will enable my Ministry to review the current policy on privatisation of dips to ensure quality products of livestock are available for export and local markets.

Mr. Lesrima: Mr. Deputy Speaker, Sir, you can see from the Assistant Minister's answer that there is only one dip which is available for 1.2 million animals. One dip! Clearly, that is a reflection of failure of the structural adjustment policies that were introduced by the World Bank in the 1990s.

Mr. Deputy Speaker, Sir, I would like to find out from the Assistant Minister: When will the new policy be in place? When will you be ready with the results of the survey? It is obvious, just looking at my constituency alone, where one dip serves 1.2 million animals, that the matter is clearly urgent.

Mr. ole Ntutu: Thank you very much, Mr. Deputy Speaker, Sir. As a Ministry, we have already prepared a policy paper, which is before the Cabinet. After the approval by the Cabinet, it will be brought back to the House for hon. Members to make the necessary modifications and approval.

Capt. Nakitare: Mr. Deputy Speaker, Sir, I do not know whether the Assistant Minister is aware that, under-dosage of any drug that is administered to animals or human beings creates resistance to ticks and other viruses that one would want to kill. If there is only one dip in that area, how sure is the Assistant Minister that the animals being dipped there will not develop resistance because the ticks will not be killed by any other acaricide?

Mr. ole Ntutu: Thank you very much, Mr. Deputy Speaker, Sir. I want to inform the hon. Member that, that is not the only dip. People are using spraying machines to spray their livestock. So, it does not mean that there is only that one dip. People are using spraying machines to spray their livestock.

Mr. Sambu: Mr. Deputy Speaker, Sir, I also brought a Question on this matter; about the Government, the Ministry, in particular, and the Directorate of Veterinary Services, specifically, to decide on what type of acaricides should be used. The Minister decided that my people could use acaricides which they think are effectively killing the ticks. But is he aware that his officers in Kapsabet have defied that order and are arresting my people who have decided to use synthetic pyrethroid, which is the effective acaricide in our areas?

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, I am not aware.

Mr. Lesrima: Mr. Deputy Speaker, Sir, dipping is very important to protect even the dairy industry in other parts of Kenya from East Coast Fever. What quality measures is the Ministry putting in place to ensure that the acaricide being used is proper, because there have been reported cases of weak acaricides, which are not effective to kill ticks, being sold by some organisations? Are there quality assurance methods in place on a regular basis to ensure that the acaricides are effective?

Mr. ole Ntutu: Mr. Deputy Speaker, Sir, I want to assure the hon. Member that we have very qualified veterinary officers on the ground. If there is any problem, they are there to handle it immediately. So, I do not see any cause for alarm.

Question No. 285

THEATRE/MORTUARY FOR KHUNYANGU
SUB-DISTRICT HOSPITAL

Prof. Mango asked the Minister for Health:-

(a) whether she is aware that Khunyangu Sub-District Hospital, which serves a catchment of 500,000 people, does not have a theatre and mortuary; and,

(b) whether she could construct a theatre and mortuary as a matter of urgency for surgery to be performed and for preservation of the dead.

The Assistant Minister for Health (Dr. Machage): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Khunyangu Sub-District Hospital does not have a theatre and mortuary. The current report available shows that the facility serves a catchment of 40,000 people and not

500,000 as indicated by the hon. Member.

(b) Due to inadequate budgetary provision to my Ministry, I am unable to construct the same this financial year. I would request the hon. Member to use the Constituencies Development Fund (CDF) money to do this project, and I will give the necessary technical advice.

Prof. Mango: Mr. Deputy Speaker, Sir, the Assistant Minister is misleading the House. If the population of---

An hon. Member: Mr. Sungu! Mr. Sungu!

Mr. Deputy Speaker: Order! Just a minute, Prof. Mango! I think you all know that we are in business. The hon. Member at the corner there shouted the name of Mr. Sungu when he was just across there. Could I ask the hon. Member to---

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I wish to apologise.

Mr. Deputy Speaker: Thank you, Mr. Angwenyi!

Prof. Mango: Mr. Deputy Speaker, Sir, the Assistant Minister is misleading the House by claiming that Khunyangu Sub-District Hospital serves a catchment of 40,000 people. The population of Butula Constituency itself is 120,000 people. These people are being served by that particular sub-district hospital. Part of Nambale, which has a population of 130,000 people, still also depends on that hospital. Likewise, part of the residents of Ugenya Constituency depend on that hospital. So, I do not know where the Assistant Minister got this figure of 40,000 people.

Mr. Deputy Speaker, Sir, having said that, could the Assistant Minister tell the House what plans he has to put those facilities in place to serve the people of Butula Constituency?

Dr. Machage: Mr. Deputy Speaker, Sir, by simple arithmetic, the population of Butula Constituency is 120,000 people, while that of Nambale is 130,000. That totals to 250,000. It is far much less than the figure of 500,000 that the hon. Member indicated. As I have said, I do not have the money now to immediately start this project in that hospital. However, I have received this request, and I will consider it when resources are available from whichever other source in the Ministry.

Mr. Rotino: Mr. Deputy Speaker, Sir, mortuary and theatre facilities are very important components of a hospital. The Assistant Minister has said that he has no money to build a mortuary and theatre in that sub-district hospital. What population does he require for him to build a mortuary or theatre in a sub-district hospital? When the facility was being up-graded to a sub-district hospital, they must have had a plan. What population does the Assistant Minister require so that he can build a theatre? In my own constituency, I do not have a theatre and a mortuary. What population does he require?

Dr. Machage: Mr. Deputy Speaker, Sir, even a population of one person deserves a theatre in his own home district, but I am tied. When I have no money, what can I do? We just have to wait until when I have the money.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I am surprised that the Assistant Minister is saying that he does not have money when, in fact, the budget for the Ministry of Health has been increased from 5 per cent to 8 per cent of our Gross Domestic Product (GDP). Could he consider looking for special funds, including the money arising from the cost-sharing programme to support these projects?

Dr. Machage: Mr. Deputy Speaker, Sir, the Abuja Declaration requirement is such that the Ministry of Health should be funded to the tune of 15 per cent of the GDP of any country. In our country, we have only had an allocation of up to 9 per cent of the GDP. I will, however, consider these constructions when I get resources from any other source. I have taken the request of the hon. Member very seriously, and I will consider it. Currently, I do not have enough money, but when that is available from any other source, I will undertake to do the projects. I think it is a noble request.

Mr. Deputy Speaker: Last question, Prof. Mango!

Prof. Mango: Mr. Deputy Speaker, Sir, the CDF, which the Assistant Minister talked about, is only 2.5 per cent of the national Budget. It seems as though everything has now been offloaded to the CDF. Could the Assistant Minister tell the House what are the essential facilities to a sub-district hospital?

Dr. Machage: Mr. Deputy Speaker, Sir, a sub-district hospital should be able to cater for all referral cases from the dispensaries and health centres. It is true, a theatre is one of the essential facilities, as requested by the hon. Member.

Question No. 102

REDUCTION OF WATER LEVEL
IN LAKE VICTORIA

Prof. Olweny asked the Minister for Water and Irrigation:-

- (a) whether he is aware that the water level of Lake Victoria has gone down substantially in recent times;
- (b) the extent to which the level of the lake has reduced; and,
- (c) what factors have caused the reduction.

The Minister for Water and Irrigation (Mr. Katuku): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the Lake Victoria water level has gone down substantially and the lake has experienced the lowest water level in the last 83 years.

(b) The water level as at 31st January, 2006, had gone down, reaching a minimum of 1,133.46 metres above sea level. The other time when the lake's lowest level was recorded was in March 1923, at 1,133.19 above sea level.

(c) There are many factors contributing to reduction of the lake water level, which is a concern for all the Nile Basin riparian countries. The major factors include increased Nile outflows and reduced lake inflows. The inflows have substantially reduced due to change of climate conditions in the catchment areas and recently by the prolonged drought experienced in the year 2005, while increased outflow is due to over-abstraction.

Prof. Olweny: Mr. Deputy Speaker, Sir, Lake Victoria is one of those major components of the Nile Basin. Several millions of people depend on it, that is, from Tanzania in the south, all the way to Egypt in the north. Now, when the Minister talks about the issue of over-abstraction, it means that someone is responsible for this. Who is responsible for the over-abstraction and what is being done about it? What are the riparian countries doing about this over-abstraction?

Mr. Katuku: Mr. Deputy Speaker, Sir, when we talk of over-abstraction, it is more about the riparian countries downstream, starting with the ones which are generating power using the water from Lake Victoria. These are countries like Uganda, the Sudan and others downstream. However, what we are doing, as the riparian States, we have been meeting and discussing this matter. We have come up with a commission, which will be dealing with issues of Lake Victoria to regulate the use of the waters, not only the outflow but also the inflow, which has also been affected by destruction of our catchment areas.

Mr. Ogur: Mr. Deputy Speaker, Sir, I heard the Minister talk about the inflow and outflow. What about investigations to find out whether there could be a leakage at the bottom of the lake?

(Laughter)

Mr. Katuku: Mr. Deputy Speaker, Sir, our experts have also looked at that, and they have not seen any indication of the same, but it is a continuing process.

Mr. Boit: Mr. Deputy Speaker, Sir, I would like to remind the Minister that the water levels have gone down in many lakes in this country. For instance, at Lake Nakuru, Lake Magadi and Lake Naivasha, water levels have gone down. In my own constituency, I have two lakes, Lake Baringo and Lake Kamnorok. Lake Kamnorok has gone completely dry while the water levels in Lake Baringo are going down. We need these waters to irrigate, because my area is semi arid and we really depend on that water. What can we do about this matter? Could he advise us accordingly?

Mr. Deputy Speaker: Mr. Minister, the hon. Member is raising an important point. Lake Elementaita, Lake Naivasha and the levels of water for all the lakes are going down. I think the hon. Member wants to know what the cause is of that phenomenon of lake water levels going low.

Mr. Katuku: Mr. Deputy Speaker, Sir, as I said in my earlier response, this has to do with climatic change, which has affected not only Lake Victoria but many other lakes in the region. It is a matter which is raising not only regional, but also international concern. However, what I want to advise hon. Members, and the general public, is that we also need to look at how we are using our environment. We must conserve our catchment areas. We must advise our people not to destroy our forests. We should not protect people who are cultivating upstream. So, what we are doing, as a Government and Ministry, through the Water Resources Management Authority, the National Environment Management Authority (NEMA) and other relevant institutions which are dealing with our environmental concerns, is to educate the public, put measures in place, protect catchment areas, and re-afforest our region. However, what we are finding to be a challenge is the over-abstraction by people who are living in these areas and the messing up of catchment areas which, of course, is a major concern. I would like hon. Members to talk to their constituents to protect our catchment areas.

Mr. Kipchumba: Mr. Deputy Speaker, Sir, you will agree with me that the Minister has actually said nothing, apart from the usual rhetoric that we hear. We have an authority that deals with Lake Victoria, which is called the Lake Victoria Environmental Management Programme (LVEMP), which has offices in Eldoret and, I think, other parts of the country. All they do is probably plan three or four trips in a year, and they are given quite a lot of money by donors. I would like the Minister to tell us: What is that body supposed to do to ensure that these catchment areas are conserved, because they are of no use to us?

Mr. Deputy Speaker: Mr. Minister, and then the last question!

Mr. Katuku: Mr. Deputy Speaker, Sir, it is not true that I have not said anything; I have said a lot. It is only that maybe he did not conceptualise what I was saying.

What I have said is that all these institutions, which are concerned with environmental issues, are supposed to, and are expected to, ensure that our catchment areas are protected. This week we are in the process of gazetting some rules, which will also help in protecting our catchment areas in terms of how to use our waters, and the areas which are seen as the sources of water for our lakes and rivers. So, without concerted effort, this cannot be achieved, and that is why I am appealing to all participants in environmental matters--- Even hon. Members should set aside part of their Constituencies Development Fund (CDF) money to plant trees, which is important.

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

Mr. Deputy Speaker: I said I would have the last question. Prof. Olweny!

Prof. Olweny: Mr. Deputy Speaker, Sir, I am still back to the issue of over-abstraction, and I am going to Uganda. It is said that Ugandans have erected an extra dam, or a hydroelectric facility, which extracts more water from the Lake than the main Owen Falls facility. If they have also increased water downflow more than the Egyptians and Sudanese need, what are riparian countries, in collaboration with Ugandans, doing about this facility that seems to have caused the main reduction of water levels in Lake Victoria?

Mr. Katuku: Mr. Deputy Speaker, Sir, I have said that there are many factors, and what he is talking about is one of the factors, that is over-abstraction. I want to agree with the hon. Member that in Uganda, for example, they have come up with an electricity generating facility, which is producing more than 320 megawatts at Nambulale and Kiiria Dams, which, of course, have in a way affected the water flow. That is why I have said that we have come up, as the riparian States, with a commission which will look at these matters, and which will be able to co-ordinate the use of these waters. The commission is formed by all the riparian States, and it will regulate water use and ensure that none of the States will use the water more than the other.

Thank you.

Question No.300

LIST OF INSURANCE BROKERAGE FIRMS
ENGAGED BY SONY

Mr. Ochilo-Ayacko asked the Minister for Agriculture:-

- (a) whether he could table the list of insurance brokerage firms/companies which were engaged by Sony Sugar Company Limited over the last ten years;
- (b) whether Sony Sugar Company lost money or suffered liability while dealing with any of these firms/companies; and,
- (c) what compensation, if any, Sony has so far received.

The Assistant Minister for Agriculture (Mr. Kaindi): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I do hereby table the list of insurance brokerage firms/companies which were engaged by Sony Sugar Company for the last ten years.

(b) Sony Sugar Company is still owed money in pending claims by Kenindia Assurance Company Limited and APA Insurance Company.

(c) Sony has instructed its lawyers, in this case Okongo and Advocates, to institute legal proceedings against APA Insurance Company for recovery of sums owed while it continues negotiations with Kenindia Assurance Company Limited to settle the pending claims.

Mr. Deputy Speaker, Sir, I wish to table the list and confirm that I have given a copy to the hon. Member.

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

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, I want to know specifically, how much money, in terms of liability, is owed to South Nyanza Sugar Company (SONY) arising from that insurance brokerage? Could the Assistant Minister also give the names of the specific brokerage companies and insurance companies? Which years in question do those debts arise?

Mr. Kaindi: Mr. Deputy Speaker, Sir, we are talking about Kshs11 million in relation to Apollo Insurance Company and, variously, Kshs47 million relating to Sailor, Kenbright and

Notcutt.

Mr. Ahenda: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us what steps are being taken because some of those claims date back several years? Which specific insurance broker is holding what? When will that money be released to the company?

Mr. Kaindi: Mr. Deputy Speaker, Sir, again, not to appear to repeat myself, I have said that from the year 2002, the insurance broker involved was Notcutt Insurance Brokers Limited (NIBL). Up to 2004, we are talking about Sailor Insurance Brokers Limited (SIBL). From 2006 to 2007, we are talking about Kenbright Insurance Brokers Limited (KIBL). The underwriter is Kenindia Assurance Company Limited (KACL). The total claim is Kshs47,319,675.

Mr. Ahenda: On a point of order, Mr. Deputy Speaker, Sir. What is the Assistant Minister doing to ensure that, that money is released to the company?

Mr. Kaindi: Mr. Deputy Speaker, Sir, we are doing two things. One, we are liaising with the Auditor-General (Corporations) to ensure that the right action is taken. I am not also satisfied that the company undertook the right measures to protect the money for the organisation.

Two, we have also liaised with the lawyers to institute legal action against the persons who were involved. In this case, it is not just the brokers, but also management who were involved in that.

Mr. Deputy Speaker: Last question, Mr. Ochilo-Ayacko!

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, could the Assistant Minister confirm or deny that the insurance company that covered the period between 1997 to 2001 also occasioned liability? How much was the liability? When was it paid, if the answer is in the affirmative?

Mr. Kaindi: Mr. Deputy Speaker, Sir, the period that the hon. Member is talking about was the time when Thabiti Insurance Brokers Limited (TIBL) was covering the organisation.

I wish to also confirm that I have been informed reliable by Sony that the claim has now been completely settled in relation to Thabiti. The hon. Member also knows that, as hon. Members of Public Investments Committee (PIC) at that time, we discussed this matter. I have been assured that the matter has been settled.

Mr. Ochilo-Ayacko: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is it, Mr. Ochilo-Ayacko?

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, the Assistant Minister has not answered the entire question. How much money was owed in respect of that period? When was it re-paid?

Mr. Kaindi: Mr. Deputy Speaker, Sir, for the actual amount, I can make that available to the hon. Member.

Mr. Deputy Speaker: Next Question, Mr. Sambu!

Question No.405

MISAPPROPRIATION OF FUNDS AT
MOI SIRGOI HIGH SCHOOL

Mr. Sambu asked the Minister for Education:-

(a) whether he is aware that the audited accounts of Moi Sirgoi High School for the years 1998/1999 indicate that an amount of Kshs990,380 was misappropriated by the then headmaster;

(b) whether he is further aware that to date, the money is still unaccounted for; and,

(c) when he will cause the then headmaster to be charged with the offence

of "theft by servant" or any other appropriate charge.

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

(a) The school's audited accounts for the years 1998 and 1999 reveal that a total sum of Kshs990,380 was collected during that period towards the purchase of a school bus. The collections were as follows: 1998 - Kshs693,000 and 1999 - Kshs297,000, making a total of Kshs990,380. Misappropriation of the money cannot be ruled out since there is no report regarding proper utilisation.

(b) It is true that the money is still unaccounted for as the intended bus was neither purchased nor the money banked in any savings account. The whereabouts of the collected money is unknown to date.

(c) Finally, the then headmaster, Mr. Mark Joseph Maritim, TSC No./190892, has so far been interdicted by the Teachers Service Commission (TSC). The Commission is handling the case and will take the appropriate disciplinary action against the headmaster once the case is determined.

Mr. Sambu: Mr. Deputy Speaker, Sir, I asked the same Question - Question No.504 - which was answered on 5th October, 2006. The answer was signed by Dr. Wekesa, who was then the Minister for Education. In part (d) of the Question, the answer reads:-

"Investigations and audit exercise carried out by the Ministry revealed misappropriation of funds and abuse of office by the headmaster and the BOG members. Disciplinary action has been instituted against them. The former headmaster has already been interdicted. Consequently, the BOG and the headmaster will soon be summoned for the hearing and determination of the offence."

It is nearly a year since then, and the answer by Dr. Wekesa was that investigations and the audit exercise revealed misappropriation of funds and abuse of office. For such a criminal offence, the punishment is not interdiction. Why have you not charged the headmaster and the others with the offence of abuse of office and misappropriation of funds?

Dr. Mwiria: Mr. Deputy Speaker, Sir, it is unfortunate that this matter has taken that long. Unfortunately, matters of legal procedure take a bit of time in this country. But I would like to assure the hon. Member that the information is exactly the same. The headmaster was found to have misappropriated and abused his office. That is why action is being taken. Unfortunately, it is a bit slow. What we can do is ensure that it is accelerated. I would like to assure the hon. Member that he will not have to ask this Question again.

Capt. Nakitare: Mr. Deputy Speaker, Sir, misappropriation of school funds by headteachers is prevalent in the country. I would like to know from the Assistant Minister whether the disciplinary action that he takes involves transferring that problem from one school to another or summary dismissal?

Dr. Mwiria: Mr. Deputy Speaker, Sir, we do not like transferring the problem. In cases like this, teachers are automatically interdicted. Depending on the nature of the crime, they are then removed from the payroll. We do not transfer them to other schools.

In the case of that particular school, it seems like there was misappropriation of funds over many years. It seems like headteachers had made it a habit because nobody was checking. As a matter of fact, for that same school, about Kshs8 million had been misappropriated by different headmasters. What is happening is that, apart from investigations relating to Mr. Maritim, the auditors are also trying to apportion blame in terms of how much the principals who served in that school misappropriated. That is a very serious case. It is unfortunate that we have to, sometimes, wait until amounts of money accumulated get to almost Kshs10 million before we realise that in

our schools, that is happening. I would like to congratulate Mr. Sambu for that. But, at the same time, I am complaining that it took so long. It took Kshs10 million for him to realise that the school was losing so much money from headmasters.

Mr. Boit: Mr. Deputy Speaker, Sir, if I heard the Assistant Minister well, he talked about auditors. Auditors of that nature require other auditors to audit them! This is a long time from 1998 up to 2007 and yet, this Government is very famous for saying that it will not leave any stone unturned because of corruption. Are we sure that the police and other officers involved in that case are not partakers of that money? This answer talks about the BOG. Have members of the BOG and the parents in that BOG been taken to court? Maybe, they are the ones! They have just gone to the shallow-end of this matter! They need to go to the deep-end of this, so that they can catch those people once and for all. You can hear that, that problem is spreading to other schools---

Mr. Deputy Speaker: Order! Mr. Boit, that has now moved from a question to a debate.

Mr. Boit: Mr. Deputy Speaker, Sir, could the auditors, the Board of Governors (BOG) and the police investigators be audited?

Mr. Deputy Speaker: Mr. Assistant Minister, this has now taken ten years.

Dr. Mwiria: Mr. Deputy Speaker, Sir, it is not the investigations which have taken ten years. The issue of the unaudited reports came up last year in October. So, it has not taken exactly ten years.

Mr. Deputy Speaker: When did this happen? Is it not ten years ago?

Dr. Mwiria: Mr. Deputy Speaker, Sir, I am sure you are familiar with the procedures of this House. We discuss audited accounts of many past years for some reasons that I do not know. That is what I found going on in this Parliament. Last year, we were discussing audited accounts of the Controller and Auditor-General the Financial Year 1999/2000.

Mr. Deputy Speaker: Mr. Assistant Minister, could you just sit down for a minute so that the Chair can clarify the issue? Yes, indeed, that is true. However, does that mean that the school has to wait until the House debates the audited accounts? Were there no auditors on the ground to discover this matter when it happened? I think that is the issue.

Dr. Mwiria: Mr. Deputy Speaker, Sir, that is why I am congratulating hon. Sambu for taking up the matter. He took up the matter last year. At the same time, as the hon. Member for the area, I castigated him for waiting until last year to discover that the issue of school money that had been misappropriated all this time had not been acted upon.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to blame the hon. Member for his own failure? Could the Assistant Minister be asked to withdraw that remark and apologise to hon. Sambu?

Dr. Mwiria: Mr. Deputy Speaker, Sir, actually, it was a mistake to castigate hon. Sambu. I should have castigated the KANU Government because it is the one which was not taking action on this matter. We took it over from October, and as I pledged to this House, this Question will not arise again because we are taking action.

Mr. Sambu: Mr. Deputy Speaker, Sir, the Assistant Minister said that action will be taken and I believe him. But I want to say that, rather than talk about KANU, I was a member of the Nandi District Education Board, when we were still under one district. I was a Member of Parliament then, while he was not. I informed the police in 1998. We also went in 1999 with the PTA members. Can he specify now when these men who stole these funds, will be arrested and charged in a court of law under the relevant law?

Dr. Mwiria: Mr. Deputy Speaker, Sir, what I can assure the hon. Member is that they will be taken to court. What I cannot assure him is the exact date. I cannot tell the exact date. However, I want to assure him though, that this matter came up in 1998 when he was already in Parliament. It

has now come up when he is in Parliament again, but it will not come up when he is in Parliament next term. So, we will make sure that it is dealt with before the end of this Session.

(Laughter)

Mr. Deputy Speaker: Are you implying that if he is not re-elected, then the matter will have been resolved? Is that the implication?

Next Question is by Mr. L. Maitha, hon. Member for Malindi.

Question No.425

CONFIRMATION OF CONTRACTOR'S CAPACITY
TO RENOVATE ROAD B8

Mr. L. Maitha asked the Minister for Roads and Public Works if he could confirm that the contractor awarded the contract to renovate the Kilifi-Malindi section of Road B8 has the capacity to undertake the works.

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

The contractor, Hayer Bishan Singh and Sons Ltd., awarded the contract to renovate the Kilifi-Malindi section of Road B8 has the capacity to undertake the works.

Thank you.

Mr. L. Maitha: Mr. Deputy Speaker, Sir, the Assistant Minister has confirmed that the contractor has the capacity to do the work. The works were contracted late last year and it is now running to ten months and, yet there is nothing substantial that has taken place on the ground. Could the Assistant Minister explain why there has been that delay, if the contractor has the capacity?

Mr. Deputy Speaker: By the way, there is so much talk about this contractor. From Nyanza and Western provinces, he has now moved to the Coast Province. Mr. Assistant Minister, what is happening with this contractor?

Eng. Toro: Mr. Deputy Speaker, Sir, when we advertised work on this road, there were four bidders and he was the lowest. After evaluations the Ministerial Tender Committee (MTC) found out that they had no choice but to award the contract to Hayer Bishan Singh and Sons Ltd., who was about Kshs400 million lower than the highest bidder. There has been a problem with the contractor because he did not have enough equipment. However, as we speak, he has acquired new equipment. For example, on the Kilifi-Malindi Road, the contractor has brought a new rock crusher which is in place. I would like the hon. Member to go and check. He has also procured a new premix plant, which is now doing the installation. Once he has done that, it is a matter of months and work on the road will be complete.

Mr. Deputy Speaker: Mr. Assistant Minister, just to assist the hon. Member--- The hon. Member had said that it is eight months since the contract was awarded. You are now talking about assembling equipment. Is there no specified time for the project to commence? Eight months is a long time. It is now almost running into a year.

Eng. Toro: Mr. Deputy Speaker, Sir, the commencement date for this contract was February, 2007. It is going to take 12 months. We do not talk about when the contract was advertised. We talk about the commencement date; when the contractor is supposed to commence work. Twelve months are supposed to count from February this year. Until the 12 months are over, we have to give the contractor the benefit of the doubt, especially when he has acquired new

equipment for the road works.

Mr. Mwandawiro: Bw. Naibu Spika, swala hili kuhusu watu wanaopewa kandarasi za barabara ni muhimu na la kitaifa. Nimeshindwa kuelewa uhusiano uliopo kati ya Wizara na wanakandarasi wa barabara. Kandarasi nyingi zinapewa watu ambao hawafanyi kazi. Kwa mfano, barabara ya Thika ambayo Mhandisi Toro anaitumia anapoenda katika eneo lake la uwakilishi la Bunge, imejengwa kwa mwaka mzima ingawa ni kazi ndogo. Kuna barabara nyingine ambayo ilipewa kandarasi kutoka Musau-Windanyi-Verunga; barabara ya Bura. Sehemu ya Mulondo imejengwa na *slab* na imebomoka kabisa. Wizara inajua jambo hilo lakini haifanyi lolote. Je, wana uhusiano gani na wanakandarasi? Kwa nini mnawaogopa?

An hon. Member: Wanakula pamoja!

Eng. Toro: Mr. Deputy Speaker, Sir, the relationship between us and the contractor is that we are the client. We give them work and they have to execute it. This is something that the House should appreciate. We have been allocated more money than before. We now have contractors who are overworked. We have given contractors more than one job. We are imploring the contractors these days so that since we are paying them on time, they can acquire new equipment. That is what they did not have. Over the past years, they were not able to invest in new equipment and, therefore, they could not carry out work as required. However, that is now changing and we have seen a lot of improvements on the part of contractors. In any case, we do not have other contractors. We can only rely on the contractors that we have; the local contractors with whom we are trying to build their capacity. We are trying our best.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, sometimes, my friend, the Assistant Minister surprises me. He answered that this contractor had the capacity to do the work when the tender was awarded. But he has come back and said that the contractor has now acquired new machines. This means that he did not have the machines at that time. The same contractor has failed to provide service in Nyanza and Budalangi. The other day Mr. Wanjala complained because of the state of roads in Budalangi. He has also done shoddy work on the Kisii-Keroka Road. What is in this contractor who does not have the capacity, that he is given work all over the country which he cannot do?

Eng. Toro: Mr. Deputy Speaker, Sir, there is nothing special about this contractor. In fact, he has two major works going on; the one in Funyula and one in Mombasa. There are so many other contractors who have more than two projects going on. Since he was undertaking the other project, he cannot move the equipment from Funyula to Malindi. That is why he has to get new equipment.

Mr. Deputy Speaker, Sir, since he is still within the contractual period of 12 months, we have already written to him about the slow progress of his work and he has undertaken to speed up. It is only a question of time, and we are giving him a few months. If he does not speed up, the hon. Member who comes from that area and passes on that road on a weekly basis, could tell us whether the new equipment that he has acquired is of any help or not.

Mr. Sungu: Mr. Deputy Speaker, Sir, allow me to declare my interest in the matter because these contractors come from my constituency. Apart from the work that they have done in Nyanza and western Kenya as a whole, would the Assistant Minister--- There are many contracts which are now pending like the construction of Gilgil-Nakuru, Nakuru-Mau-Summit and Mau-Summit-Kisumu roads.

Could the Assistant Minister confirm that they have paid money like the mobilization fees to the contractors? We know for sure that a lot of these contractors cannot even start work because no money has been paid to them.

Eng. Toro: Mr. Deputy Speaker, Sir, these days we pay mobilization fees to all contractors so that they can mobilize and start working. There is no contractor who commences work without

mobilization.

Mr. Deputy Speaker: Last question, Mr. L. Maitha!

Mr. L. Maitha: Mr. Deputy Speaker, Sir, you heard the Assistant Minister say that four contractors applied for the job and that this contractor was the lowest bidder and, so he was given the job. Seemingly, this is a game. He always tenders the lowest so that he is given the job because he knows that he is not going to do it and he will get away with it.

Could the Assistant Minister tell us the contractual works that he was given because I am sure that he will not do the job on the ground? What works is he supposed to do? I see him putting sandy soil on the road.

Eng. Toro: Mr. Deputy Speaker, Sir, he was supposed to rehabilitate the entire section of the road from Kilifi to Malindi. It is not a question that he is bidding the lowest so that he can get away with it. We are very strict these days. We only pay money on production of the certified certificate by the Resident Engineer. The mobilization fee that we pay, which is 10 per cent of the contractual works is secured. If the contractor does not perform, the Ministry terminates the contract and we get the performance bond. So, there is nothing to gain by the contractor not working and finishing the project. In fact, the contractor stands to lose.

Mr. Deputy Speaker: Next Question by the hon. Member for Butere, Mr. Oparanya!

Question No.439

IRREGULAR COLLECTION OF
REVENUE FROM BUKURA MARKET
BY KAKAMEGA MUNICIPALITY

Mr. Oparanya asked the Minister for Local Government:-

(a) whether he is aware that Plot No.Inaya/Marama/593 in Butere Mumias Constituency belongs to Butere-Mumias County Council;

(b) whether he is further aware that Bukura Market in Butere-Mumias County Council is located on the plot but the revenue of the market goes to Kakamega County Council; and,

(c) what he is doing to correct this anomaly so that the revenue from the market goes to Butere-Mumias County Council.

The Minister for Local Government (Mr. Kombo): Mr. Deputy Speaker, Sir, the answer that I have been given is not quite satisfactory and I have talked to the hon. Member. I want to beg the indulgence of the House that the Question be deferred.

Mr. Deputy Speaker: Mr. Oparanya, you have heard what the Minister has said.

Mr. Oparanya: Mr. Deputy Speaker, Sir, indeed, I discussed with the Minister and I am in agreement that the Question can be deferred.

Mr. Deputy Speaker: The Question is, therefore, deferred.

An hon. Member: To tomorrow!

Mr. Deputy Speaker: Well, I do not know. Tomorrow is too soon for the Minister. Probably when we resume, it will be the first Question on the Order Paper. That is assuming that the House approves to go on recess as planned tomorrow. If not, then we can schedule it for next week.

(Question deferred)

Question No.446

IRREGULAR ALLOCATION OF MOLO POLICE
STATION LAND TO PRIVATE DEVELOPER

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

- (a) the circumstances under which land belonging to Molo Police Station was allocated to a private developer; and,
- (b) what remedial measures he is taking to deal with the anomaly.

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

(a) The land belonging to Molo Police Station has never been allocated to any private developer.

(b) From my answer in part (a) above, part (b) does not arise.

Mr. Mukiri: Bw. Naibu Spika, hii sio mara yangu ya kwanza kuliuliza hili Swali. Mwaka uliopita niliuliza Swali hili, na wakati huo lilijibiwa na Wizara ya Ardhi. Ningeomba kwamba---

(Loud consultations)

Mr. Deputy Speaker: Order! Mr. Angwenyi's corner, you have heard that problem since we started. Mr. Mukiri you can now ask your question afresh.

Mr. Mukiri: Bw. Naibu Spika ningeomba kwamba hili Swali lingeelekezwa kwa Wizara ya Ardhi, kwa sababu inaonekana kwamba Wizara hii haiwezi kujibu Swali kuhusu shamba ambalo limenyakuliwa.

Mr. Kingi: Mr. Deputy Speaker, Sir, I think as far as we are concerned in our office, the information we have is that the piece of land belonging to Molo Police Station has never been allocated to any private developer. If there is anyone with information indicating that originally that piece of land belonged to the police and has now been allocated to a private developer, we will be more than pleased to have that information. Otherwise, we are in consultation with the Ministry of Lands and any effort to resolve that matter will be appreciated.

Mr. Mukiri: Bw. Naibu Spika, hili Swali lingependekezwa kwa Wizara ambayo inahusika na ardhi kwa sababu hawa wanasema kwamba hawajui. Nimesema kwamba mwaka uliopita, niliuliza hili Swali na nikaelezewa kwamba hatua inachukuliwa. Hivi sasa, wanasema kwamba hiyo ardhi haijanyakuliwa. Ningeomba kama hili Swali lingepolekwa kwa wizara inayofaa.

Mr. Deputy Speaker: Pengine hilo ni jambo la busara, Bw. Mukiri. Lakini kama hili Swali litapelekwa kwa Wizara ya Ardhi, itakuwa sharti utoe nambari ya ploti. Ikiwa utaonyesha nambari ya ploti ingeweza kusaidia Wizara. Waziri wa Ardhi hawezi kuenda kutafuta kwenye kituo cha polisi kule Molo. Lazima awe na nambari ya ploti. Unaweza kufanya hivyo?

Mr. Mukiri: Bw. Naibu Spika, ninaweza kufanya hivyo, ingawa Wizara ya Ardhi wanalielewa hili jambo na walisema kwamba watachukua hatua. Hili ni mojawapo ya mashamba yaliyokuwa katika Ripoti ya Ndung'u. Lakini hiyo inawezekana.

Mr. Boit: On a point of Order, Mr. Deputy Speaker, Sir. It is very clear that the Questioner knows the "grabber". Why can he not table the name so that the Office of the President can confirm or deny it?

Mr. Deputy Speaker: Order! That is not the way we do business here. The hon. Member has made a very legitimate suggestion that the Question be referred to the relevant Ministry; the Ministry of Lands. The Office of the President may not be aware and rightly so, because they do

not administer land. Probably he could have known if his officers had drawn his attention to the fact that the land under which they operate is being interfered with.

If the Assistant Minister, Office of the President does not know, the only logical way to go is to refer it to the Minister for Lands. I asked the hon. Member to reframe the Question to show the parcel number. If he does that, I will be pleased to direct that it be referred to the Ministry of Lands.

Mr. Kingi: Mr. Deputy Speaker, Sir, as I said in my earlier answer, we, as a Ministry, are not aware. However, if there is anybody who has information indicating that this land originally belonged to the police and has been allocated to a private developer, let him or her bring that information to us. There is collective responsibility. We will liaise with the Ministry of Lands and resolve the matter. As far as we are concerned, there is no document to show that, originally, this piece of land belonged to the police and has now been given to a private developer.

Mr. Deputy Speaker: Okay. I think on that note, Mr. Mukiri, you will see me in the office and then I can see whether I can assist you.

Mr. Mukiri: Thank you, Mr. Deputy Speaker, Sir. Last year, I asked this Question in the same way that it has been put today and I was promised that some action was to be taken.

Mr. Deputy Speaker: Let the Question be redirected to the Ministry of Lands. So, liaise with the Clerk.

(Question deferred)

Mr. Mukiri: Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Next Order!

MOTIONS

REPEAL OF RESTRICTIVE TRADE PRACTICES, MONOPOLIES AND PRICE CONTROL ACT

THAT, this House do grant leave to introduce a Bill for an Act of Parliament to repeal the Restrictive Trade Practices, Monopolies and Price Control Act (Cap.504 of the Laws of Kenya) and to replace the same with an appropriate law entitled the Competition Act in order to reduce monopoly and collusion between firms and for matters incidental and connected therewith.

(Mr. Sungu on 8.8.2007)

*(Resumption of Debate
interrupted on 8.8.2007)*

Mr. Deputy Speaker: Mr. Sungu was on the Floor. You were moving your Motion and you still have 19 minutes.

Mr. Sungu: Thank you, Mr. Deputy Speaker, Sir. However, since I did not complete moving the Motion itself let me start again.

Mr. Deputy Speaker, Sir, the objectives of this Motion is to encourage competition by prohibiting restrictive trade practices, regulating monopolies and acquisitions, reducing entry barriers to business and discouraging concentration of economic power by a few against the interests of the many. Thus a new law, if passed by Parliament, will emphasise reducing entry

barriers and discouraging vertical and horizontal acquisitions and mergers.

Mr. Deputy Speaker, Sir, one of the pillars of basic consumer rights is the right to choose from a wide variety of quality goods and services at competitive prices. Therefore, this Bill will eliminate abuse by a few firms and individuals holding dominant power or shares in the market and would also prohibit anti-competitive practices.

Mr. Deputy Speaker, Sir, currently, the only law applicable is the Restrictive Trade Practices, Monopolies and Price Control Act (Cap.504 of the Laws of Kenya) which became effective in January, 1989. This law has not been revised to date, despite the liberalisation of the economy. The reasons for this domination of business by a few "political fat cats" who have continued to influence any meaningful changes to the laws of this country is because of the protection of political interests, which naturally flow from domination of the economic process. Therefore, we aim to enable these "fat cats", who virtually own most of the business concerns in Kenya in favour of the poor of this country---

Mr. Deputy Speaker, Sir, this Motion raises issues of ownership of firms. For example, recently, we have had issues with regard to the ownership of Safaricom. There have been questions about the 5 per cent shareholding in Safaricom, which is not known. We know the Government owns certain shares and the private investors also own another part of the shares. We know, for sure, because we have been in this country all this time. At the initial stage, when Safaricom was being raised as a company and when they were given licence to operate as the first mobile service provider in this country, powerful individuals, who were in the very centre and pinnacle of power in the then Government, connived and were given 10 per cent of the shareholding of Safaricom. When that Government went out of power, these same people, to protect their interests, gave another 5 per cent of their shareholding, to remain with 5 per cent, to people who again are at the very centre and pinnacle of power in this country. This kind of situation is not acceptable. This amounts to influencing unfairly because we know for sure that the initial 10 per cent was never paid for by anybody. I challenge anybody who has the facts to prove me otherwise. Mobitelea never paid anything. It was like influencing them to give them the monopoly rights at that time on the first mobile service provider in the country. The same trend has continued.

Mr. Deputy Speaker, Sir, there are also indications that the same individuals own similar shareholding in Celtel. That is why charges obtaining in the mobile telephone industry are so high. That is why, in America, Europe and other countries, you buy pre-paid units in terms of minutes. In Kenya, you continue to buy in terms of money. There is no way of proving how long telephone units worth Kshs500 last. More often than not, it gets finished before you know it. There are invisible charges that these people have colluded to charge and because of that the cost of mobile telephone services in this country is too high compared to anywhere else in the world. This Parliament must come out and protect the interests of Kenyans.

Mr. Deputy Speaker, Sir, there are a number of challenges that we aim at if Parliament so authorises to create an independent authority to reflect mergers and acquisitions, widen the market space to allow for entry of more Kenyans into the market, so that they can be part and parcel of the economy and to protect the consumer against discriminatory pricing. These are issues like tie-purchasing. For example, when there are sugar shortages, you will find that a shopkeeper might force a consumer to buy something extra in addition, so that he could be given the sugar.

Mr. Deputy Speaker, Sir, retail price maintenance is another issue which must be considered if we have to protect the consumer against discriminatory practices. Some of these companies own inordinately large shares of the market. We have just had Questions about tendering and so on. The fact that only a few powerful people own the largest companies, for example in the construction industry, leads to collusive tendering and bidding, to the extent that contractors can actually agree that---

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Capt. Nakitare) took the Chair]*

I have been "robbed" of the person who was going to second my Motion! I hope that there will be somebody else to do the same.

Mr. Temporary Deputy Speaker, Sir, collusive tendering happens because we have just a few firms, which can agree amongst themselves to bid at certain amounts of money for certain contracts. Consequently, the Kenyan taxpayer is forced to pay more for services which would otherwise be very cheap. That is why the cost of constructing a kilometre of road is so high in Kenya as compared to what it is in other countries. There is also predatory pricing. We also know that if suppliers own a large share of the market they can actually refuse to supply. They can discriminate. We know, for instance, that the number of distributor companies will only buy from certain firms which are owned by members of their own ethnic community. We also know that there are some firms which will only supply to companies owned by members of their own ethnic communities, which is discrimination against other Kenyans.

*[The Temporary Deputy Speaker
(Capt. Nakitare) left the Chair]*

[Mr. Deputy Speaker resumed the Chair]

Mr. Deputy Speaker, Sir, there is also the unwarranted concentration of economic power in the hands of very few Kenyans, which is prejudicial to the public interest. This could result in rise in services costs and prices of commodities. It will also lead to reduction or limitation of competition, leading to deterioration in the quality of goods and services. Of major concern to us is the control of shareholding in strategic industries, particularly in public listed companies. We know for certain that Telkom Kenya and Safaricom Limited are going to be on the market for sale. If we are to have a proper law in place, it will mean that this kind of enterprise, which is strategic in nature, will not be allowed to be dominated by a few people.

I will now turn to the question of mergers and acquisitions. If we were to create a competition authority, the authority would ensure that mergers and acquisitions are not done against the public interest. The authority will be forced, or enabled under the proposed law, to establish criteria for allowing mergers and acquisitions. This would include productivity, competitiveness and employment creation potential. That would be, for instance, enhancement of capital intensiveness as opposed to labour-intensive technology, which would create employment for Kenyans.

Mr. Deputy Speaker, Sir, when implementing mergers, we should also consider the community dimension. We must look for ways and means by which we can prevent anybody from creating a dominant position in a distinct market, thereby affecting competition. We must also protect the public interest by protecting public security, the plurality of the media and enterprises that are distinct. We must also control the ways and means in which the share of, or supply to, the market is dominated by a few people, which lessens competition.

Since 1990, we have had several mergers and acquisitions in Kenya. In 1997, we had 11 cases, while in 1998 we had 23 cases and in 1999, we had 24. As we know, this could have been caused by the poor state of the economy, leading to a combination of resources by some firms.

Another factor which contributed to this was, of course, the introduction of some legal requirements by Parliament. In the case of banks, Parliament made a law which raised the legal minimum capital base to Kshs500,000. We know that, currently, the minimum limit is Kshs1 billion.

Mr. Deputy Speaker, Sir, this can also result in discrimination against other people, who may not have that kind of money, and prevent them from entering the market. We already see signs of a few individuals owning the major share in the financial sector, especially in banks, *et cetera*, against the interest of the entire Kenyan community. You will note that most of the emerging banks today are owned by people from specific areas of this country.

The proposed new law will also consider cross-border issues. Currently, the law does not address the issue of cross-border abuses and extra-territorial jurisdiction. Of course, given the authority by Parliament, the new law will take cognizance of Article 78 of the Treaty for the Establishment of the East African Community, which binds the three member States to prevent restriction or distortion of competition within the Community. The Bill will address issues flowing from the COMESA Treaty and other bilateral trade agreements. It will also encourage Kenyans to take advantage of cross-border opportunities like the AGOA, or business opportunities in Southern Sudan and elsewhere.

Mr. Deputy Speaker, Sir, the proposed Bill will aim at promoting a competitive culture in this country. As Parliament, we must encourage the emergence of a competitive culture and address the issue of collaborative approach to business, which tends to work against the consumer. This will be in line with the current Government policy, which has led to the creation of regulatory bodies in the energy sector, among which is the Petroleum Development Authority. The proposed competition authority will legally be enabled to build partnerships, disseminate information to the public, promote consumerism, create consumer choice for goods and services, allow natural market forces to operate freely and discourage vertical and horizontal domination of the markets by a few people.

Monopolisation and collusive behaviour between firms lead to the practice of price-fixing, price discrimination, exclusive dealings, market allocation and mergers, which reduce market competition, among others. These actions prevent consumers from choosing the best prices that would otherwise have been available to them. The consolidation of ownership of a few powerful firms in particular sectors of the economy is not in the interest of this country. Let us take the example of the East African Cables Company. A group of people came together immediately the current Government came to power and bought the East African Cables Company. We should know who these people are, because they are the same people who are given directorships in the Kenya Power and Lighting Company and the Kenya Electricity Generation (KenGen) Company.

So, there is some kind of "cross-pollination" in terms of price fixing and so on. This is what we mean by "horizontal integration of companies", so that they inter-lock directorships. This can also lead to vertical issues. For example, there can be owning of firms vertically, down the operation chain, including suppliers and distributors and eventually lead to customers not enjoying the right price.

Mr. Deputy Speaker, Sir, we very well remember issues relating to insider-trading at Uchumi Supermarkets which, eventually, led to its collapse. We know for sure that one individual, who was a former Managing Director (MD) of KENATCO and who brought it down, was the same individual who became a major shareholder in Uchumi Supermarkets. He has been accused of insider-trading. He conveniently skipped the coach when he knew that the firm was going to collapse. That is against the interests of Kenyans who, in fact, need to be protected by this Parliament.

Mr. Deputy Speaker, Sir, it is important and imperative upon us, as a Parliament, to take

some of these issues seriously. As we sit here in this Parliament, Kenyans are suffering. The economy of this country, despite the reputed 10 per cent or whatever growth rate it is having, is now going to be in the hands of a few people. We need a law to ensure that Kenyans are protected, so that we could reduce collusion among a few people. That way, there will be no price fixing and other Kenyans will also have a right in the sharing of the national economy. I hope that I have opened the matter for debate. This is a very important matter. I am sure that there are only a few Members here.

With those few remarks, I beg to move and ask my brother, Capt. Nakitare, to second this Motion.

Capt. Nakitare: Thank you, Mr. Deputy Speaker, Sir. This Motion is very important. It affects the small holders and people who would want to go into private practice. We had the Trade and Supplies Act in the previous Governments and there were many licences. We know why unscrupulous business people would like to prevent upcoming people in trade. We had an embargo in the flow of commodities. During that time, there was a case of hoarding commodities which was necessary at that time. Even now, when we talk about restrictions in licensing--- The Ministry of Trade of Industry has reduced the number of licences. I think opening the whole door, instead of just giving a ventilation in trade, would help Kenyans. It would help Kenyans under a common market. It would also encourage the youth to go into trade without any hinderance.

Mr. Deputy Speaker, Sir, Cap. 504 of the Laws of Kenya, which introduces price controls, has to be scrutinised. We have to interrogate that Act with the developments in the new Kenya. How do we protect the consumer? A consumer has a choice. A consumer has a right to choose. If he is constrained or restrained from going to a particular section of the commodity, he has no choice. He is forced to trade with that single line. That is not different from single-sourcing.

So, Mr. Deputy Speaker, Sir, we have areas where we feel that this Act muzzles the interest and freedom of a consumer. Looking at the motor industry, gone are the years when people went to show rooms to look for cars to buy. But because there is a ventilation of motor trade, we have seen the mushrooming of motor bazaars. Motor vehicle bazaars are an encouragement even to the people who cannot afford expensive vehicles in show rooms. It also encourages a variety of choices that one would want to be exposed to. As you can see in a motor bazaar--- It is not Marshalls only! It is not Toyota only. It is not Mercedes Benz only. It is a variety of vehicles that you can go in and choose.

Mr. Deputy Speaker, Sir, if we have price controls in modern Kenya, there is something that we are denying our nationals. It means that we are choosing for them, and they have no choice. We have the Kenya Bureau of Standards that looks into the standards of commodities that are traded and consumed in this country. We have to look behind. We are also getting to know what other countries are doing. We have the Food and Agricultural Department in the United States of America (USA). They look at the quality and quantity of food. They also go to the people who are supposed to know the quality and quantity of food. SGS is the general superintendence. They actually re-look at various trades and how much commodities are charged; whether exorbitantly or not. That is an indication that determines what a consumer would go through.

Mr. Deputy Speaker, Sir, the distribution point is a licence. If we have to make only one or two areas as the distribution points, our commerce or economy in the country is not going to be competitive. Of course, we know that there is elasticity of commodities based on choice. I know that when we have a few licences--- What does it mean to an electrician who would want to be in *Jua Kali*? He would like to do his job better and export his products. Perfecting of our industry--- Of course, that also affects agriculture. To perfect our industry, we have to relax the Trade Act. We also have to relax the price controls. We have to relax those hurdles that do not encourage our people from free and fair trading.

Mr. Deputy Speaker, Sir, we have learnt from the previous Governments. You could not do anything because the municipal council would require a licence. The Trade and Supplies Act provides for a licence. The Central Bank of Kenya wants a licence that is called Foreign Exchange Allocation. Those are steps that have really hindered the economy of this country. We know very well that the Central Bank of Kenya licenses people who---

Mr. Deputy Speaker: Time up!

Capt. Nakitare: With those few remarks, I beg to second.

(Question proposed)

Mr. Muite: Mr. Deputy Speaker, Sir, I would like to strongly support this Motion and to say the following: I hope that sooner than later, we will be able to revise our Standing Orders so as to make it easier and smoother for Members of Parliament to bring legislation. This distinction between a Private Members' Bill and a Public Bill needs to be sorted out. Of course, what we have been doing is to, legally, confuse the situation. What is a Private Bill? A Private Bill, legally, is not a Bill brought by a Member of Parliament. That, constitutionally and legally, is a Public Bill. A Private Bill is one that is exclusively dealing with a particular matter. For example, the Mazrui Lands Act, or an Act of Parliament dealing with a specific matter in Kabete Constituency or in any other constituency. We have been glossing over this matter and making it very difficult, laborious, tedious and long-winded. I hope that we will have our new Standing Orders very soon so that important pieces of legislation, like this one, which in law is not a Private Members' Bill, but a Public Bill, can be fast-tracked and assistance given now that we have a Parliamentary Counsel here to do the drafting. It should be on the same footing as a Bill introduced by the Government.

[Mr. Deputy Speaker left the Chair]

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

A Bill by any Member of Parliament, which is a Public Bill, should be equated with a Bill being introduced by the Government and fast-tracked so that a Bill like this one we are seeking to introduce, which is so fundamentally important, not just in updating the laws--- When you look at other countries, the centrepiece of their arrangement is legislation relating to monopolies. It is a very important piece of legislation all over the world. That is why you will see on CNN that a merger between this and that company is awaiting consent. What is the objective of all these things?

The objective of all these things is public good. It is the public of a particular country that is intended to be protected through regulations so that members of the public are not left at the mercies or vagaries of absolute free trade. That is not in the public interest. The public can be fleeced or charged prices that are way above their means. The public can be skinned. So, the Government and the law have a duty to ensure that, that will not happen. They need to ensure that the public is protected. That is the purpose of this centrepiece legislation in all the other countries. In the developed countries, if they see that this is an essential piece of legislation that is for the good of the public, then, *a fortiori* how much more do developing countries like Kenya need this sort of legislation? This is because we are at the mercy of these multinationals! The budgets of some of these multinationals are many times the budget of Kenya as a country. So, they are able to really dictate even to the Government and even fleece the Kenyan public or the public in the third world countries.

Mr. Temporary Deputy Speaker, Sir, so, we need this legislation yesterday and not tomorrow. When you look at, for example, the oil companies, it does not matter what we say about the free market forces and so on; they are able to meet over dinner or lunch and actually say, "these are the prices we are going to charge". This is what we need to regulate. If you look at matters that actually damage the economy of a country or matters that are wrong, you will find that--- That is why we need, when this legislation is here, to have a commission that is going to look into all these things.

Mr. Temporary Deputy Speaker, Sir, you will find that, for example, many years ago, during the last regime, we went to Saudi Arabia and held negotiations. The Saudi Arabian Government assumed that they were trying to help Kenya by giving them concessionary rates to buy crude oil. Clever individuals in this country, instead of National Oil Corporation of Kenya (NOCK), went and formed another company with initials that are similar to those of NOCK and the contract was signed between the Saudi Arabian Government and that company. Up to today, the Government of Saudi Arabia thinks that it is benefitting the people of Kenya and yet it is a particular oil company owned by individuals that continues, up to now, to buy crude oil at subsidised prices. The profits are going into pockets of individuals! They are not benefitting the Kenyan public. These are the sort of issues we shall want investigated. When we have this piece of legislation, even the Public Investments Committee (PIC) will not hit brick walls when investigating who initially got the 10 per cent when they were facilitating the acquisition or privatisation of Safaricom. So, this is a very important piece of legislation and, through you, I urge Members of Parliament to really support this Motion. We should grant this leave and come up with this piece of legislation even before the Ninth Parliament is dissolved.

Mr. Temporary Deputy Speaker, Sir, the Ninth Parliament, as you know, has been vilified by our friends in the media. They have continued to give inaccurate information that the Ninth Parliament has done nothing and that the first thing Members did was to increase their own salaries. The media knows that, that is not true. It knows that the truth and accurate position is that it is the Eighth Parliament, through *mheshimiwa* Speaker, appointed the Cockar Commission. It is the Cockar Commission which fixed the emoluments of Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, the Cockar Commission recommended that those emoluments should take effect with the Ninth Parliament, which is why the emoluments started applying when the Ninth Parliament came here. It is not the Ninth Parliament which increased the emoluments. So, this is a piece of legislation that we need to pass so that the Kenyan public can also know that the Ninth Parliament actually acted in promoting the greatest public good in this country. The media should not just give the public incorrect information; that the Ninth Parliament only increased its salaries. Those emoluments, of course, are going to apply even to the Tenth Parliament. Even if each and every hon. Member in this Ninth Parliament is voted out, I place my bet that the people who will come to this august House as the Tenth Parliament, will not reduce those emoluments.

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

Mr. Midiwo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Motion. I am very interested in this issue. As you know, I recently brought a Consumer Protection Bill to this House, which dealt with many issues raised by this Motion.

Mr. Temporary Deputy Speaker, Sir, first of all, I want to thank hon. Members of Parliament and members of the public who wished me well since Sunday when I had a road accident. I really appreciate that.

(Applause)

Mr. Temporary Deputy Speaker, Sir, this Motion is long overdue. No country can ever develop if the issues raised by this Motion are not taken care of. This is because the biggest role of a government is to protect the interests of its citizens. We live in a country where it is money-makers first then the citizens come second. So, the issues of monopoly are basically meant to protect a few individuals, so that they make a lot of money. This is a man-eat-man society. For us, as a country and a Parliament, it is time that we got down to work in order to address the issue of exploitation of our citizens.

Mr. Temporary Deputy Speaker, Sir, right now, there are some things which are about to happen. Some are already happening. These are issues of privatisation of public-owned assets of this country. The biggest thing about to happen is the sale of Safaricom. We have mysterious owners of 10 per cent shares of Safaricom. It is common knowledge that some of the owners of the 10 per cent are hon. Members of this House. We keep asking the Government to name these people publicly before they make any move to privatise whatever they own in Safaricom. This is the money used to destabilise politics in this country. We cannot make positive political progression as long as one or two people keep on making wealth of between Kshs3 billion to Kshs4 billion every year from one investment. Why are we concealing their identities? Why is the Government concealing the identity of those with ill-gotten wealth? We need to know.

Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity, from the Floor of this House, to put the Government on notice that we are watching them! Kenyans will not forgive this House and the Government if they let Safaricom be sold to another consortium of a few rich individuals. Just recently, 10 per cent of the shares was given to one family of a corrupt politician!

An hon. Member: Name them!

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, they are corrupt and we are watching them. Things have changed in this country! We cannot sit back and watch the looting of State corporations or assets, without raising a finger. Personally, I believe that it is the duty of Parliament and we must do it.

Mr. Temporary Deputy Speaker, Sir, there have been many State corporations that have been privatised. One of them is the Kenya Railways (KR). These are issues. They are done through single-sourcing which is against the procurement rules. It is just done by a few people. They are all politicians; thieves from the past and current Governments. They are colluding!

Mr. Temporary Deputy Speaker, Sir, now that they see democracy progressing, they are scared to death. If they try to hide that money in foreign accounts, it is blocked there. When they come back here, we make noise. We need to open up this system. We must curtail the sale of State corporations. We must stop it!

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

*[The Temporary Deputy Speaker
(Mr. M'Mukindia) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, it would be good for this country if the Government seeks Parliamentary approval before it privatises any State corporation. We, as the representatives of the people, need to put our true sense on it. We need to give a thumbs-up as the representatives of our people, so that we know that their interests are properly taken care of.

Mr. Temporary Deputy Speaker, Sir, there are many things which are done the wrong way as far as monopoly is concerned. Take for example the media. The biggest debate around this country now is whether or not, Parliament and the Government are attempting to gag the media.

Personally, I think we have come too far to gag the media. However, we need to have a law, so that one person does not own everything in the media. The problem is that some of these people are so crude. They do not have any educational background to run a media house. They use our good editors to do bad stories which hurt the credibility of this country. So, it is the media owners, not the editors or reporters, who are a problem. We need to have a law; like there is in every civilised society, which says how much somebody can own. You cannot own a radio station, television station and a newspaper as an individual. That does not happen anywhere around the world, particularly if it is the same market! We, as a country, need to check what is happening around us, so that there is no monopoly in any one sector.

Mr. Temporary Deputy Speaker, Sir, in this country our people are hurt by monopoly. Take the case of the East Africa Breweries (EAB). Yes, it is the biggest taxpayer to the Exchequer. However, it cannot let any other company, particularly the indigenous ones, do business in this country. Castle Breweries tried, but they were bought out by the EAB. In fact, I have been told that when Castle Breweries opened, the EAB had over 200 salespeople, now they have 40. This is because they do not have competition. Every time, they increase prices and reduce the quality of what our people consume. We cannot let the EAB do that! We cannot let monopoly hurt our people to that extent.

Mr. Temporary Deputy Speaker, Sir, last year, during debate on the Finance Bill, there was the issue of the much coveted company called Keroche Breweries. Recently we, as members of the Committee on Finance, Planning and Trade, visited this company. We thought the Government should finance the company because it is employing Kenyans and doing a fantastic job. However, the EAB called hon. Members of the Committee to intimidate them, so that they could bring a law here to close down Keroche Breweries. We cannot have the "big brothers" intimidating smaller companies! The same thing happened between the British American Tobacco (BAT) and Mastermind Tobacco Ltd.

Mr. Temporary Deputy Speaker, Sir, they want to convert the Committee on Finance, Planning and Trade into a tool of frustrating other companies.

With those few remarks, I beg to support.

Prof. Maathai: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Motion. I want to thank Mr. Sungu for moving this Motion. I agree that it is very important.

Mr. Temporary Deputy Speaker, Sir, the two words "trade practices" drew my attention to this Motion. I think there is an Act of Parliament that must have been inspired by the desire of a few companies and individuals to be given monopoly in a country where competition was very low. They wanted to have monopoly and price control and, therefore, do trade according to practices that favour them.

Mr. Temporary Deputy Speaker, Sir, as a developing country in the region called Africa, in the eyes of the world, it is a very strange region because Africa is a continent that is deeply endowed with resources. There is no resource in the world that Africa does not have. We have minerals like diamonds and gold. We have water that can produce hydro-electric power. We have forests that supply timber to many companies in the world. We have human resources, close to 700 million of them. Yet, Africa continues to be one of the poorest! Indeed, it is the poorest region in the world! The question on the lips of everybody is: Why is it that Africa, with all her resources, has not been able to raise her people from the state of poverty?

Mr. Temporary Deputy Speaker, Sir, it is because of trade practices that have been going on between our region and other parts of the world; starting with slavery as a trade practice, where the people of Africa were actually turned into a commodity and traded with for centuries. Now, why did that happen? That is because the African leadership that was there at that time did not have the

vision to protect its people from being turned into a trade commodity.

Mr. Temporary Deputy Speaker, Sir, then this region became colonised! One piece after another, we were colonised. It is partly because the leadership of that time allowed trade practices that made us very vulnerable. Sometimes, people literally allowed their neighbours to be invaded and conquered, believing that they were safer, only for them to eventually become colonised and exploited.

Mr. Temporary Deputy Speaker, Sir, I am trying to say that, in every situation, through the history of this region, it is the leadership that has betrayed its people. In the course of history, it is always the leadership that protects its people. In every situation, there are always those who lead and those who follow their leaders. Now, if those who lead do not lead their people properly, sooner or later, they become victims. I think that in Africa, even without thinking about Kenya--- When you come to our country, it is the same! There is something inherently wrong in the way we have practised our leadership and allowed trade practices to exploit our resources and leave us poor!

Mr. Temporary Deputy Speaker, Sir, during the post-colonial period, we inherited many laws that were put in place by people who did not have the indigenous people of this country as their prime interest. They had their own interests. They laid down laws and trade practices that actually did not favour the indigenous people of this country. That is why, when we even introduced crops that should have made us rich such as coffee, tea, sugar-cane and all those other crops that, during the colonial services, we were not allowed to plant--- When we planted them, we were not allowed to trade directly. We are in our 40th year of Independence and we are still struggling to make our people benefit from coffee, tea, sugar-cane and cotton as if we are in a foreign country. Yet, there are laws that allow trade practices that do not favour our people. What kind of leaders do we subscribe to when we allow, whether it is ourselves or others, to practise trade in a way that does not favour our people? In any other country all over the world, it is the local people who are prioritised by the laws. The leaders know that whatever trade practices are made, practised or allowed, they must favour their people.

Mr. Temporary Deputy Speaker, Sir, right now as I speak, I am thinking of the people in my own constituency of Tetu; people who should be extremely rich because they have coffee, tea, milk and even macadamia nuts. But, as I speak, those people are still struggling! It is not that coffee, tea or whatever other crop they have, is not producing the same products that it produced during the colonial times, but the trade practices that we have allowed in this country continue to dis-favour those people and leave them poor, when a few people who are enjoying the protection of such laws in this Act continue to enrich themselves with the sweat of those ordinary people.

(Applause)

So, you have Kenyans working day and night. The middlemen are then sent to--- I guess those are the first men who benefit from the monopolies of trade practices that make sure that, while they continue to amass a lot of wealth, the farmers, themselves, continue to be extremely poor.

Mr. Temporary Deputy Speaker, Sir, how else does one explain that, in a country like this, where 60 per cent of the people are poor--- According to the United Nations, 60 per cent of our people cannot make a dollar a day and yet, in this same country, banks make more profit than many other countries, including their own! How can that happen? People make more money in poverty-stricken countries than they make in rich countries! It is because trade practices in our country favour the rich and a few individuals. They leave the majority of our people as victims of exploitation. I think it is laws like those that really need to be addressed, if we truly and sincerely want to reduce poverty in our country.

Mr. Temporary Deputy Speaker, Sir, it is for the same reasons that this region of Africa is

deeply indebted to Western countries and other developed countries in general. That is because when we went to World Bank--- When we went to multi-lateral sources of funds, we borrowed money, which was a trade practice. But it is a trade practice that actually allowed us to borrow money that will be paid by generations to come! When we try to campaign and have those debts cancelled, I have been amazed that some countries, including our own, have not been in favour of those debts being cancelled. That is because of the conditions that were put there by organisations such as the World Bank. That would, of course, mean that they would have to borrow what they can pay. They would also have to make less profit and use that money more accountably, so that they do not accumulate such debts that we cannot pay, and have to pass them to our future generations.

So, Mr. Temporary Deputy Speaker, Sir, I really want to say that I support this Motion. But even as we craft the law, I would like us, as leaders, to understand that, if this country continues to be as poor as it is, and if this region continues to be as poor as it is, the people who get blamed are the leaders. It is only the leaders that can introduce trade practices that will protect their people and stop the exploitation.

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

(Applause)

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this very important Motion.

This country has been ravaged by special interests who combine conspiratorial forces to fleece Kenyans. This is because the laws that have been enacted to protect the consumers and poor persons are rarely enforced. This Parliament has been, to some extent, idle. It has not addressed the issues of cartels, conspiracies and fraud. If you go to any of the major supermarkets in this country; the Nakumatts and Woolworths, you can see clearly that there is a cartel-like business. Whenever companies are being sold out by the Government, you can see conspiracy in the sale of public institutions to the private sector. People who are powerful and influential are the ones who are buying most of these institutions. As a result, they set prices without regard to the level of poverty in the country.

Let us take the case of sugar, for example. Sugar is a necessity for most families in this country. Therefore, it should be as cheap as possible so that every Kenyan can afford it. But because of this conspiracy and cartel-like businesses, the sugar-cane farmer is paid peanuts. But the refined sugar is sold by these cartels at a very high price. Parliament should move in quickly. I wish hon. Sungu brought this Motion two or three years ago. This is because we would have saved a lot of Kenyans the agony that they go through to access some of the necessities of life.

Mr. Temporary Deputy Speaker, Sir, we have said that there is restriction in monopolies. But what would you call the operations of Safaricom Limited and Celtel Limited? They collude and set their prices. The prices of mobile services are the highest in the world. But because we have not recourse, we have got to subscribe to the same service providers. When Safaricom and KenCell came into operation, they were estimating to have 35,000 subscribers in five years. But within one year, their subscription has reached 1,000,000 for each of the companies, yet, the fee that they pay to the State was based on an estimated subscription of 35,000 people. So, the State lost, but because that was an agreement between the influential interest forces, they were able to go scot-free, without paying the increased fee for increased subscription. That is why during the last financial year, Safaricom Limited has been able to reap a record Kshs17 billion in profits. Even the East African Breweries Limited, which has been operating in this country for almost a century, has never made a profit of Kshs17 billion. How do you make a profit of Kshs17 billion, unless you are

given an environment where you can fix your prices at will, so that they do not have any relationship with the cost of operation? That is why they can make such kind of money. At the same time, as much as this company is raising this type of profit it is not employing Kenyans. Therefore, it is condemning Kenyans into abject poverty.

Mr. Temporary Deputy Speaker, Sir, the Uchumi Supermarkets Limited, which is owned by Kenyans, is being fleeced out of the market by these conspiratorial forces, which do not want to operate within the law. I can foresee that, in one to two years, we are going to fleece out sugar-cane farmers in this country, because we are opening up for the importation of cheap sugar from countries which do not use fertilizers for farming; where land is available in plenty and the input in production is almost nothing. We are opening up for this importation because influential forces are going to benefit from it. Already they have set very high prices of sugar. They are fleecing out the farmers so that they can import sugar and make a kill. The people who are involved have become overnight millionaires. People who could not afford a drink five years ago, today, fly in helicopters. This is open to every Kenyan to see!

Mr. Temporary Deputy Speaker, Sir, we used to assemble vehicles in this country, but because of the interests of influential forces, that industry was killed. We now import second-hand vehicles from abroad. Businessmen buy second-hand vehicles from Dubai, Japan or Korea at very reduced prices. But they import them to Kenya and sell them to Kenyans at exorbitant prices. As a result, they have destroyed an industry which employed so many people. The same applies to the textile industry. We have killed our textile industry because of this conspiracy. As a result, the *Dukawallas* can import textiles cheaply from China, India and other countries to the detriment of Kenyans. About 50,000 Kenyans who were employed in the textile industry are jobless today. In fact, they have been turned into criminals in their own country.

So, we must enact a law that protects the Kenyan interests; the poor man. This House is equivalent to the House of Commons; a House of people who represent the common man. Definitely, we should show that we truly represent the common man that we tax. We should protect that common man from these conspiratorial forces that fleece them into poverty.

Mr. Temporary Deputy Speaker, Sir, the hon. Member has clearly stated which sections of the law need to be addressed. If this House rises up and enacts the new Bill that the hon. Member is going to bring - and I hope he will bring it before this House is dissolved - it is only then that this House will be seen as a House that respects the interests of the common man in this country.

Mr. Temporary Deputy Speaker, Sir, we have seen this conspiracy even in the media. Now, those who have got money set up media houses and get frequencies in 1,000 languages and dialects. That is monopoly! You can have closed media! You can have a radio or a television service, or several newspapers and that is closed ownership of the media which, in itself, is not good for this country. I am glad that Kenyans have risen against a law that we enacted in this House, which was against the freedom of information. But they should have also risen against closed ownership of the media. Monopolising of the media must be addressed.

So, Mr. Temporary Deputy Speaker, Sir, we must enact laws that will stand the test of time. When we enact these laws, we must ensure that they are implemented. We have some laws which would have addressed some of the issues raised by Mr. Sungu, but because the people benefiting from the non-implementation of those laws are the ones supposed to enforce those laws, they are not doing it. I hope that when we enact the actual law, we will make sure that there are sanctions and that, if they are not enforced, then the Minister concerned will be brought to this Parliament and either named, or some serious sanctions levied against him or her, so that we can protect Kenyans.

With those few remarks, I beg to support.

The Assistant Minister, Office of the President (Mr. Munya): Thank you, Mr. Temporary

Deputy Speaker, Sir, for giving me this opportunity to support this very important Motion. We have different forms of economies. We have command economies, where prices are controlled by the Government or agencies that are set up by the Government to control prices. In those kinds of economies, you may not need competition laws, because already there are institutions that are in place which determine what is value for money when you are buying products. But in a liberalised economy, like ours, where prices are left to be fixed by the market forces, if the Government does not have a law that can control firms, then the consumers are left at the mercy of firms that are running the market, especially in a developing country like ours, where we do not have very many companies operating in the same area, where they can compete on their own and prices are left to be set by the market forces. So, you will have the firms themselves controlling the market, abusing their market power and, therefore, making the consumer suffer.

Probably, this is the step we missed when we were liberalising our economy. We did not envisage a situation where companies would come together. Even if it is several companies, they can still abuse the market, because all that they need to do is agree at what level to fix prices. Once they are agree on what level to fix prices, then the consumer suffers all the time. Since there is nobody else to compete with them, obviously, the consumer is forced to buy services at a price he cannot afford, but because he has no alternative, he has to buy them at that price. That is what is obtaining in the mobile industry right now, because we have very few players. You will see them talking when they are marketing and trying to compete at the marketing level, targeting the customers. However, in terms of pricing, they become a cartel and the consumer suffers. So, that is why this Motion is very timely, so that we can have a law that takes care of a situation where the firms are very few, maybe two, three or four, and where they collude to set prices that are unfair to consumers. In that situation, a body is set up to investigate those situations where there is collusion in pricing, and make sure that market forces operate in such a way that monopolies, or oligopolies, do not abuse the market and cause the consumer to suffer.

Mr. Temporary Deputy Speaker, Sir, the other important issue in which a competition law would help is where companies are trying to merge. In industrialised countries where there is competition law, if you do not have many companies providing a service, the law provides that you cannot be allowed to merge. This is so because if you merge, then you become a monopoly and you are left to abuse the market control that you have at the expense of the consumer. In Kenya, when the Kenya Breweries Limited (KBL) and the South African Breweries Limited (SABL) that was operating here were merging and giving each other markets in the region, basically what they were doing was forming a cartel in the region. They realised that they were the two of them and they could decide what to do with the consumers and, therefore, reap maximum profits from the consumer. In Europe, where a proper competition law operates, that merger could never have been allowed, because there were only two companies. If you allow them to merge, basically you are saying that the beer consumer would always be at the mercy of the one company that was left in Kenya. That is why you can see that the pricing of beer is always going up. When the competitor came and settled here, prices were going down but now it is only one company operating. So, that was a disaster which was allowed to take place at that time. But we were told that there were investors who were part of the game that was taking place, who wanted it to happen that way. However, if we had a law to control such issues, that merger could never have taken place, and we would have had those two companies competing at the market and consumers would have been getting value for their money.

Other issues that a competition law would help with, that I have already talked about, are like artificial fixing of prices. The competition law would take care of that, so that market forces operate properly and consumers buy goods and services at the level of the value they are paying for. Also where there is no competition law, usually there is no incentive to improve the quality of

products. The quality of products is not taken care of, because, after all, I will sell. I am the only one, or there are only two of us! So, there is no incentive for companies to improve the quality of the goods they have to compete in the market, because there is no competition law. That is why we need that law, so that we can have the best quality of products that we can have. Every fellow, or company, in the market will know that if their products are not good they cannot attract customers. But where you let them collude and agree, they become cartels and the issue of the quality of products also arises.

Mr. Temporary Deputy Speaker, Sir, the competition law will also spur expansion of industries. Where you have a proper law regulating the companies that are operating, you will also spur expansion of industries, and this will be good for our economy. So, it is a very important law, not just for purposes of taking care of the consumer but also for purposes of economy growth of our country, that is already taking off. We need that law that will regulate the industry. In a capitalist system, companies are driven by profit; their motive is profit. It is not the value of what the consumer gets, or even the quality of the products, but the profit. So, if we do not have intervention measures that ensure that other social needs are also taken care of, we are in a very dangerous situation. That is why we need that law to take care of that, so that companies do not abuse their power of market control.

Mr. Temporary Deputy Speaker, Sir, competition laws will provide protection for small players. In most cases, what major companies do is to collude to make sure that they kick out the small companies that have no capacity or money to operate in the market. The major firms can even put their prices artificially so low and decide that in five years, they will not be making any profits to make sure that the small companies "die"! That is what they do if they are not controlled. We need a competition law to ensure that the big giants do not throw out the small operators from the market by keeping their prices artificially low for some time to put small companies out of business, and then bring the prices back to normal. That is what they do. They use any means to make sure that nobody else comes into the market. We need that law to take care of those small players.

Mr. Temporary Deputy Speaker, Sir, we need the competition law not just to take care of small players, but also to make sure that there are certain restricted areas where firms are not allowed to operate. In some European countries, for example, if a firm is involved in big manufacturing, it is not allowed to participate in transport business. There is a law that prohibits, for example, East Africa Industries--- Is it still called East Africa Industries? What is it called now? It is not called East Africa Industries any more!

An hon. Member: Unilever!

The Assistant Minister, Office of the President (Mr. Munya): Mr. Temporary Deputy Speaker, in Europe, for example, where there is a proper law, the transport industry is left for small players. So, a firm could concentrate in manufacturing, but another firm could get a cake from that industry by providing transport. But in Kenya, major firms are providing everything. They produce and provide transport for their own goods to the outlets. They even own the outlets! In a country with proper regulations and competition, you prevent those companies from controlling, for example, transport business, so that there is proper competition in that area. Let other players deal with transport as the firms concentrate on producing. But in Kenya, the major players, for example, in the media industry, are the ones who are controlling the transportation of their newspapers. They have started courier businesses instead of letting other players to have courier businesses to carry their products to the markets. They are the ones who are running that business! They have become a monopoly in everything. No small firm can come in and get a share of the cake. That is why we need a competition law to put in place proper structures and enable our people to get into business without being kicked out.

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

Mr. Poghiso: Mr. Temporary Deputy Speaker, Sir, because this is a very important Motion, I would like to begin by thanking Mr. Sungu for considering it and bringing it here. It is only very unfortunate that, as it is now, a very important Motion like this one comes and finds the Front Bench empty!

*(Dr. Mwiria moved from the Back Bench
to the Front Bench)*

Much as my friend, Dr. Mwiria, is beginning to adjust to occupy that front space, it is still very clear that this Motion is not being taken very seriously. The Government should really be here.

Mr. Temporary Deputy Speaker, Sir, we cannot see Vision 2030, which the Government is beginning to drum up support for, and showing us that we need to see that far, if we still have laws like this one in our books. This should be one of the most important laws to be repealed, so that we can actually see far. Vision 2030 envisions a situation where Kenyans are assisted and inspired in the area of trade. That trade must spread all over the country. With this kind of law, we cannot do that. Basically, that is why I am saying that the Government should be here to tell us what kind of laws they are trying to repeal. What kind of laws do they have in mind to remove out of our way, so that we can clearly see Vision 2030. When we have piecemeal amendments like this one brought by hon. Sungu, that shows that the Government has not put its act together, to actually tell us what are those laws. This should be one of the very first one. I want to thank Mr. Sungu for realising that we need to remove things which prohibit or hinder our vision.

Mr. Temporary Deputy Speaker, Sir, as you can see, the title of the Act, the Restrictive Trade Practices, Monopolies and Price Control Act (Cap.504 of Kenya), is not good in this time of globalisation. We need to come up with competitive laws. I hope that Mr. Sungu will find an appropriate and current title. I am not sure if the Competition Act is enough. He must give us a title that goes with the times, so that we can replace this old law. All he is asking is the leave of the House, so that we can actually replace this law with something new. This is a very good request; to replace the same with an appropriate law with the aim of reducing monopoly and collusion amongst firms and for matters incidental and connected therewith. That is the business of cartels.

Mr. Temporary Deputy Speaker, Sir, as long as our businesses are run by cartels, this law is coming to destroy colonies and, literally, business giants. That is how business has been done in this country for a long time. We require a change of mind-set. I am glad that some of those cartels are not aware that we want to remove that. It will be difficult for them to do business if we remove it. It is very important to make it difficult for people who have done business the wrong way all their lives, so that they can actually begin to realise that business is meant for all the people.

Mr. Temporary Deputy Speaker, Sir, my friends have talked about monopolies. Examples have been given about firms that are solely doing transport business. In fact, everybody is doing everything. Right now, if you visit some supermarkets, they are selling everything from vegetables to vehicles under the same roof. What happens to the person who is supposed to be selling vegetables? They have made it difficult for anyone to sell vegetables. When I visit a supermarket, I buy everything, including *mboga*. If you want a used car, you will find it there. You do not have to go very far from there. That is the kind of monopoly that is making it impossible for Kenyans to participate in supplying. We need to develop a supply chain which involves all Kenyans. The law needs to be made stronger. I agree with my colleague that, that law needs to be replaced.

Mr. Temporary Deputy Speaker, Sir, for us to go past business cartels, we need to pass this law very quickly. We need people to understand that, so that we can have a Bill discussed here and passed. I hope that when the Bill is brought here, hon. Members will attend and participate. This is

very crucial because of where we have come from and where we are going. It is important for hon. Members to begin to look at laws which have, kind of, survived all these years. Let us show that we can actually replace those laws. We are in the business of making laws. We must not continue working under laws which are not progressive. I support the need to go back to our archives, look at what we have and remove some of the things that we do not need. Some of the things that were good in the 1970s are no longer good now. Some of the things that were good when we were a *de jure* one party system cannot be good now. We must begin to do what Mr. Sungu is doing; remove some of those laws and bring them back so that we can update them. We need to come and brush up some of those laws. We need to repeal others completely. I support that this particular law needs to be repealed.

I support my colleague and say that it is important, especially with the focus on Vision 2030, that we begin cleaning up our books and preparing ourselves with the laws of the future.

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

The Temporary Deputy Speaker (Mr. M'Mukindia): It is now time for the official Government Responder. However, since the Minister for Finance is not here, I will give a chance to other hon. Members who wish to contribute.

An hon. Member: Who is supposed to be the Government Responder?

Hon. Members: The Ministry of Finance.

The Temporary Deputy Speaker (Mr. M'Mukindia): Mr. Kenneth was here, but I do not know what has happened to him.

Mr. Waitthaka: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to support this Motion which says in part:

"THAT, this House do grant leave to introduce a Bill for an Act of Parliament to repeal the Restrictive Trade Practices, Monopolies and Price Control Act (Cap.504 of the Laws of Kenya)---

By the look of the wording of the Act itself; "The Restrictive Trade Practices," you will see that this Act was enacted with a view to restricting certain trades which were not in the interest of those who are influential. That was the purpose of those who enacted this piece of legislation. Therefore, to encourage monopoly and price control, so that--- As it has been rightly said by Mr. Munya, the main objective of capitalist is to maximise on profits and not to enrich on what they sell to the consumer. I would wish to caution that--- Many contributors who have spoken have said that different companies do certain things at certain levels. For example, Mr. Munya said that when you are in the manufacturing sector, you cannot carry out transportation business. That is correct. However, unless we deal with our Company Law, you will find different companies carrying out different roles, when those companies are owned by a single person.

Mr. Temporary Deputy Speaker, we had an incident of that nature in the coffee industry in this country, whereby the coffee agents, those who purchased the coffee, the marketers and the end buyers were companies owned by the same person. So, unless we are able to lift the veil and understand who is the owner of these companies, we may enact laws in this House without realising that these businessmen and operators are so evasive that they are able to hide under the Companies Law. It is time we amended our Company Law so that we do not have the same operators operating different companies. We need to ensure that every company has its own legal entity and personality, different from its owners. With that kind of definition, you can do business with different companies.

Mr. Temporary Deputy Speaker, Sir, sometimes, competition is necessary. I will give an example. In the 1990s, most of us were chased away from the Barclays Bank because we did not have the minimum deposits of more than Kshs10,000. Some of us even got refunds. I will give a personal experience. I was refunded Kshs8,000 in a cheque, because that was my balance. I was

told that I did not qualify to be a depositor with the Barclays Bank of Kenya. These days, they are writing to us several letters so that we can open accounts with them. They are saying that their minimum balance is almost zero because of the competition they are facing from Equity Bank and other banks. So, when there is an open market and competition; when we do not support monopolies, things are likely to work for the better of the common *mwananchi*. This Motion, by hon. Sungu, has come at the most appropriate time. It is well intended and it will assist our people.

Mr. Temporary Deputy Speaker, Sir, someone has talked about the textile industry and the importation of second-hand vehicles which has killed our local industries. You have seen what monopolies can do. They were even, either three or four years ago, able to buy a company which was called Castle Brewing Kenya Ltd. and closed the factory. Notwithstanding how many people were employed, the East African Breweries bought the company and closed it with all its investments. The East African Breweries knew that they would reap what they had invested in the purchase of that factory from the prices of beer they would impose because there are no restrictive laws. That is a very clear example of what hon. Munya was saying; that they can even review their prices for a period of five years to kick out the "small man" in the business. When the "small man" in the business is kicked out, they can then raise their prices and recover what they have lost in the five years. An example of that is the East African Breweries which bought the Castle Brewing Kenya Ltd. a very big investment. That could have been in collusion with the investors. That factory has now been closed for many year and workers lost their benefits. This is a very important Motion, and if a Bill is eventually passed, it will control the situation.

As it has been stated, when we are dealing with a liberalised economy, like ours, where prices are determined by the market; the law of supply and demand, the person who ends up suffering is the consumer. Producers and investors can hoard goods so that they create a shortage. When there is shortage, prices are likely to go up because they are determined by the law of supply and demand. When the supply is low and demand is high, the prices are likely to keep moving upwards. We need a law, in a liberalised economy like this one, that will support the consumers. At the end of the day, as hon. Angwenyi has said, this being the National Assembly, and equating it with the House of Commons, we should always be speaking for the interest of the commoners and the people of this country.

This is a very good Motion and I strongly support it.

Thank you.

The Assistant Minister for Education (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir for giving me an opportunity to contribute to this Motion and support hon. Sungu in his quest to have our laws reviewed so that we can allow competition. Part of the reason why we have many poor people in this country is because the wealth continues to be controlled by less than 10 per cent of the population.

(Applause)

In many ways, that is monopolistic, whether it is in terms of actual trading businesses or in terms of the land that people own. It is the same people who acquired so much land at Independence that have continued to accumulate wealth and add to what they got. So, monopoly should also be seen from that point of view.

Secondly, we should learn from experiences of countries which were originators of monopolies like America. The Americans had a big problem with Bill Gates, if you remember. Bill Gates was forced not to continue owning so much of the software industry in the computer business. That was dealt with and it was a painful experience in a country where the idea is for monopolies and people to grow, as far as they can, without any control. That is a very good example in terms of how one person who has an advantage can make it much more difficult for

other people to enter a market that spreads beyond national and regional boundaries. I would like to say that even as we change this law, we need to do more in terms of addressing issues of procurement procedures because you can change the law but still leave loopholes with regard to the procedures that favour those that are well connected and those who have the means to bribe their way and ensure that small actors do not come in, in the first place.

Secondly, I think it is important for us to get into the habit of publishing names of companies in this country and their owners. This includes giving backgrounds of where those people come from and even listing their families because you can make it impossible for a person who is well established to have a monopoly but they can use their children and relatives. I do not know how we are going to go around that because you can still extend monopolies by using other connections. It is important for us to be clear, even if it means involving the investigative wing of Government like the National Security Intelligence Service (NSIS). They should be able to tell us who the owners of companies in this country are. This is to ensure that the same people are not duplicating themselves in different ways. I think that would be worth it.

Mr. Temporary Deputy Speaker, Sir, in the same breath, apart from reducing duplication of the bigger companies in terms of what the companies have, we should also address the issue of monopolies with regard to small-scale players. Part of the reasons why small players are not growing is that, for example, if a small player starts bringing cars from Japan, so many other people begin to do the same thing. If you open a boutique and you are bringing clothing from Dubai, everybody else picks that example. So, we must find a way also, of ensuring that you do not license new players to repeat what is already going on. It is not just those with big companies that would repeat that, but also the small players would repeat that, thus making it impossible for small players to grow because of competition.

Mr. Temporary Deputy Speaker, Sir, it is also useful for us to ask questions about the sale of parastatals because this is one way that those that are in monopolies are increasing on their advantage. They use their connections through the stock exchange, in Government, with already existing companies and their economic muscle to buy parastatals that either would be closed or would be in the bidding of their respective companies so that they extend that monopoly. In this regard, the example of East African Breweries Limited (EABL) has been mentioned and Nakumatt where more or less this is happening. For example, EABL bought a plant from Castle and closed it. It cannot be that they closed it if they were not taking the money.

If this is allowed, it is going to be very difficult to introduce local competition. The effect of that, is that we continue to import beers because we cannot produce a different brand of beer in this country. There are beers from Belgium, Holland and so on because EABL do not have any fair competition in this country. That applies to so many other organizations. I just wanted to say that unless we also look at the political dimension, where politicians are part of it, and continue to support their own advantage or support people that are closer to them to continue the monopolies, it is going to be a problem. Therefore, I just want to support the Motion and say that I hope that we get to it very soon, so that many Kenyans who are not so powerful economically and who are not so well connected politically can also enter the market and begin to reap from the rich wealth that is available in this country from so many Kenyans.

With those few remarks, I support.

The Temporary Deputy Speaker (Mr. M'Mukindia): Prof. Oniang'o, you have seven minutes.

Prof. Oniang'o: Mr. Temporary Deputy Speaker, Sir, seven minutes is plenty. I have just arrived this morning from western Kenya. It is easier now to fly than to go by road. Our roads are impassable. It takes 10 hours instead of five to reach my home in western Kenya. So, flying is cheaper. But since we have four airlines flying to Kisumu - and I would like to be patriotic and use

the Kenya Airways, "the Pride of Africa", the cost of flying by Kenya Airways to Kisumu has not changed despite them moving from one airline to four.

It is only in Kenya where competition does not make any sense to the consumer. With three more airlines, we should be paying Kshs4,000 return ticket. People should find it easier to fly. The ordinary Kenyan who wants to move around and go away from Nairobi and develop their rural areas or see their families, it should be cheaper to fly than to go on a terrible road. So, we have big businessmen in this country who are fleecing the poor.

Mr. Temporary Deputy Speaker, Sir, it takes one hour to fly to Zanzibar, less than one hour to Entebbe and one hour to Dar-es-Salaam. To fly to those countries, it costs around Kshs30,000 due to taxation. But it takes the same one hour to go to Mombasa or Kisumu. It does not make sense! What are we saying? We need a free media to expose all these multinationals and big companies who are fleecing Kenyans. Ideally, competition should bring efficiency, fair play and more players to the business world. I have quoted that one.

When you look at the Micro-Finance Bill which we passed here, and I do not understand why it is not yet operational, the big banks had moved away from the rural areas. The poor farmers had nowhere to go for banking. We introduced a Micro-Finance Bill, they are now busy going back there. We know how unfriendly the big banks are to the ordinary person who they describe as lacking in social status. We are coming to the end of the Ninth Parliament and Kenyans are very unhappy with us. They have every right to be unhappy with us because the rich are becoming richer, the monopolisers are monopolising a lot more, the companies are engaging in unfriendly and unacceptable practices.

Mr. Temporary Deputy Speaker, Sir, I support this Motion completely and I am glad that Mr. Sungu has brought this and I hope that he will see Parliament in 2008, incase we do not bring the Bill this year. We also need more responsible governance which really cares for the majority of Kenyans who still live below the poverty line. I do not believe in the so-called economic growth. I go to western Kenya in the rural areas almost two weeks and I know that life has not changed for most people. This is because we have allowed those who have looted this country, those who have been corrupt, those who hold the banks and those who hold the monies to continue to do so and call the shots. I just want to support this Motion and hope that it comes sooner rather than later.

With those few remarks, I wish to support.

The Temporary Deputy Speaker (M'Mukindia): Prof. Mango, you have three minutes.

Prof. Mango: Mr. Temporary Deputy Speaker, Sir, thank you for giving me an opportunity to add my voice to this Motion. This country has been bedeviled with monopoly, whereby you get a manufacturer is a distributor and a retailer. As such, you have nowhere to get reprieve. He exploits you thoroughly in every way possible. This practice has made Kenyans unable to get into business because if you try to become a retailer, you are competing with a retailer who is a manufacturer, therefore, you cannot make ends meet and soon you will be out of business. You will find that Kenyans who try business are unable to move on. The question of privatisation is a sore point. Privatisation has come but it is the same big fish who are buying the shares in millions. The small man does not stand a chance. You send there your little money and it is returned to you and you are told that they are catering for those above a certain level. First, the public parastatals were established by the Kenyan taxpayers' money. They were not established by the big fish. Therefore, they should be distributed fairly to all Kenyan so that even the small Kenyan can get a share of it. Some of our public companies have gone out of business, but in the course of privatising them, we sell them to foreigners.

Mr. Temporary Deputy Speaker, Sir, what do we mean when we say let us privatise these companies and sell them to foreigners? It is like saying my baby is sick and I will throw it away instead of looking for medication for it. If the management is the problem, we should get proper

management.

With those few remarks, I support.

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, allow me from the very bottom of my heart to thank the hon. Members of the Ninth Parliament who have contributed to this Motion. You will have noticed that all hon. Members who have spoken have supported this Motion. It goes to underscore how important it is.

Mr. Temporary Deputy Speaker, Sir, one philosopher, John Locke, said that "all human beings are born equal and that they have got a right to the pursuit of happiness." This same philosophical statement that came from those ages of yonder was again taken by the Americans when they started their independence movement. Such statements are so important. Kenyans were born equal. The very bottom line of this Motion is that we must protect the poor Kenyans. I am so happy and grateful that hon. Members of this honourable Parliament have noticed that notion and supported this Motion.

Mr. Temporary Deputy Speaker, Sir, I want to inform hon. Members that, though it is coming late, the draft Bill is ready. This Motion has been on the Floor of the House for a long time. I would wish to invite them, so that we can have a stakeholders forum, so that we can put the inputs. Whatever they have said has enriched what we already have in mind, that we need fairness in this country. We need to protect our people. We need to look after the economic welfare and efficiency of our people. We need to check undue concentration of economic power in the hands of a few people in this country against the majority of Kenyans.

Mr. Temporary Deputy Speaker, Sir, as I talk now, not all of us in this House are equal although we were born equal. We know that there are a few of us here who own so much. Indeed, this is not good for any country. At one stage, we will find that we have been mortgaged by a few people. There is no tribe here. The only tribes here now are the poor and the rich. Among the rich, there are a few individuals who own everything. That is why we need a competition law to control monopolies, mergers and acquisitions. We know for certain that in some of these companies like somebody has said on the Floor of this House, that one family has shares in different companies and they control them. Even though, there are interlocking directorships in the air industry, there is space collision. A case in point, are the flights to Kisumu and other places. Soon enough, you will be having an airport at Isiolo and you will want to travel there. If you do not have this law in place, we are going nowhere.

Mr. Temporary Deputy Speaker, Sir, everybody has supported this Motion. There is no need to reply to what they have said. I want to thank the hon. Members of this House for debating this Motion maturely and with a lot of knowledge and passion. I also want to thank the Chair for allowing this Motion to come before the House.

I beg to move. Thank you.

(Question put and agreed to)

The Temporary Deputy Speaker (Mr. M'Mukindia): Next Order!

PROVISION OF TRAINED STAFF TO ALL
PUBLIC PRE-PRIMARY INSTITUTIONS

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, in view of the Government's policy to provide quality education for all children in Kenya; conscious that the foundation for quality education starts with the early childhood education at the pre-primary school; aware that the Government

trains, recruits and provides teaching staff for all public primary, secondary and post-secondary institutions and noting with appreciation the implementation of free primary education since 2003; this House grants leave to introduce a Bill for an Act of Parliament to amend the Education Act (Cap.211 of the Laws of Kenya), to provide for training, recruitment and early childhood education teaching staff in all public pre-primary and nursery schools in Kenya.

Mr. Temporary Deputy Speaker, Sir, this Government has shown interest in providing education to Kenyans which is the right thing to do. They are doing it in pursuit of the Millennium Development Goals (MDGs). When we attained Independence, we were economically at par with Botswana, Korea, Singapore and Malaysia. However, over the years, these countries have overtaken us in economic development, mainly because their level and quality of their education, is much higher and better than ours. Even today with the Vision 2030, we cannot achieve it unless we provide quality education right from childhood to universities.

Mr. Temporary Deputy Speaker, Sir, I was visiting schools in my constituency to provide them with classroom facilities. I came across a school where parents have built a very nice classroom for their children and they have hired teachers for pre-primary education. There are three teachers and 120 pupils in that school. However, these teachers who have been employed by parents are earning Kshs2,000 per month. It is like a slavery service. Imagine somebody earning a meagre salary of Kshs2,000 a month to teach 120 pupils who are preparing to join Standard One where they will be taught free of any cost! When you take a child to school, that is when he or she begins to learn. If we do not provide quality foundation at that time, he or she will never find it.

Mr. Temporary Deputy Speaker, Sir, I talked to these teachers and parents and they said that they are committed to giving their children quality education. They want to give their children good foundations in education. I discovered that members of the public and parents in this country are far ahead of the Government or educationists to know that we need to lay foundation right from day one. When a child leaves his or her parents to go to school, you need to lay foundation that can carry that child through his or her educational process.

Mr. Temporary Deputy Speaker, Sir, I went out and carried out a survey and established that this problem is not only found in my constituency but rather in every constituency in this country. I talked to educationists. Prof. Oniang'o is here. She is an educationist. She can confirm whether it is covered. If you give quality education to a kid, right from day one, such a kid has a much higher chance of proceeding with education to the highest level. I also discovered that parents would want to give their children quality education, but they cannot afford it. That is why the Government has seen it fit to provide free education in primary and secondary schools and give bursaries and loans to university students.

I tried to find out the cost of providing this essential foundation. I discovered that we have between 12,000 and 15,000 pre-primary classes in this country. If you give two teachers to each of those two classes, you will need 30,000 pre-primary school teachers. If you pay each of those teachers an average salary of Kshs15,000 per month, it will cost this country Kshs5.4 billion in a year. I was shocked. What is Kshs5.4 billion to a Government which collects Kshs539 billion annually? That is only about 1 per cent of our annual revenue collection. That is what we need to lay this foundation, which is so essential for the education of our kids. Only 1 per cent of our Budget is what is required to remove those teachers from the "slavery" kind of environment they serve in and give them formal employment.

Mr. Temporary Deputy Speaker, Sir, this Government has given commitment that it will not spare any resource to provide education to our people, because education is so essential for our social and economic development. The countries I cited, namely Korea, Singapore, Malaysia and Botswana, provide free pre-primary education. In those countries, kindergarten, nursery and pre-

primary education is provided for free. In fact, they started with that level before they went to primary and secondary schools and, eventually, universities.

So, if this House was able to convince the Government - I am sure that the Government of President Kibaki will be willing to be persuaded, because it has shown commitment to give free primary education - to commit 1 per cent of our annual revenue collection to providing this foundational education for free, we will be achieving four goals. First, we will be giving a good education foundation to our kids. Secondly, given that 46 per cent of Kenyans live below the poverty line, we will be relieving that lot from sacrificing the little resources that they have to pay for that foundational education for their children, which is so essential.

Mr. Temporary Deputy Speaker, Sir, thirdly, we will be helping those teachers who have offered to provide free services, as if they are slaves. We will be removing them from "slavery" to formal employment. Fourthly, we will be providing employment to 30,000 Kenyans. So, we will be achieving four goals at a cost of Kshs5.4 billion, which is less than 10 per cent of what we would have lost in the Anglo Leasing-related scandals, and which is less than 1 per cent of the amount of money we lose in undefended court cases in which the Government is sued by conspiratorial contractors. It will be less than 1 per cent of what we spend lavishly to acquire certain things for this country.

So, as I said earlier, this House should be very sympathetic to the poor person in this country. This House should look compassionately at the people who are struggling to provide for the young citizenry of this country. These are the people we tax. We are now in the annual taxation process. We are taxing these people through their purchase of sugar and other food items, their clothing, shelter, *et cetera*. We should be sympathetic to these people, who cannot afford it, but are sacrificing. That is why we have got 15,000 classrooms for pre-primary education.

Mr. Temporary Deputy Speaker, Sir, there are people who say that this Government has not done much, but if it provides this foundation, even the four-year-old and five-year-old children will experience the positive contribution of this country to its citizens. That person, whom we will be moulding, will experience the positive action of this Government. He or she will experience what the older people are experiencing. Older people, like our children in primary school, are enjoying free primary education. From January, 2008, children in secondary education will enjoy partially free secondary education.

University students enjoy loans from the Higher Education Loans Board (HELB) as well as bursaries. Coffee farmers, sugar-cane farmers and the Kenya Meat Commission have enjoyed loan write-offs. Certain people have enjoyed loan write-offs amounting to Kshs18 billion, which was owed to the National Bank of Kenya. This is an amount of money which can cater for free pre-primary education for three years. The loans that were written-off, whose write-off Parliament approved, were taken by rich defaulters, who can afford to take their small kids to private pre-primary schools. They are people who are able to take two-year-old babies to kindergarten schools. Those are people whose loan write-offs this Parliament approved! I wish we diverted those funds to provide free pre-primary education. It is not only the National Bank of Kenya, we have given up 10 per cent of Telkom shareholding in Safaricom. That 10 per cent is worth Kshs1.6 billion. We are giving it out to rich people who can afford to take their children to those pre-primary schools in a Mercedes Benz vehicle. This Parliament and this Government is giving away Kshs1.6 billion worth of shareholding in Telkom Kenya, which belongs to the people of Kenya.

Mr. Temporary Deputy Speaker, Sir, we have given out so much money. The amount of money that we have spent in building the National Hospital Insurance Fund (NHIF) Headquarters at Upper Hill is Kshs5.3 billion. That is a building which should have cost Kshs1.2 billion, initially. The cost that building has escalated from Kshs1.2 billion five years ago, to Kshs5.3 billion today, and it is incomplete! That amount of money should have been devoted to benefit that small

child. That child almost walks naked to that pre-primary school. There are many cases where we have spent billions of shillings on items or services that benefit the people who can afford them on their own. So, what I am saying is this: This country, if it wants to develop and, this Parliament, if it wants to represent the views of those who cannot stand up for themselves and defend themselves--- That is the only time we should persuade the Government to support this Motion and support the Bill which is coming. I am sure our Government is very compassionate. The President has shown compassion to the youth of this country, including small children. So, it should not be a big deal to set aside that Kshs5.4 billion and provide that education.

Mr. Temporary Deputy Speaker, Sir, I cannot belabour the point. I am sure all Members of Parliament in this House are aware of the plight of our young kids. They are aware of the deficiencies that affect our children when they enter Standard I. Our primary school teachers, throughout the country, are aware of the problem that they get. The kids who join Standard I are not well prepared. They are not well founded. Our teachers know the problem that is there. They will be grateful to this House and the Government once we provide that education. We could do it with the experts so that, by the beginning of next year, those kids, teachers and parents could get those benefits.

With those very many words, I beg to Move. I would like to request Prof. Oniang'o to second.

Prof. Oniang'o: Thank you, Mr. Temporary Deputy Speaker, Sir. The hon. Member has actually ambushed me. But I will second it. I am very happy to second this Motion. I talked to him earlier, but he told me that somebody else was seconding. But I will second it.

I want to really support this Motion. As I said, I have come back from western Kenya. We had a first Child Day in western Kenya. There were some 1,000 little kids. We had that event because I value that age of children. I describe it as the foundation of a human being. It is like when you are building a house like this one. If you do not have a good foundation, it would not stand. It will not stand the test of time. So, whenever I visit a primary school, the first question I ask is: "Where is the pre-school unit?" I go there. I have managed to get many school heads to give the best classroom in the school to those little kids. I tell them: "You cannot expect good brains--- You cannot expect people to be presidents, lawyers and engineers to succeed if we do not take care of the foundation!" Another favourite saying of mine is: "Who we are today is informed by what we were before". So that age group is very important to me.

Mr. Temporary Deputy Speaker, Sir, Mr. Angwenyi has said that, in his own constituency, he found teachers who were being paid Kshs2,000 per month. He described that as slavery. Where I come, and from the schools I have gone to, many teachers do not even get a regular salary every month. They do not even get as much as Kshs1,000 per month. In fact, it is like they are baby-sitting for free. So, that is not right. Now, if we are going to support free primary education and care about all Kenyans being educated, then we have to start where it starts. We are aware that when a child is born, the parents take over. That parental nurturing is very critical. I am happy that even the men will be getting paternity leave because the child needs both parents. But soon after that, the child needs to be socialised. They start to go out. They are socialised. That is where the pre-school unit and early childhood development comes in. It is so critical. For me, it is such a critical aspect of free primary education and basic education. Yes, I know that the hugest concentration of the Kenyan population is at that level. But on the other hand, if we get that right, many of them---Problems that we have later on; crime issues, unemployment and people not well educated--- If we get that right, we shall have it a lot easier thereafter.

So, Mr. Temporary Deputy Speaker, Sir, we have so many pre-school educators who are actually doing a free job for the parents and the Government. We are saying that, in fact, those should be part of free primary education. With Kenyans paying more taxes--- As you are aware,

Kenyan are some of the most highly taxed people in this world. We want to see where the money is going. Some of that money can go to properly remunerating pre-school teachers. We do not want to down-play what this Government and the previous Government have done in terms of bringing up the District Early Childhood Development Centres (DECECs). We are aware that those who can afford can now go during the school holidays for training and get that training over time. It used to be free. We would like to see as many teachers who handle little kids as possible get that training.

So, we want to commend our Government for making sure that, that training is available. It is already institutionalised. So, what we are now asking for is to build on that one. We shall be building on that. We shall have a much better educational system just like we do elsewhere. In fact, we shall have a competitive system which anybody coming from anywhere would be happy with.

Mr. Temporary Deputy Speaker, Sir, we had the little kids yesterday in the field. We had a programme for them. I am a food and nutrition scientist and we emphasize on nutrition. As you know, at that age, children are growing fast. They need a variety of nutrients. We realise that when they stay at home, some of the families may be too poor to give them a balanced diet. But through a school system, you can actually provide better nutrition for them. So, we did a programme that is under, really the Non-Governmental Organisation (NGO) that I started, and we are able to provide soya milk, which is full protein of plant source. We are able to encourage milk and high protein consumption because, at that age, the child's brain is developing very fast.

Mr. Temporary Deputy Speaker, Sir, that is the best place to impart food manners, good behaviour, respect for older people, respect for teachers and God. We just had children making us happy yesterday. The many others that were there could begin to see the sense of supporting that age group. What we are saying is that the Government should look at the good examples that are already being run through NGOs and churches. They can borrow a leaf from them. There is no point of waiting until they reach their teenage when there are all kinds of delinquent problems with young people. We complain and yet we do not lay a proper foundation in the beginning. I believe, and as I said yesterday to those parents and the little kids because I saw them entertain us, you can identify talents in children and, in fact, geniuses at that level. Those children are truly the leaders of tomorrow.

Mr. Temporary Deputy Speaker, Sir, I want to support hon. Angwenyi in this Motion and, indeed, second it. In fact, the Motion has come late, but it is never too late.

With those few remarks, I beg to second.

(Question proposed)

Mr. Nderitu: Thank you very much, Mr. Temporary Deputy Speaker, Sir. First and foremost, I tend to think that this Motion ought to have been brought to this House when this Government took over and started to provide Free Primary Education (FPE). I tend to think that primary education refers to where we have got the young ones who go to nursery schools and pre-units.

Mr. Temporary Deputy Speaker, Sir, I am not going to be naive. I know that these teachers are being trained. It is only that they are trained and thrown out in the bush. So, they have no forum or anywhere to teach. Majority of these institutions are run by county councils, which are, today, in a deplorable state. The councils, under the Local Government Authority Act, are neither performing nor providing what they are supposed to provide because of various interests. I do not think we need to belabour on this Motion the way hon. Angwenyi and some of us have done. I think we need to amend, straightaway, the Education Act so that by next year when we will be dealing with the Supplementary Estimates, and I can see *Waziri* is here, we have funds included so

that this programme can start on 1st January, 2008.

Mr. Temporary Deputy Speaker, Sir, I know that, professionally, you are an Engineer. The first thing you were taught in college was foundation. This is the key thing in any movement, building and so on. If we do not provide a good foundation for our children, this country is going to lose. If this country intends to make money in terms of collection of taxes, then we should have very many people who are educated and who can come out to do businesses so that the Government can get funds.

Mr. Temporary Deputy Speaker, Sir, really, the issue is not where the funds will come from, but whether the Government is willing to start this programme or not. As far as I am concerned, these funds are there. Today, nobody will convince me that there will be no money to pay teachers or facilitate this programme. Actually, when hon. Angwenyi was doing his mathematics, I was also doing mine. For instance, Kshs30,000 multiply by Kshs15,000 is Kshs450 million. These institutions do not need only Kshs4.5 billion, we need to provide them with toys for children to play with. We want our children to learn how to fly kites when they are young. Therefore, for us to enable our children get the same facilities, we need over Kshs10 billion. I believe a child in Marsabit should have the same facilities as a child in Nairobi; Westlands, Langata, Moyale, Kisumu, Mwea or elsewhere. I urge the Government to come up with a programme for childhood centres. These centres should not be left to individual primary schools to provide equipment.

Mr. Temporary Deputy Speaker, Sir, a majority of our primary schools do not have toilets. The Government is now assisting most of them to put up toilets. We want to mould our children to be good citizens of this country at that tender age. If we do so, we will reduce the cases of thuggery. At that age, we will bring up mature children knowing that stealing is wrong. Corruption will end because these children will be the real models of this country and they will love their country. Tribalism will also come to an end because these children will be nurtured together.

Mr. Temporary Deputy Speaker, Sir, when you go to a primary school, you will only find five toilets which are meant to serve more than 1,000 children. You can imagine what happens at break time. There are no toilets for girls. This Motion should have come immediately in 2003 when the Government introduced Free Primary Education Programme (FPEP) in the country. It is the one that would have laid down foundation for our children.

Mr. Temporary Deputy Speaker, Sir, crying over funds which were lost in the past, will not take us nowhere. Nobody can convince me that the Government cannot do so. Under the able leadership of hon. President Mwai Kibaki and the Minister for Education, I know this is possible.

Mr. Temporary Deputy Speaker, Sir, through the Chair, I am urging my good friend, the Minister for Education to consider including this programme in the Supplementary Budget of his Ministry. This is not an issue of tuition. We want the Ministry to move a further notch ahead to make sure that this programme starts as per constituency. We should have officers on the ground, paid well by the Government and trained to handle and teach our children good manners. This should be done before they even join Standard One. These would be children who know that this country belong to them. Right now, these institutions have been left to families, single mothers, fathers; some of whom do not care, and teachers who are never paid. Those who are paid Kshs2,000 per month are very lucky. There are some who go for six months without even a penny. How do you expect such a child-care person to survive if she or he is not able to provide meals? You can imagine! What kind of children are we expecting to join Standard One.

Mr. Temporary Deputy Speaker, Sir, all of us must own this programme. The Non-Governmental Organisations (NGOs) and corporate sector should come up and own this programme. I am urging corporate entities that rather than the massive programmes of shows they are coming up with, at least, join hands with the Government and come up with a programme of

laying down a firm foundation for our children. The Government should initiate this. For example, the East African Breweries Ltd. would not go very far if this country does not have people who own it and have progressive minds. Safaricom are proud of earning more than Kshs18 billion a year, why can they not set aside Kshs1 billion to help our children in pre-primary schools?

With those few remarks, I beg to support

ADJOURNMENT

The Temporary Deputy Speaker (Mr. M'Mukindia): Hon. Members, it is now time for interruption of business. The House is, therefore, adjourned until this afternoon 15th August, 2007, at 2.30 p.m.

The House rose at 12.30 p.m.