

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 21st April, 2004

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

ESTABLISHMENT OF DELEGATED LEGISLATION COMMITTEE

Ms. Abdalla: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:- THAT, in view of the fact that subsidiary legislation should be consistent with current statutes; aware that certain authorities have failed to Gazette mandatory rules and regulations as required by the current Act; concerned that some of the delegated authorities have been abused by the concerned authorities by gazetting regulations that are *ultra vires* to the parent law; this House resolves to establish a Delegated Legislation Committee to scrutinise all subsidiary legislation.

(Applause)

ORAL ANSWERS TO QUESTIONS

Mr. Deputy Speaker: Hon. Members, we will start with ordinary Questions.

Question No.004

COMPENSATION TO KOITALEL SAMOEI'S FAMILY

Mr. Sambu asked the Minister of State, Office of the President:

(a) whether he is aware that on October 19, 1905, a British soldier, Captain Minertzhagen, murdered the Nandi Laibon Koitalel Samoei, together with 22 members of his family, and thereafter British troops under the command of General Manning killed 1,600 Nandis, robbing them of 16,213 cattle and 36,000 sheep and goats;

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

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

The Assistant Minister, Office of the President (Mr. Dzoro): Mr. Deputy Speaker, Sir, I would like to say the following as far as this Question is concerned. That, our officers have been looking forward for an answer and we feel that we need further indulgence of the House so that we can bring a proper answer.

I would like to ask the hon. Member to bear with us until Tuesday next week because we discovered that there is something very important that will be beneficial to this answer. Thank you.

Mr. Deputy Speaker: Mr. Sambu, what do you say about that?

Mr. Sambu: Mr. Deputy Speaker, Sir, as you are aware, this is the second time the Assistant Minister is asking for more time. However, because I and the people of Nandi in the districts and in the diaspora want a proper answer, I am willing to accept Tuesday afternoon, next week. Thank you.

Mr. Deputy Speaker: Very well. I also agree with you because you are seeking information relating to 1905. I think they have had sufficient time and now they want a week more, and I think it is fair to grant it. So, Mr. Dzoro, you have until Tuesday afternoon to provide the answer. Last week, we gave the Ministry more time. Now, this should be the last time we are adding you time. So, Tuesday next week.

Next Question, Mr. Marende!

Question No.023

RATIONALISATION OF MILITARY PAY LEVELS

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

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

The Assistant Minister, Office of the President (Mr. Dzoro): Mr. Deputy Speaker, Sir, I have discussed this Question with the hon. Member who has asked it and we are in agreement that I bring the answer on Tuesday next week. I, therefore, seek the indulgence of the House. Thank you.

Mr. Marende: Mr. Deputy Speaker, Sir, if that is so, I have given indulgence to my friend.

Mr. Deputy Speaker: Mr. Marende, you cannot give indulgence. Mr. Dzoro sought the indulgence of the House. I only consulted you because you have a special interest as the Questioner, but not that you are the one to give the indulgence. Is that okay, Mr. Marende?

Mr. Marende: Mr. Deputy Speaker, Sir, I accept that position.

Mr. Deputy Speaker: All right. So, Mr. Dzoro, again, we give you more time for this Question and we hope that you will bring the answer as you have requested.

Next Question, Mr. Kamotho!

Question No.108

EXPANSION OF SECONDARY SCHOOL EDUCATION

Mr. Kamotho asked the Minister for Education, Science and Technology what programmes the Government has put in place to expand secondary school education to accommodate the increased primary schools enrolment.

Mr. Deputy Speaker: Is the Minister for Education, Science and Technology here?

An hon. Member: Hawako!

Mr. Deputy Speaker: No, I can see Dr. Mwiria walking in I do not know whether he has an answer. Dr. Mwiria, do you have an answer?

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

(a) As a Ministry, we plan to achieve 70 per cent transition from primary to secondary by the year 2008.

The former KANU Government should have started to help us with this transition.

(Laughter)

(b) Programmes to improve access and quality secondary education in poor districts and zones will include - and not just in Mathioya Constituency - rehabilitation and provision of classrooms, furniture and equipment, improving the learning of Mathematics and Science, strengthening the giving of subsidies for disadvantaged students, enhancing support for children with special needs such as orphans; strengthening the integration of children with disabilities by providing a learner-friendly environment, and enhancing bursary allocation to needy students.

The Ministry has also put in place programmes to strengthen the in-servicing of teachers to enhance quality. School managers will be trained on a continuous basis to enhance their managerial skills in managing the resources.

In addition, we hope to encourage schools that have one or two streams to have an additional stream to accommodate more students, as well as supporting the private sector to assist in providing secondary education. Thank you.

Mr. Kamotho: Mr. Deputy Speaker, Sir, while I thank the Assistant Minister for that brief answer, could I ask him whether they are considering supporting day secondary schools by providing laboratory equipment and other learning facilities? This is because of the level of poverty which is now in the country.

Dr. Mwiria: Mr. Deputy Speaker, we had said that although we cannot support all secondary schools in the country with laboratory equipment, nine secondary schools per district are being supported this year. In addition, we are selecting a few schools that would be considered to be in real areas of poverty for support with other kinds of equipment. It is true that even day schools will qualify for this kind of support.

Mr. Kosgey: Mr. Deputy Speaker, the Assistant Minister has said that they hope to increase the transition rate to 70 per cent by 2008. What is the current transition rate? How many pupils are left in terms of actual numbers, who are not able to transit to secondary schools?

Dr. Mwiria: Mr. Deputy Speaker, Sir, our transition rate is not as good as we would like. Approximately 40 per cent of those who graduate make it to a variety of schools. Again, that is very far from the figure we would like to achieve. That is why we are saying that if we can have another 40 per cent by 2008, we will have done a commendable job.

Mr. Kosgey: Mr. Deputy Speaker, Sir, the Assistant Minister did not answer the second part of my question. How many in terms of actual figures do not transit to secondary schools at the moment?

Dr. Mwiria: Mr. Deputy Speaker, Sir, we know that more than 300,000 students do not make it to secondary schools.

Mr. Mwanzia: Mr. Deputy Speaker, Sir, although my voice is bad, I hope the Assistant Minister will hear me. The District Education Officer (DEO) in Machakos had informed the District Education Board (DEB) that the Ministry has banned the establishment of new Harambee secondary schools. Could the Minister confirm whether it is true or not?

Dr. Mwiria: Mr. Deputy Speaker, Sir, I would appreciate if he could repeat the question. Unfortunately, I did not hear it.

Mr. Deputy Speaker: Neither did I.

Mr. Mwanzia: Mr. Deputy Speaker, Sir, what I am saying is that the DEO in Machakos informed the DEB that the Ministry has banned the establishment of new Harambee secondary schools. Could the Assistant Minister confirm whether this is true or not? The community wants to establish a local secondary school, but they are refusing to give us authority to do so.

Dr. Mwiria: Mr. Deputy Speaker, Sir, the policy of the Government is to encourage as many providers of education as possible to join hands with the Government to provide secondary education. We encourage communities, the private sector and religious organisations to establish schools. However, those schools must meet certain minimum standards. So, whoever likes to establish a school would have to go through the procedure and the school would have to be evaluated to the extent to which it is good enough to be a secondary institution.

Mr. Sambu: Mr. Deputy Speaker, Sir, in Nandi District, for example, only 20 students out of 100 who sit for the Kenya Certificate of Primary Education (KCPE) manage to join secondary schools.

Mr. Deputy Speaker, Sir, my community has built many secondary schools, but the boards of governors are insisting that the schools have to be boarding schools. Is there a law which allows the board of governors and sponsors to dictate that schools must only be boarding? The fees in boarding schools is between Kshs20,000 and Kshs25,000, while in day schools it is only Kshs9,000. Why can we not allow day schools to be established so that we increase this number?

Dr. Mwiria: Mr. Deputy Speaker, Sir, I would like to say that if communities prefer to have day schools, the Ministry is not against day institutions. What is happening is that principals of schools, because they know that sometimes there is some money to be made from those kinds of institutions, insist on boarding schools. I know in KANU you were not used to fighting for your rights, but now you should do it.

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

Mr. Deputy Speaker: No, Mr. Sambu! Capt. Nakitare!

Capt. Nakitare: Mr. Deputy Speaker, Sir, thank you for giving me this chance to---

(Mr. Sambu stood up in his place)

Mr. Deputy Speaker: Order, Mr. Sambu!

Capt. Nakitare: Mr. Sambu, you had better give me a chance to talk!

Mr. Deputy Speaker, Sir, with due respect, I would like the Assistant Minister to tell this House the quality of education that Kenyans want. With the free primary school education, we already have a shortage of teachers in primary schools; class one to eight. We also have this block of children going into secondary education. Therefore, I would like the Assistant Minister to tell this House what kind of education we are headed for in secondary schools? This is because secondary schools are important transitional sections to the university.

Dr. Mwiria: Mr. Deputy Speaker, Sir, I did not get the question.

Mr. Deputy Speaker: Capt. Nakitare, could you ask the question without giving a lecture so that the Assistant Minister can understand?

Capt. Nakitare: Mr. Deputy Speaker, Sir, what quality of education are we expected to see in secondary schools before children go to university?

Dr. Mwiria: Mr. Deputy Speaker, Sir, let me first take this opportunity to apologise to Mr. Sambu and explain that actually the people who are not fighting for their rights are not just in the Opposition, but a lot of them are parents. Parents are letting themselves be abused and exploited by head teachers in many schools. However, I would like to say that the kind of education we are expecting in the university is of high quality.

Mr. Deputy Speaker: Hon. Members, I have given that Question a lot of time. The Last question by the Chairman of the Departmental Committee on Education, Research and Technology, Mr. Karaba.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. What will FORD P Members do to move away from here where you cannot see, to that side where you can see clearly?

Mr. Deputy Speaker: I am very surprised by that point of order. However, I will ignore it and go to Mr. Karaba's question.

Mr. Karaba: Mr. Deputy Speaker, Sir, one of the greatest handicaps that we are facing is the high cost of secondary school education. Now that the number of subjects taken has been reduced from 22 to eight, can the Government not reduce the schools fees accordingly, so that education can be affordable to many students?

Dr. Mwiria: Mr. Deputy Speaker, Sir, Mr. Karaba is already aware that we have reduced the number of subjects in secondary school education as one way of reducing cost. However, secondary school education is expensive because of the many levies that head teachers ask for and the very fact that even boards of governors and Parents and Teachers Associations (PTA) are not standing their ground to say: "You cannot continue to charge us". This is because there are many difficulties including the fact that parents fear being victimised.

Mr. Deputy Speaker: Mr. Kamotho, last question.

Mr. Kamotho: Mr. Deputy Speaker, Sir, among the answers given by the hon. Minister was the fact that the goal to achieve the primary to secondary school transition rate of 70 per cent would be achieved by the year 2008. This has been the goal of the Ministry of Education, Science and Technology for more than 10 years. We are very much aware that, today, the transition rate is still below 50 per cent. Therefore, what practical actions is the Ministry taking to ensure that we progressively increase the number of children who transit from primary school to secondary school?

Dr. Mwiria: Mr. Deputy Speaker, Sir, I do not think the target of 2008 was ours. We have magical targets like industrialisation by 2020 and many other such magical figures. However, I would just like to say that what is required is commitment. It is not enough to just have a target and then not take measures to achieve that. We hope to expand the number of classrooms that are available in secondary schools. I also said we would like to encourage the private sector to come in, but more importantly, it will be the duty of the Government to see that we expand opportunities especially in areas that have been historically disadvantaged; where the transition rate is much lower than the average. This includes the North Eastern, parts of Rift Valley and pockets of poverty all over the country.

Thank you.

Mr. Deputy Speaker: Next Question!

Mr. Kagwima: On a point of order, Mr. Deputy Speaker, Sir. Capt. Nakitare raised a very important issue that was missed by the House, if not by the Assistant Minister. He wanted to be assured that the quality of pupils admitted to secondary schools is good enough because of the

shortage of teachers in primary schools caused by the free and compulsory primary education programme. He did not get the answer from the Assistant Minister.

Mr. Deputy Speaker: Order, Mr. Kagwima! We cannot go back to that Question. You will read the HANSARD to get the answer.

Next Question, Prof. Olweny!

Question No.103

EXPENDITURE ON NYAYO CAR PROJECT

Prof. Olweny asked the Minister for Trade and Industry:-

(a) how much money was spent in the Nyayo car project and what its achievements were; and,

(b) what the Government is intending to do with the products and results of the project.

The Minister for Trade and Industry (Dr. Kituyi): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Nyayo Car Project cost the Kenyan Government and taxpayers Kshs668,939,609. The achievements realised through this project are as follows: The revamping of the old foundry of Kenya Railways Corporation into a state-of-the-art foundry, the installation of a computer numerical control and computer-aided design and manufacturing machines. In addition, the company has developed a small air compressor; an eight horsepower diesel engine. Several local automotive industries such as auto springs and all parts castings have been put in place in anticipation of production or sub-contracting of parts. The basis for a capital goods manufacturing enterprise has been set in place. The company has been a key supplier of parts to the Kenya Railways Corporation, Uganda Railways Corporation and Magadi Railways, among others. Five prototype cars of Nyayo pioneer were made before it folded up as a car manufacturing enterprise.

(b) The Government is planning to restructure the Numerical Machining Complex with a view to commercialising its operations. A team of consultants has been commissioned to develop both medium and long-term strategic plans for the company. Among the lines of activity envisaged is the partnership with capital goods manufacturing overseas companies to expand on the existing capacity in sub-contracting and commercial manufacturing.

Prof. Olweny: Mr. Deputy Speaker, Sir, this was a car manufacturing project, but it seems it is now a spare parts manufacturing project. Five prototype cars were produced. Where are they? Who owns them in this country?

Dr. Kituyi: Mr. Deputy Speaker, Sir, I have listened to the Professor. I wish the hon. Member and the august House could understand the following: The declaration to build a car manufacturing company was made at a public function by the former President, during a graduation ceremony in 1983. He challenged the university why it could not make a car. Those challenges, in those days, were the law. In 1990, all the major donors to this country told the Kenya Government to get rid of parastatals that were not viable. As a result, the Government pretended to close down the project and instead made it a secret project. So, even the terms of its employees, the operations of the company, the accounts of its operations and the destination of its products became hidden matters for donors to be hoodwinked. What I am saying is what is above what we can see after we removed the lid.

Mr. Muchiri: Mr. Deputy Speaker, Sir, along with the Nyayo Car Project, a number of housing units were developed just next to the so-called factory. Could the Minister tell us why those housing units that were meant for workers have remained incomplete? Why can they not be sold to

private developers?

Dr. Kituyi: Mr. Deputy Speaker, Sir, I do share the concern of the hon. Member that, a responsible Government tries to salvage what it can out of what might even have been an ill-conceived project. The Numerical Machining Complex owns a substantial real estate; more than 1,000 acres of land along Mombasa Road. We are trying to make this the nucleus of a capital manufacturing industry. We are looking for strategic partners. Already, we have very advanced plans of starting by assembly and component manufacture of small hand-held tractors made in China. Eventually, we hope that we can find a partner in a major capital manufacturing enterprise. All the assets that cannot be moved from the compound and premises of the Kenya Railways Corporation will be surrendered to the corporation, as this manufacturing enterprise relocates to its new premises along Mombasa Road.

Eng. Nyamunga: Mr. Deputy Speaker, Sir, this was a company started to manufacture cars. It was like we were trying to invent a wheel which was already invented. We have been told that about Kshs670 million was spent on the project. Is the Minister satisfied that this was money well spent, based on what is on the ground?

Dr. Kituyi: Mr. Deputy Speaker, Sir, I think the development of a Kenyan manufactured car is a viable idea. However, I think the design and financing at the time was ill-conceived and not justified.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, three years ago, as a Member of the Public Accounts Committee (PAC), we were shown around this Numerical Machining Complex by Eng. Eric Nyamunga. At that time we discovered that about Kshs260 million of the money invested in this project was plundered. Could the Minister tell us whether that money was recovered and what action was taken against those people who plundered those resources of the Republic of Kenya?

Dr. Kituyi: Mr. Deputy Speaker, Sir, seeing the value of a capital manufacturing enterprise in Kenya, my Ministry requested, at Cabinet level, that this project be moved from the Ministry of Transport and Communication to the Ministry of Trade and Industry. This has been done. Until mid of last year, this enterprise did not belong to the Department of Industry. However, my office has instructed all the relevant arms of Government to follow the project and investigate any illegal meddling with public resources. If we find a smoking gun, I will report it to this House.

Mr. Kagwima: Mr. Deputy Speaker, Sir, to start with, I am an engineer and I am interested in this project. I am happy that the Minister says the project was and is still viable. However, what is the level of our resources in terms of raw materials; iron ore and coal? Can we raise our own resources in terms of raw materials?

Dr. Kutuyi: Mr. Deputy Speaker, Sir, there were two routes which we were to take at the policy level. One route which is recommended by the Association of Car Manufacturers and Assemblers in Kenya is to take the prototype of a competitively priced saloon car and start as much local production of the components as possible. The leading candidate in that was the Opel Corsa which is made in Brazil. Another route we were to take was to buy a closed down factory like the Peugeot 404 factory in France which is now de-commissioned, build on its efficiency and competency and go the route of India, to develop a state-of-the-art-car today. The policy decision on this matter has not yet been made.

Prof. Olweny: Thank you, Mr. Deputy Speaker, Sir. The Minister has given this House very good answers. From his answers, the operations of this project were mostly underground and, therefore, suspect. Could he assure this House that the Government will institute investigations against the person who did things which could be scandalous?

Mr. Deputy Speaker: Order, Prof. Olweny! I thought the Minister has just answered that question.

Prof. Olweny: Mr. Deputy Speaker, Sir, just give me time to finish my question.

Mr. Deputy Speaker: I cannot wait for you to finish your question. Okay, finish your question!

Prof. Olweny: Mr. Deputy Speaker, Sir, could the Minister assure this House, if possible, that he will institute investigations against anybody who was involved in this project because it is scandalous?

Dr. Kituyi: Mr. Deputy Speaker, Sir, I have just answered that question.

Question No.090

OWNERSHIP OF KIJIPWA SETTLEMENT
SCHEME PLOTS

Mr. Khamisi asked the Minister for Lands and Settlement whether he could state who owns the following plots at Kijipwa Settlement Scheme and provide the acreage of Plots Nos.35, 41, 43, 48, 53, 82 and 96.

The Minister for Lands and Settlement (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to reply. The list appended below shows the owners and the acreage of the said plots in Kijipwa Settlement Scheme.

<u>Plot No.</u>	<u>Owner</u>	<u>Size (Ha.)</u>
35	Anderson Kariuki Chomba	7.76
41	John Thiong'o Mwaura	9.70
43	Thakorbbhai Kashibhai Patel	19.28
48	Madan Gopal Saini	19.89
53	Stephen Timothy Mwakisha	20.00
82	Cemetery	2.237
96	James Mbandi Kinyungu	37.072

Mr. Khamisi: Mr. Deputy Speaker, Sir, I brought this Question before this House to show it and the country at large, that land in that settlement scheme was irregularly allocated to people who were not supposed to own it. Mr. Chomba was the former Coast Provincial Settlement Officer; Mr. Mwakisha was the former Coast Provincial Commissioner; Mr. Madan was a former Justice, while Mr. Kinyungu was the former Director of Lands and Settlement. Even the land which the Minister claims to be a cemetery is actually owned by a lady called "Mama Masai" who is a Kalenjin and resides in Switzerland.

Mr. Deputy Speaker, Sir, I would like to know why land which was meant for the landless--

Mr. O.K. Mwangi: On a point of order, Mr. Deputy Speaker, Sir. You have heard the hon. Member say that he has got all the answers to the Question. Is it in order for an hon. Member who knows the answer to a Question to ask it in this House?

Mr. Deputy Speaker: Mr. Khamisi, could you ask the Minister your question? You have taken a lot of time.

Mr. Khamisi: Mr. Deputy Speaker, Sir, that settlement scheme was meant for the landless people. How come those very rich people were allocated land in that scheme?

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

Mr. Deputy Speaker: Order! Let the Minister answer that question.

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

Mr. Deputy Speaker: You are out of order, Mr. Angwenyi!

Mr. Kimunya: Mr. Deputy Speaker, Sir, those allocations took place in the 1980s, and the laid down procedures were followed. The settler select committees identified the beneficiaries of the settlement scheme. I am not aware of any irregularities which took place in the allocation of those plots.

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

Mr. Deputy Speaker: Order! If you want to ask a question, ask it. I will not allow hon. Members to rise on points of order instead of asking questions.

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

Mr. Deputy Speaker: Mr. Angwenyi, I will not allow you to rise on a point of order!

Mr. Sasura, ask your question!

Mr. Sasura: Thank you, Mr. Deputy Speaker, Sir. Could the Minister tell us whether the people he has mentioned were not genuine settlement scheme squatters? If that is true, then that was irregular allocation. Could he tell us what he will do to ensure that the poor people who were initially to be settled in that scheme are settled?

Mr. Kimunya: Mr. Deputy Speaker, Sir, I have just said that the due process of the law was followed in the allocation of those plots. I am not aware of any information to the effect that, that process was not followed.

Dr. Oburu: Mr. Deputy Speaker, Sir, the Minister has told us that, as far as he is concerned, there was no malpractice in the allocation of the plots in that settlement scheme. I suppose that the same regulations which were used at that time to allocate land to Government officials who were supposed to serve the people are the same ones he is using today. Could he tell us the criteria which was used to allocate land to Government officers who were supposed to allocate land to the squatters but ended up being beneficiaries?

Mr. Kimunya: Mr. Deputy Speaker, Sir, Kijipwa Settlement Scheme, being one of the seven registered schemes in Kilifi District, was subdivided into 355 plots with a total area of 600 hectares. The plots were of different sizes. Some plots were small, while others were big. People applied to the selection committee, which was the standard procedure, and were allocated those plots. If there is any illegality in the allocation of that scheme, I would like that information to be forwarded to me for investigations. But as of now, I am not aware that the due process of allocating that settlement scheme was not followed. We have to follow the rule of law.

Mr. Khamisi: Mr. Deputy Speaker, Sir, this is a very serious matter. It is a question which pits the landless against the rich. In view of this situation, could the Minister assure this House that the Government will revoke those allocations and re-allocate that scheme to the landless people who are now suffering?

Mr. Kimunya: Mr. Deputy Speaker, Sir, I have no basis of revoking those allocations and re-allocating them to other people. However, as the Government, we are committed to ensuring that Kenyans who deserve land are allocated land that is available, irrespective of the sizes.

Mr. Deputy Speaker: Hon. Members, we have got to move a little bit faster now! Let us move on to Questions by Private Notice. Question by Mr. John Serut, the Member for Mt. Elgon!

QUESTIONS BY PRIVATE NOTICE

SHOOTING OF STUDENT BY POLICE

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

(a) Is the Minister aware that on Saturday, 27th March, 2004, at about 4.30 p.m., ten police officers from Kipsigon Police Post in Mt. Elgon shot dead a student by the name Bernard Chemungu Siyoi in Masaek village?

(b) What action has the Government taken against the police officer(s) who shot the student?

Mr. Deputy Speaker, Sir, the answer I have been given is not signed and I think it is not authoritative enough!

Hon. Members: Sign it!

Mr. Deputy Speaker: Order, Members! Minister of State, Office of the President, please, proceed!

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, the hon. Member has said that he has an answer which I looked at and rejected. I beg for the indulgence of the House to bring the answer tomorrow afternoon.

Mr. Deputy Speaker: Very well! Mr. Serut, you have heard what the Assistant Minister has said.

Mr. Serut: Mr. Deputy Speaker, Sir, I think I have an objection to that because I will not be in tomorrow, and that is an urgent case. I will be away up to 30th April.

Mr. Deputy Speaker: Okay! Can we put it off until next week? Is Tuesday okay?

Mr. Serut: Mr. Deputy Speaker, Sir, I will not be in on Tuesday too!

Mr. Deputy Speaker: It will have to wait until you come back. Is that fine?

Mr. Serut: That is okay, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Very well! The Clerk will arrange that.

(Question deferred)

Mr. Mganga: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has just said that the hon. Member has an answer which he looked at and rejected. We know the procedure is that an answer only finds its way to Parliament after the Minister in charge has looked at it and approved it. How did this answer find its way into Parliament, when it was already rejected by the Assistant Minister?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, as far as I know, it is not an answer.

Mr. Deputy Speaker: It is not signed! Fine! Next Question by Mr. Wario, Member for Bura!

(Laughter)

OUTBREAK OF CBPP IN TANA
RIVER DISTRICT

Mr. Wario: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Livestock and Fisheries Development the following Question by Private Notice.

(a) Is the Minister aware of a CBPP outbreak in Tana River District?

(b) Is he further aware that the vaccine production plant at KEVEVAPI has broken down?

(c) What immediate measures is the Minister taking to ensure that either KEVEVAPI is operational or the CBPP vaccine is imported?

(d) Could the Minister consider compensating those people whose livestock have died due to lack of vaccines?

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

(a) I am not aware of any current CBPP outbreak in Tana River District. The last outbreak of CBPP was reported in that district on 31st July, 2000, in Garsen Division, and appropriate control measures were taken. Those measures included vaccination and quarantine. The disease was controlled and quarantine was lifted by 17th July, 2002.

(b) Part (b) of the Question has been re-routed to the Ministry of Agriculture.

(c) KEVEVAPI is currently not under my Ministry, but I wish to comment on the importation of vaccines. KEVEVAPI was commissioned to produce vaccines using local materials which are relevant to isolated viruses in our local environments and, therefore, imported vaccines cannot be guaranteed to work in our local conditions.

Therefore, it is important to empower KEVEVAPI to produce vaccines for local use, rather than import vaccines. However, in cases of emergency, vaccines can be imported for short term use only.

(d) As I have already stated in (a) above, the last CBPP outbreak in Tana River District was in the year 2000! Therefore, I am not aware of any livestock deaths. However, the Animal Disease Act, Cap. 364 does not provide for farmer compensation in the event of natural calamity and normal disease upsurge.

Mr. Wario: Mr. Deputy Speaker, Sir, may I thank the Minister for the same saneness---

Mr. Deputy Speaker: Order! What did you say?

Mr. Wario: This is the same answer that he gave me last week! So, I thank him for the same saneness. However, I have a report from the Office of the President. This is the District Steering Committee Report where the District Veterinary Officer (DVO) confirms that there is an outbreak of the disease. Why is the Minister misleading the House?

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

Mr. Munyao: Mr. Deputy Speaker, Sir, I still insist that in that area, there was no outbreak of that disease. What there was in that area at that time was not CBPP. It was Contagious Coughing Pleruro Pneumonia (CCPB) which affects goats, as opposed to CBPP, which affects cattle. The treatment of that disease is totally different from what affects cattle. As we talk now, we have dispatched vaccines, as you will see in that document! I know it! I called for the document, spoke to the officers and I know that it has a totally different treatment. We have dispatched vaccines for CBPP in that area. We usually vaccinate periodically without citing any disease. The last vaccination was done last year and we are continuing.

Mr. A.H.M Mohammed: Mr. Deputy Speaker, Sir, I am surprised to hear the constant denial by the Minister about the disease that has been cited in Tana River District. Whether it is the CBPP he is talking about or the CCPB that affects the goats, we know that there is a prevalence of diseases in our regions that are not attended to, because of lack of transport and vaccines. It only happened in my constituency---

Mr. Deputy Speaker: Ask the question!

Mr. A.H.M. Mohammed: Sorry! My question is: The KEVEVAPI centre, which is supposed to be operational, and the Minister does not want to be linked with it, was being privatised by his own staff in August last year, in a highly attended workshop at Safari Park Hotel. What steps is the Minister going to take to ensure that we get those vaccines and operationalise KEVEVAPI to help people in those areas?

Mr. Munyao: Mr. Deputy Speaker, Sir, my Ministry has very serious concerns about animals, particularly in that area. It is procedural to vaccinate animals to prevent such occurrences. Last year, when there was an outbreak of CBPP which affects goats, we sent 300 doses of vaccines, which were enough for over 3,000 goats. We appealed to farmers to bring their goats for vaccination, but we only got 123 goats, despite all the effort we made. Those doses are still available! Could the Minister---

(Laughter)

Could the Member of Parliament appeal to farmers to bring their animals for vaccination, because my Ministry is ready, willing and able?

Mr. ole Medtito: Mr. Deputy Speaker, Sir, it is very unfortunate that the Government is not aware of the welfare of the livestock of its own people. I would like to ask the Minister whether he is aware of the outbreak of foot and mouth disease in Kajiado! When was the last time those animals were vaccinated?

Mr. Munyao: Mr. Deputy Speaker, Sir, first, it is wrong for a Member on the Government side to say that the Government is not aware. We are aware of animal diseases all over the country and we are vaccinating them any time a disease is cited.

Mr. Deputy Speaker: Mr. Wario has the Floor but before he asks his question, for the benefit of hon. Members, page 8 of the document says:-
"CBPP Vaccination Programme. Animals in Nanigi were screened and they showed negative results."

I happened to have been DC in Tana River and so I know Nanigi is near Bura. Mr. Wario, what do you have to say about that because the results were negative?

Mr. Wario: Mr. Deputy Speaker, Sir, under the District Veterinary Officer (DVO) Report, the DVO confirms to the members that there is a breakdown of the vaccine producing plant nationally. So, he is advising members to use alternative drugs. This is what the DVO has advised the members. So, that is simply confirming that the disease exists. If the Minister now denies that the disease does not exist, what alternative are we left with as livestock keepers in this country? Secondly, why is he misleading the House?

Mr. Munyao: Mr. Deputy Speaker, Sir, I would have no reason whatsoever to mislead this House. My concern and responsibility is to see that animals are healthy all over Kenya because we are marketing them. I am there to support farmers. As regards the document you have read, my officers are in that area. They have got kitties and are already carrying out procedural vaccinations to prevent CBPP and it will continue. I have three teams in that area. Team No.1 is covering Bagalow, Bura and Madogo. Team No.2 is in Galole and Wenje. Team No.3 is in Garsen and Kipini and these are normal vaccinations because we love animals and we know it is our responsibility to keep them fit and healthy.

Mr. Deputy Speaker: Next Question!

Hon. Members: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Hon. Members, we cannot dwell on one Question forever!.

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

Mr. Deputy Speaker: No, Mr. Wario! I think the Minister has done very well on that Question.

Next Question by Maj. Madoka!

Maj. Madoka: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Roads, Public Works and Housing the following Question by Private Notice.

(a) Is the Minister aware that as a result of the recent heavy rains, the bridge at Dembwa, that is, between Voi and Wundanyi, has literally been washed away?

(b) Is he also aware that the complete destruction of the bridge will cut off the district headquarters from the rest of the district?

(c) What urgent measures are being taken to repair the bridge?

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

(a) I am aware that the corrugated metal pipe (ARMCO) culverts which acted as a bridge between Voi and Wundanyi at Dembwa have literally been washed away as a result of the ongoing heavy rains.

(b) I am also aware that if these culverts are totally washed away, the district headquarters will be cut off from the rest of the district.

(c) In order to avert this disaster, the ministry has allocated some Kshs4.5 million to implement emergency measures which will start immediately the rains subside.

Maj. Madoka: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for the answer. Kshs4.5 million would appear to be a lot of money but 300 metres just below that bridge, another heavy bridge is being washed away. Could the Assistant Minister allocate more funds so that that repair is also done? Besides that, could he also tell us what is being done to the Voi-Wundanyi Road because this road is no longer tarmacked; it is all murrum, particularly between Voi and Mwatate? When is it going to be resealed?

Eng. Toro: Mr. Deputy Speaker, Sir, those are two different questions. On the issue of the other bridge that is being washed away, we are not aware but we are going to look into it because he did not raise it when he was raising the issue of this other bridge. As for the Voi-Wundanyi Road, it is being considered in our programme but I do not have specific details of the exact work that is to be done on it.

Mr. Wambora: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us what the Ministry's policy on the washed-away bridges all over the country is in respect of roads which fall under District Road Committees (DRCs), in view of the fact that the DRCs budgets are very limited and they cannot match the repairs of bridges?

Eng. Toro: Mr. Deputy Speaker, Sir, the policy of the bridges is the same for roads. The Bridges Section in the Ministry has been strengthened and the Ministry is allocating more funds for bridges. Where the DRC's and the Constituency Development Funds are not enough to repair any bridges, we are asking the Provincial Works Officers (PWOs) and District Road Engineers (DREs) to give estimates of such bridges to the Bridges Section so that they can be looked into along with other bridges. There are so many bridges that require attention countrywide and the funds are not available to take care of them at one go. However, priorities will be given depending on the urgency and the how busy the road is.

Mr. Sambu: Mr. Deputy Speaker, Sir, as a matter of general policy, could the Assistant Minister tell us whether the Kenya Roads Board (KRB) Act has been amended to allow the DRE and the District Tender Committee to take over the work of the DRC?

Eng. Toro: Mr. Deputy Speaker, Sir, could the hon. Member repeat the question since I did not get it properly?

Mr. Sambu: Mr. Deputy Speaker, Sir, the KRB Act states that there are three agencies of the KRB. One is the Public Works. The second is the KWS and the third is the District Roads

Committee. However, in many districts including mine, the District Roads Engineer and the District Tender Committee have taken over the function of the DRC. The DRE decides which road to do, awards the tender and pays when he likes. So, I am asking: When was this law changed because we have never seen any miscellaneous amendments brought to the House to change the KRB Act?

Eng Toro: Mr. Deputy Speaker, Sir, the KRB Act has not been amended. In fact, what the hon. Member is saying is like a complaint in his district. If it is a general complaint which needs to be looked into, we need to look into it because on the issue of the DRCs, the KRB Act is very clear that the DRCs have the authority to decide on what is to be done. The DREs are the implementors and if Members are not satisfied with what the DREs are doing, they are free to come to us and tell us exactly what the problem is and we address the issue in specific districts.

Mr. Deputy Speaker, Sir, for that matter, we have even in the Ministry transferred some DREs who hon. Members have complained about and action will be taken against any DRE who is misappropriating the DRC funds.

Mr. Deputy Speaker: Next Question by Private Notice by Mr. Rotino! Mr. Rotino, before you ask it, the Minister for Water Resources, Management and Development has sought the indulgence of the House that this Question be deferred to Tuesday afternoon because she is unable to answer it. Is that okay with you?

Mr. Rotino: Mr. Deputy Speaker, Sir, as much as I accept, this is a Question by Private Notice and her Assistant Minister is present.

Mr. Deputy Speaker: He is here but there is her request so that you get a proper answer on Tuesday afternoon. Is that okay?

Mr. Rotino: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Then the Question is deferred. No! I am told that she wants to answer it tomorrow. So, it is deferred to tomorrow.

CLEAN WATER FOR SIGOR RESIDENTS

(Mr. Rotino) to ask the Minister for Water Resources Management and Development:-

(a) Is the Minister aware that the residents of Sigor Township have gone without clean drinking water for the last two weeks yet the Government spent Kshs670,000 to repair the intake in November 2003?

(b) What urgent plans does the Ministry have to ensure that the residents receive clean drinking water to avoid waterborne diseases during the current long rains?

(Question deferred)

BLOCKAGE OF URBAN DRAINAGE SYSTEMS

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

(a) Is the Minister aware that there is serious clogging/blockage of the drainage systems in Nairobi and other major urban towns in the country?

(b) Is he further aware that this has caused destruction of residents' properties and even lives with the onset of the rainy season?

(c) What immediate measures will the Minister take to open up these drainage systems?

The Assistant Minister for Local Government (Mrs. Tett): Mr. Deputy Speaker, Sir, I beg

to answer.

(a) Yes, I am aware that with the rainy season now in place, there is clogging/blockage of some drainage systems in Nairobi and, indeed, other major urban towns in the country.

(b) Yes, I am aware that some property has been damaged by flooding.

(c) We have sent out orders to all the 175 local authorities to give priority to cleaning and unclogging of drains all over the Republic during this rainy season.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, when were these orders issued to the local authorities? Why did they have to wait until people lost their lives and property destroyed before they issued the orders?

Mrs. Tett: Mr. Deputy Speaker, Sir, we gave these orders immediately we got the information from the ground, where the clogging is taking place. We embarked on the work immediately, too.

Mr. Maore: Mr. Deputy Speaker, Sir, Westlands Constituency is a geographical area familiar to the Assistant Minister. It is a constituency she almost contested to be an hon. Member for. Every street and road in the constituency has been blocked with structures. If she issues instructions to unclog the drainage system, where will she unclog when there are structures on every corner and the drainage has been messed up by those encroachments?

Mrs. Tett: Mr. Deputy Speaker, Sir, the worst clogged areas were Mombasa Road, right from Lang'ata Road and Belle Vue to Imara Daima Estate. 70 per cent of the flood-prone sections in this area have been worked on and the work is still going on. More than 85 per cent of the out-fall drain which services South C area, through the Kenya Red Cross behind Kenya Bureau of Standards (KEBS), has been completed. Kangundo Road out-fall drain which services Umoja Estate and which has about five kilometres of drainage on both sides, has been cleared to the extent of about 80 per cent. Three out-fall drains along Kayole Spine Road are 95 per cent complete. In Fedha Estate, the drain along Simba Lane is about 50 per cent complete. Thika Road, Garden Estate and Zimmerman drains have been completed. The Donholm and Greenfield out-fall drain has been cleared to the extent of about 60 per cent. We have about 900 workers in Nairobi working on this drainage.

Mr. Deputy Speaker: I will give chance for the last question to an hon. Member from Nairobi. Mr. Omondi!

Mr. Omondi: Mr. Deputy Speaker, Sir, the measures the Assistant Minister is putting in place now are temporary measures since they are intended to fight a calamity that is imminent during this rainy season. The blockage of drainage systems has always been there and it is expected. I do not know what measures the Assistant Minister is taking to put a permanent solution to this problem.

Mrs. Tett: Mr. Speaker Sir, we have been very, very serious on these matters, and I do not think the problem of blocked drainage systems will occur again, unless, of course, it is as a result of what we cannot predict. At the moment, our engineers are on the ground and they are really serious. This, I hope, will solve all the problems about clogging of the drainage system.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I would like to donate my last chance to Dr. Galgallo.

Mr. Deputy Speaker: Order, Mr. Angwenyi! Much as I respect Dr. Galgallo, it is completely unprocedural and out of order for you to appoint someone to ask a supplementary question. So, Dr. Galgallo, please, take your seat.

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

Mr. Deputy Speaker: Order, Mr. Angwenyi! Could you, please, sit down?

MEASURES TO SAVE OL'KALOU
FARMERS' SACCO BUILDING

Eng. Muriuki: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Co-operative Development and Marketing the following Question by Private Notice.

(a) Is the Minister aware that Ol Kalou Farmers Sacco Bank building is due to be auctioned any time now, despite the commitment by the Minister in the House, in December, 2003, that his Ministry has formulated a strategic plan to redeem the society?

(b) What urgent action is the Minister taking to save the building?

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

(a) I am aware. However, the society has obtained a court order stopping the intended auction.

(b) My Ministry intends to organise a meeting between the Ol'Kalou Farmers Sacco and the people who gave them credit, that is, Oiko Credit Africa, to see if we can come up with a repayment programme.

Eng. Muriuki: Mr. Deputy Speaker, Sir, the Assistant Minister is taking trouble to save the society. The court order which the Assistant Minister is talking about is a very temporary injunction which the sacco members obtained, and it is due to expire on 23rd of April, 2004. This is the day after tomorrow. If the Assistant Minister could kindly organize a tripartite meeting tomorrow, we could be able to sort out this matter before Friday. Could he, please, confirm that?

Secondly, the whole problem with Ol'Kalou Farmers Sacco came as a result of looting by the management committee members. The matter has been referred to the Kenya Anti-Corruption Authority. What has the Assistant Minister done to ensure that the culprits, who are well known, are brought to book?

Mr. Kenneth: Mr. Deputy Speaker, Sir, concerning the first point, we are doing our level best to see that we have a meeting as soon as possible. I thank the hon. Member for the trouble he has taken to revive the society and I am sure we can always discuss how to move faster than is envisaged.

With regard to his second question, this matter has been lying at the Kenya Anti-Corruption Authority offices. It was handed over because of the seriousness of the mismanagement. I am also aware that certain shareholders of the society have actually demonstrated outside the offices of the authority. As a Ministry, we have asked for a report to know when they are intending to charge the culprits. We are waiting for that information.

Mr. Wamwere: Mr. Deputy Speaker, Sir, there are a lot of farmers from Subukia Constituency who put their millions of shillings in the Ol'Kalou Farmers Sacco Bank before it collapsed. Could the Assistant Minister tell the House what the Ministry is doing to help these farmers recover their money?

Mr. Kenneth: Mr. Deputy Speaker, Sir, our intention is to try and recover as much money as we can to ensure that those who had put their money in the sacco bank are refunded. As a first step, we have appointed a statutory manager. The society is faced with a lot of problems including many non-performing loans. So far, we have not started disposing the charged property to the society. We have asked the manager to start disposing securities of those who had borrowed and have not yet paid. Also, out of a portfolio of Kshs28 million, we have recovered about Kshs2 million. The intention is to have full recovery so that we can refund all those who had deposited money in the bank.

Eng. Muriuki: Mr. Deputy Speaker, Sir, I request for your indulgence because the

Assistant Minister did not address the first part of my Question. The injunction we have is very temporary and is due to expire a day after tomorrow. Is it possible for the tripartite meeting to take place tomorrow before the injunction period expires? My substantive final point is: The Assistant Minister for Co-operative Development and Marketing told the House that the Government has, in fact, set aside a total sum of Kshs5.8 billion to help co-operative societies like the Ol'Kalou Farmers Sacco Bank which are in serious trouble. Could the Assistant Minister confirm that he will kindly include Ol'Kalou Farmers Sacco Bank as one of the beneficiaries of the Kshs5.8 billion, so that the farmers can continue farming?

Mr. Kenneth: Mr. Deputy Speaker, Sir, I answered the first question by saying that we can discuss on how fast we can move with the hon. Member. I also did say that I appreciate his efforts.

On the second part of the question regarding Kshs5.8 billion, I am aware that the Minister did issue a Ministerial Statement yesterday in this House that he is going to bring a Sessional Paper showing which societies will benefit from the write-off of the Kshs5.8 billion.

Mr. Deputy Speaker: That is the end of Question Time, hon. Members. Before we go to the next stage of requests and issuance of Ministerial Statements, which are about three, I have a very short Communication from the Chair.

NOTICE OF MOTION FOR THE ADJOURNMENT UNDER S.O. NO.18

UNSATISFACTORY REPLY TO QUESTION: MEASURES TO END WRANGLING IN KFF

Mr. Deputy Speaker, Sir, I have received a request from the hon. Member for Shinyalu Constituency for his intention to move a Motion of Adjournment under Standing Order No.18, at the end of the Normal Sitting Day, concerning the unsatisfactory reply to Question No.014, raised on Wednesday, 14th April, 2004 relating to the wrangles within the Kenya Football Federation (KFF).

I have considered the issues raised in the Question and the answer given and I have acceded to his request. I, therefore, call upon the hon. Member to move the Motion on Thursday, 22nd April, 2004 at the interruption of the day's business.

(Applause)

Now let us have a few requests for Ministerial Statements and then---

The Minister for Livestock and Fisheries Development (Mr. Munyao): On a point of order, Mr. Deputy Speaker, Sir. I seek your indulgence on one point. What happens when an hon. Member either lays a wrong document or an irrelevant document on the table like the one which was laid here and which had no relevance at all to the Question? Does it still go ahead to form part of our records in our archives?

Mr. Deputy Speaker: Once you finish answering the Question, the hon. Member has a right to interrogate you and use all means at his disposal in order to get an answer. Therefore, that matter is closed because the Question was answered.

Proceed, Mr. Ndambuki!

POINTS OF ORDER RE-NEGOTIATION OF RIVER NILE TREATY

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I rise to request for a Statement from the Minister for Water Resources Management and Development regarding the Nile River Agreement which is being negotiated at the moment.

As you are aware, Kenya was left out in the previous agreement. I would, therefore, like the Minister to tell the House if Kenya's interests are being taken into consideration in the current negotiations, and which countries are involved in these negotiations.

Mr. Deputy Speaker: Very well, the Minister for Water Resources Management and Development is not here.

Yes, proceed, Dr. Kituyi!

The Minister for Trade and Industry (Dr. Kituyi): Mr. Deputy Speaker, Sir, on behalf of the hon. gracious lady, I will convey the sentiments of the hon. Member. But I also wish to clarify that had Kenya been left out of the original negotiations, that would have been something so good that we would not have to worry about the negotiations now. We want to negotiate because we were not left out.

(Applause)

Mr. Deputy Speaker: Just before we move on, I hope somebody has taken note of the request for a Statement on behalf of the Minister for Gender, Sports, Culture and Social Services.

Mr. Ndambuki: Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order, Mr. Ndambuki! The Ministerial Statement will be made. The hon. Minister just added a few things, but he is going to inform the Minister. So, the Ministerial Statement should be forthcoming.

Proceed, hon. Kimeto!

INCREASE OF THUGGERY IN SOTIK TOWN

Mr. Kimeto: Thank you very much, Mr. Deputy Speaker, Sir. I seek a Ministerial Statement from the Minister, Office of the President regarding several gang attacks in Sotik Town and its environs by unknown thugs who were armed with guns similar to those used by police officers. Several homes have been attacked, for example, the home of the former Member of Parliament for Bomet Constituency, hon. Kipkoris Salat and that of Mr. Koech of Sotik Dairies, and several others.

Mr. Deputy Speaker: Have you got that, Mr. Tarus?

The next request is from hon. Shitanda.

IMPORTATION OF SUGAR INTO THE COUNTRY

Mr. Shitanda: Thank you, Mr. Deputy Speaker, Sir. I rise to seek a Statement from the Minister for Agriculture regarding the importation of sugar through the permits issued by the Kenya Sugar Board (KSB).

Mr. Deputy Speaker, Sir, for the last several weeks, the KSB has been involved in the issuance of permits for the importation of sugar and these permits have not confined themselves to the COMESA rules and regulations in relation to the safeguard measures of the sugar industry. As a result, there is a lot of sugar at the port.

Mr. Deputy Speaker, Sir, it also appears that there is a controversy between the Ministry of Agriculture, Ministry of Finance and the Ministry of Trade and Industry regarding the interpretation of the safeguard measures. So, I would like the Minister to clarify his position and role regarding

that particular matter.

The Assistant Minister for Agriculture (Mr. Khaniri): Thank you, Mr. Deputy Speaker, Sir. I do share the concerns of the hon. Member, and I undertake to issue a comprehensive Statement on Wednesday, 28th April, 2004.

Mr. Deputy Speaker: Very well! Finally, let us have Mr. Wamwere's request.

PLIGHT OF PEOPLE DISPLACED BY THE
1993 ENOOSUPUKIA ETHNIC CLASHES

Mr. Wamwere: Mr. Deputy Speaker, Sir, I rise to request for a Ministerial Statement from the Minister, Office of the President regarding the plight of the eight families camping at Gigiri Bus Station. These families are victims of ethnic clashes and were driven out of the Enoosupukia area in 1993. They left this country and took refuge in Uganda.

This House is aware that, nine months ago, this House approved a Motion which was supported by the Government. This Motion was asking the Government to resettle all the victims of ethnic clashes. Could the Minister now give a Ministerial Statement explaining when the Office of the President intends to implement this Motion and resettle all victims of ethnic clashes, including the eight families?

Mr. Deputy Speaker: Very well! Now, I can see hon. Members standing up to request for Ministerial Statements. The procedure is that you have to see the Chair at his Chambers before you stand in the House to make your request.

What is it, Mr. Kagwima?

Mr. Kagwima: To start with, Mr. Deputy Speaker, Sir, I want to say that I am unhappy because I am unable to catch the eye of the Deputy Speaker---

(Applause)

Secondly, Mr. Deputy Speaker, Sir, when Mr. Munyao was answering a Question regarding a disease that affected animals in Tana River, I rose because---

Mr. Deputy Speaker: Order, Mr. Kagwima! First of all, you are not fair to the Chair. You said that you could not catch the Deputy Speaker's eye and I gave you a chance to ask a question this afternoon! Now, you want to ask a question about livestock and Question Time is over. Order, Mr. Kagwima! If you have any issue, please discuss with me and I will be very happy to receive you in my office.

What is it, Mr. Omondi?

Mr. Omondi: Mr. Deputy Speaker, Sir, I wanted to seek a Ministerial Statement---

Mr. Deputy Speaker: Order! No, Mr. Omondi! You did not consult with the Chair earlier. Those are the procedures. Could you sit down?

Let us proceed to Ministerial Statements!

What is it, Mr. Wamwere?

Mr. Wamwere: I can see that Mr. Tarus is in the House now, maybe he could just tell the House when he might be ready to issue the Statement.

Mr. Deputy Speaker: Mr. Tarus, have you heard that?

(Loud consultations)

Order!

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, we shall bring the Statement on Thursday next week.

MINISTERIAL STATEMENTS

FINANCIAL IMPLICATIONS OF EAST AFRICAN CUSTOMS UNION PROTOCOL

The Minister for Trade and Industry (Dr. Kituyi): Mr. Deputy Speaker, Sir, yesterday afternoon, I promised the House that I will bring a Ministerial Statement occasioned by the House's dissatisfaction with our reply to the Question by the hon. Member for Mukurwe-ini. The Question was twofold. The first part was: "What are the financial implications to Kenya on the signing of the East African Customs Union Protocol?" The second part was: "What is the significance of the protocol *vis-a-vis* the COMESA trading block?"

Mr. Deputy Speaker, Sir, the signing of the Customs Union Protocol by the Presidents of the three countries of East Africa has a number of direct revenue bearings to the Kenya Government. Most immediately, the first year that the Customs Union Protocol comes into force is not quite agreed yet. Although the original agreement was that it comes into force on 1st July this year, the Committee of Permanent Secretaries for Trade and Foreign Affairs has recommended 1st September. For Kenya, the common external tariff by being moved from 35 per cent to 25 per cent in the first one year, we will represent a loss of revenue by Customs to the tune of Kshs7 billion. Secondly, we have not been able yet to quantify the immediate net loss of revenue although it is very marginal in the zero-rating of all the imports from Uganda and Tanzania into Kenya from the first day that the Protocol comes into force.

However, hon. Members must know what are the counter-measures about this process. The first one, and the most important one, is that since the start of the current East African Community process, there has been a very dramatic deepening of Kenya's commercial interests and benefits from Uganda and Tanzania. In 1990, Kenya's exports to Uganda and Tanzania accounted for Kshs1.88 billion, accounting for 8 per cent of our total export to the world. By the end of the year 2002, we were exporting Kshs45.46 billion into the two countries, accounting for 27 per cent of our total export value to the whole world making this one of the most important destinations of Kenyan exports in the whole world.

Mr. Deputy Speaker, Sir, the most immediate benefit for Kenya in the coming into force of the Customs Union, apart from deepening and making sustainable these extremely important markets for our produce, and importantly between Uganda and Tanzania, the cost should be more than 40 per cent of our value added export market in the whole world. There are a number of other benefits to come. Until now, although Tanzania has been applying the COMESA provisions in reducing tariffs on Kenyan exports to that country at 8 per cent remission, making it in the net terms an average of 5 per cent duty on Kenyan exports. There was also a counter-failing measure they have been using, which is a suspended duty of 20 per cent, which means that *de facto*, most Kenyan exports to Tanzania were being taxed at 25 per cent plus a discriminatory Excise Duty. Under the new Customs Union, these hidden counter-failing arrangements have been negotiated away, which means there is going to be a deepening and a very rapid expansion of Kenyan exports into the fastest growing economy in East Africa.

Secondly, all the years since Independence, the appetites of Tanzanians have favoured Kenyan tea, but the policy of the Tanzanian Government has banned Kenyan tea from going to Tanzania, so that all Kenyan tea into Tanzania has actually been smuggled tea. Under the new arrangements of the Customs Union, Kenya is now entering potentially one of the fastest growing tea markets for its produce. The net benefit from this expanded access to the Tanzanian market and

the reduction of duty on Kenyan exports into Tanzania will substantially erode the negative consequence on public revenues that arise from the loss of up to Kshs7 billion in Customs Duty. Similarly, I wish to draw to attention of the House to the fact that the entry into the Kenyan market of mostly raw products from Uganda and Tanzania, which are mostly to be used for value-adding and re-exporting into those economies and elsewhere in the COMESA region, represents an expansion of the potential net for VAT, which will substantially mitigate the short-term economic cost to us by entering into force of the Customs Union.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, having said that, I now wish to turn to the second part of the Question which touches on the relationship between the signing of the Customs Union Protocol and our commitments under COMESA. Indeed, there are certain anomalies of a logical nature for a country to attempt to belong to two customs unions. If Kenya and Tanzania are in a customs union, Tanzania is not a member of COMESA and free trade area of COMESA, Tanzanian exports into Kenya are not taxed. If they are re-exported into Egypt, Sudan, Zambia and Rwanda; countries which are in the free trade area of COMESA, it means that Tanzania is illegally accessing a tariff-free market. Similarly, the converse is the case that goods from the free trade area, the 11 countries of COMESA, could then be able to enter Tanzania without paying duty contrary to the provisions in the law of Tanzania. There are a number of ways to deal with this. Rather than going into the details about how you can start strengthening rules of origin, monitoring and so on, the most fundamental thing is that there is necessary requirement for political will among the leaders of the East African Community to move towards a common market which is harmonised with the tariff structure of the emerging free trade area in COMESA.

Mr. Deputy Speaker, Sir, as I speak, COMESA is negotiating a new harmonised tariff structure. Basically, the biggest debate is whether to go the route of the three tariff bands as has emerged in the East African Community, or the four tariff bands as Kenya had preferred and like many members of COMESA are preferring. If the COMESA tariff structure is modelled on the East African Community, there will be no problem of contradiction. However, if it is not, the provisions of the Protocol of the East African Customs Union has two things. First of all, Article 130 of the Treaty says that everyone of the three countries will continue to execute its international and regional obligations that it entered into before the coming into force of this Treaty. Secondly, Article 37 of the Protocol of the Customs Union says:-

"At the end of the five years of transition, each country must have harmonised its other obligations such that they do not contradict the provisions of this Protocol".

So, we have a window of five years during which we seek to harmonise between COMESA and the East African Customs Union, or to persuade Tanzania to join COMESA. Kenya lays a lot of importance on the COMESA market, which accounts for 35 per cent of our total exports to the world. Under COMESA, it has happened that today Egypt has overtaken England as the second largest market of Kenyan tea. We export tea worth US\$255 million into the Egyptian market which was never there before. We want to deepen this self interest, but we also want to appeal to the goodwill of Kenyans to see how best we can strengthen the national interest in a consistent way.

Mr. Temporary Deputy Speaker, Sir, as I finish, I want to make a request. The matters of the emerging Customs Union of East Africa under our obligations under COMESA are of such

immense import to the leadership of this country that I would like to offer a retreat for all hon. Members of the august House for us to go through the provisions, the implications and the opportunities.

(Applause)

Mr. Kagwe: Mr. Temporary Deputy Speaker, Sir, I thank the Minister for that answer. It is just the kind that we were seeking yesterday. We are, as usual, impressed by the Minister for Trade and Industry. I do not want to pursue a discussion on this issue because he has already said that he wants us to have a seminar on the subject, which I think is a welcome idea.

Within the East African Community (EAC), and as he has ably explained this, the tariffs that we are going to adopt will be the same. The Minister can correct me if I am wrong. In April 2002, in Kampala, at a Heads of States Summit, it was said that in future negotiations between the East African countries and other nations would be done together. In other words, the EAC will negotiate as a block. I would like the Minister to shed some light on this, because under the current on-going negotiations on the Economic Partnership Agreement (EPA), Kenya is negotiating with the European Union (EU) as part of the 16 countries of the Southern and Eastern region of this part of the world. As the Eastern and Southern African region is not a legal entity, one wonders what legitimate rights it has under the umbrella of the 16 countries to negotiate for Kenya to be in it. This is important because, without any mandate, what sort of contractual agreement can EPA enter into on behalf of Kenya, while we know, as a matter of fact, that the Customs Union can do so?

In addition, I believe that under Article 24 of GATT, which deals with preferential treatment, it is recognised that nations with a common external tariff can negotiate together. Therefore, given this kind of background, is the East African Customs Union going to be negotiating together in future, or is Kenya going to be negotiating on its own?

The Minister for Trade and Industry (Dr. Kituyi): Mr. Temporary Deputy Speaker, Sir, the signing of a protocol for the establishment of an East African Customs Union (EACU) triggered an important phase in the process of moving towards a Customs Union. We are not a customs union as long as there is a symmetry in the tariff structure internal to our trade. From the time it will come into force, all the goods coming from Tanzania and Uganda to Kenya will not be taxed. Uganda and Tanzania put up lists. Tanzania has 890 items and Uganda has 526 items from Kenya which elicit a tax. In the case of Tanzania, the tax will be as high as 25 per cent in the first year.

In the first five years before, we become a customs union, countries retain a certain leeway as in who they can negotiate things with. Once we become a customs union like SACU is today, we will not negotiate free trade arrangements with a third party or a customs arrangement outside the auspices of the union. Therefore, the ratification of the protocol, the legislation of the Customs Management Act by the East African Legislative Assembly, the concurrence of the summit on that, the completion of eradication of tariff barriers internal to the community will precede the point where Kenya will not negotiate with the EU without Tanzania.

Mr. Deputy Speaker, Sir, having said that, there was a second part which talks of the economic partnership agreement negotiations. We wanted to negotiate this together, because one of the unstated reasons of regional configuration for negotiations as a follow-up of the Contonou Arrangement is that we are drifting towards a close integration economically. We are closing in more than Tanzania and Uganda. Unfortunately, of all the countries of Eastern and Southern Africa, which are not in SACU, the main one that wanted SADC to negotiate alone was Tanzania. Tanzania, therefore, stayed out, Mozambique and Angola stayed out. Apart from these countries,

all the other counties in SADC and COMESA, which are not in SACU, are negotiating the partnership agreement together with Kenya. We think that negotiations by the EAC are on too small a scale for the EPA negotiations. Instead of going it together as East Africa, we would like to encourage Tanzania, Angola and Mozambique to join us and help negotiate jointly with the EU.

Mr. Sambu: Mr. Temporary Deputy Speaker, I thank the Minister for this crucial information. I support the idea of going for a retreat. However, we have a Departmental Committee on Finance, Planning and Trade. If it is acceptable to this House, I will suggest that the Minister addresses this Departmental Committee first so as to produce a report, because this information is crucial. Before we go for the retreat, we should understand the facts.

When Tanzania accepts to buy our tea, the tea factories should be allowed to deal with the tea buyers from Tanzania without having to go to the East Africa Tea Trade Association in Mombasa, because that requires shipping the tea to Mombasa and then on to Mwanza or Bukoba.

The Minister for Trade and Industry (Dr. Kituyi): Mr. Temporary Deputy Speaker, Sir, I definitely want to be in a position to regulate how tea from the factories gets to Tanzania. I negotiate market access.

Having said that, I do not think there is need for the Speaker to rule for the relevant Departmental Committee of this House to invite the Minister to talk to it. That is a matter we will take as invited to talk on.

Mr. Nyachae: Mr. Temporary Deputy Speaker, Sir, I will express appreciation of the Statement issued by the Minister. However, I would like the Minister to recognise the importance of the subject he is talking about. Out there, the people who build the economy, the business people, the manufacturers, the farmers and bankers have not understood the full implications of what has been negotiated and what is in the process of being negotiated. This thing is going to affect our country, our industries and, in a way, you may find that some of the investors here will go across to the other side of our border to do business because for the next five years, they will be in a better position to gain more money. These are the issues that we need to understand better.

I would like to say that whereas the Minister is quite right, and we welcome his invitation to a retreat, he should produce a document to be tabled here in whatever form and circulated to the investors out there. They need to understand the subject fully because they are the ones who make money and build the economy. This is a very serious matter but very important to us. We need to cooperate with other nations. Do you realise that it took more than 30 years to build a union in Europe? Efforts started from the time when Mr. Heath was the Prime Minister of Great Britain. It took Europeans a very long and here we are taking only a few months. I want the Minister to produce a document for our people.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Nyachae, your point is made.

(Applause)

The Minister for Trade and Industry (Dr. Kituyi): Mr. Temporary Deputy Speaker, Sir, there are three components to this. One, the whole protocol on the Customs Union will be brought to this Parliament for ratification. Hon. Members will have access to every detail of the script. Secondly, the Kenyan delegation which has been involved in negotiating the protocol has comprised representatives of the Private Sector Alliance of Kenya, the National Chamber of Commerce, the Horticultural Association and different lobbies. Unfortunately, they may not have ventilated to their wider membership their participation and implication of this. But I share the sentiments of the hon. Member, that this is a matter of major import to this country, and maybe it is necessary, as he suggests, that we make popular versions, with the implications of what will happen, and avail them

to the public as part of public debate. I take that challenge on board.

Mr. M'Mukindia: Mr. Temporary Deputy Speaker, Sir, I join my colleagues in congratulating the Minister for the way he is handling his Ministry. We have full confidence in him. Unfortunately, some of the fastest growing economies in Africa are neither members of COMESA nor in the East African Co-operation area. I have in mind the whole of the Gulf of Guinea countries, where oil and lots of gas have been discovered. Unfortunately, countries like Mozambique have pulled out of COMESA and they are growing, probably, at the rate of 10 per cent per year. Angola is growing at the rate of 20 per cent per year.

The Temporary Deputy Speaker (Mr. Khamasi): Be precise with your clarification.

Mr. M'Mukindia: What is the Minister doing to penetrate these other markets that are outside the organised areas that he has already targeted?

The Minister for Trade and Industry (Dr. Kituyi): Mr. Temporary Deputy Speaker, Sir, it is important that we also make a statement about why some economies are growing faster than others. The fastest-growing economy in the world is that of Chad, which grew by 500 per cent from zero last year. It started exporting petroleum and it did not have anything to export before then. Angola has massive quantities of petroleum, diamonds and gold. At the end of the war it is reaping the peace dividend by being able to export rather than buying weapons. We do not have that privilege yet.

Having said that, it is important that we look beyond these regions for our economic interest. Some of the things we are doing are the following. I am leading an effort to negotiate a generalised system of preference with the Southern Africa Development Community (SADC), particularly in South Africa, to reduce duty on Kenyan exports in order to dampen some of the consequences of the massive surplus that South Africa enjoys vis-a-vis Kenya. Secondly, we are involved, at the highest level possible, in trying to break the impasse on the WTO Doha negotiations. I will be leaving the country next week for three weeks and most of the time I will be involved in negotiations about greater market access in Europe, the US and under the ACP/PAU arrangements on the NEPAD negotiations. These are the specifics we are dealing with; to expand trade between ourselves.

Lastly, towards the end of May we are having an African Union Trade Ministers' meeting in Rwanda, whose main purpose is to see how we can reduce the boundaries between the regional blocks in order to encourage inter-regional trade, which is inhibited by the different tariff structures today between ECOWAS, COMESA and SADC.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, my concern is very simple, but I would like an assurance from the Minister. Given that Tanzania pulled out of COMESA and it has a very poor track record, what assurance do we have that, after the five years, that we will be trying to harmonise the various treaties and, therefore, moving into a Customs Union, and after enjoying all those benefits, Tanzania will then not pull out?

The Minister for Trade and Industry (Dr. Kituyi): Mr. Temporary Deputy Speaker, Sir, Tanzania is a friendly country to Kenya. We cannot cast aspersions on the integrity of the word given by the competent authority of that brother country.

INVASION OF MOYALE BY ETHIOPIAN MILITARY

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, the Member for Moyale, Dr. Galgallo, sought a Ministerial Statement on the invasion of Moyale District by the Ethiopian military to which I wish to respond as follows.

On 7th April, 2004 an unknown number of Ethiopian militia crossed the Ethiopian border

and entered Madowadi area. A shoot-out ensued and two Ethiopian militia men were shot dead.

Secondly, on 4th April, 2004, an Assistant Chief of Hilu Location, Mr. Adan Mohammed, was attacked in his home. Attackers hurled two grenades at his house which injured four people. The injured persons were taken to Moyale District Hospital for treatment. The attackers were believed to be Ethiopians. On 6th April, 2004, two civil servants from the Ministry of Health were arrested and detained at the Region Four Police Station in Ethiopia. The two Kenyans were Mr. Kankora Mamo and Mr. Mohammed Haji Mohammed.

On 12th April, there was a shooting near the home of nominated councillor, Mr. Abdi Shaku Abdi. The attackers disappeared into Manzile area. However, nobody was injured. On 13th April, the Medical Health Officer (MOH) of Moyale District Hospital, Dr. Adan Dima, was arrested and detained at Region Four Police Station in Ethiopia. The MOH was later released on 15th April, 2004 by Ethiopian authorities unconditionally.

On 12th April, 2004 again Ethiopian militiamen invaded Buri Location and abducted two men namely Dida Diba and Khalisha Guyo, both Boranas. They were, however, released the following day, on 13th April, 2004, unhurt. On 14th April, one Boro Gorfana was stopped at the Kache area at gunpoint by armed Ethiopians along Moyale-Sololo Road. He was robbed of Kshs100,000 and other valuables. These incidents are very unfortunate given that Kenya and Ethiopia enjoy cordial relations. In the meantime, the Government has taken action by beefing up security along the Kenya-Ethiopia border with a view to ensuring that incursions do not recur.

Finally, these acts of banditry should not be construed as an act of occupation by any foreign military force. I wish to assure this House of the Government's total commitment to the security of its citizens and their property.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Dr. Galgalo: Mr. Temporary Deputy Speaker, Sir, you have heard from the Minister of these sustained hostilities by a supposedly friendly country for over three weeks and all this was totally unprovoked. Right now, our District Social Development Officer and the driver of the MOH, Moyale, are still being tortured in a Moyale-Ethiopia cell. As we talk, my people from the three villages from which the Ethiopian militia displaced them have still not been helped to get back to their homes, because the Government has not deployed the military there. Why is it taking the Government all this time to secure our borders and allow our people to live in peace?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, the Government has taken stern measures to make sure that normalcy returns in this region. This has been done by deploying our police force to that particular area to ensure that our citizens receive utmost security. I do recognise the concern raised by the hon. Member, that we should have deployed our military to secure some of these troublesome borders. Since the duty of our police is to make sure that we have internal security, we will not stop at any level. We will go to any length to make sure that we use the resources that we have to make sure that our people are secure. Otherwise, we regret the incidents that occurred.

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, you will realise that there have been continuous attacks between the 4th and the 14th of April except for the 5th. This has been from what the Government is calling a friendly country. I happen to come from the neighbouring district of Marsabit which faces the same problem from the Ethiopian Government. Since the 4th April to today, we know that nothing has been done on the ground. The information we are given when we go to the Office of the President is similar or even worse than what this Assistant Minister is telling us. It appears that what is happening on the ground and what we are hearing are two different things. Our hospital in Moyale serves the sick from Ethiopia and they get all the services from Kenya. The Assistant Minister is saying that they are being---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Sasura. Please seek your clarification.

Mr. Sasura: Please, Mr. Temporary Deputy Speaker, Sir, let me just finish. As we speak, the DSDO and a driver have been abducted and locked up in a cell. Why does the Ministry not just close our border with Ethiopia until the Ethiopians release our people? Or, we could tell our people to cut off the Ethiopians and prevent them from coming to Moyale-Kenya, so that we can have peace. We cannot do anything for our people with the army battalion in Moyale! It is even embarrassing for the Assistant Minister to stand here and tell us that he is doing everything for us.

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, I understand the concern of the hon. Members with regard to this particular problem. Although it appears that what we are seeing here may not reflect what is happening on the ground. We discussed it yesterday with the Commissioner of Police. We will deploy our police force to that particular area to make sure that our people are secure. We did also agree that the Commissioner of Police would make arrangements to visit that particular area. We also agreed to liaise together and visit that particular area to make sure that our people do not suffer.

Capt. Nakitare: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is misleading this House because we are aware of the aggression in that area. We have been told of the militia people from Ethiopia; these are military personnel. How do you expect a soldier to respect a policemen? Why can the Government not send our soldiers to defend our borders? This is their job. It is not the work of the policemen to defend our borders.

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, I did say that we shall use the resources at our disposal to make sure that our people are secure.

Hon. Members: When?

The Assistant Minister, Office of the President (Mr. Tarus): Hon. Members, hold your horses! We shall make sure that our people enjoy security.

Hon. Members: Let the Shadow Minister give us his views!

The Temporary Deputy Speaker (Mr. Khamasi): Order, Members! Let us learn to respect one another. When the Assistant Minister is giving an answer, why do we not give him time to do so? Let us not heckle around.

Yes, Ms. Abdalla!

Ms. Abdalla: Mr. Temporary Deputy Speaker, Sir, as a student, when I went to Moyale District, I used to be asked by residents when I would go back to Kenya. I had a lot of arguments with the residents of Moyale District as to why they do not consider themselves Kenyans. However, the reaction of the Assistant Minister in answering this Ministerial Statement justifies their feelings.

The Assistant Minister tells us that the people who have been attacking our people for the last 21 days in Moyale District are militiamen. Which militia groups own cells that they can put people in? Secondly, he says that he will use all the available means to address this situation. When will he do that when the Government is using choppers for campaign purposes? Why can the Government not use those choppers to address the security issues in Moyale District?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, I am not aware that we are using choppers for campaigns. However, we have already taken action. We are not talking about planning to take action. The police are already on the ground. As I said---

Dr. Gallalo: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Khamasi): Order! Let the Assistant Minister finish replying.

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, the police are already on the ground and, indeed, we are concerned about the security situation in Moyale District just like any other part of Kenya. It is not true that Moyale District and other parts in the North Eastern Province are not taken seriously in terms of security and the lives of the people. Of course, it is the cardinal responsibility of the Government to make sure that every Kenyan, indeed, enjoys security.

With regard to the issue of the border, I assure the House again that the statement we have given here is, indeed, a reflection of what we shall do to make sure that our borders and the so-called militia do not cross over and terrorise our people.

The Temporary Deputy Speaker (Mr. Khamasi): Let us move to the last Ministerial Statement by Mr. Kiunjuri.

CAUSES OF COUNTRYWIDE POWER OUTAGES

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, in the morning I promised to issue two Ministerial Statements. I will begin with this one on power interruptions.

Mr. Temporary Deputy Speaker, Sir, as all hon. Members are aware, the current power situation in the country is characterised by frequent electricity supply blackouts and outages. These outages exceed 11,000 per month and are, therefore, not only totally unacceptable by any standards, but also contribute to the high cost of doing business in the country. These blackouts have roots in the past weak financial and corporate governance which among other things saw Kenya Power and Lighting Company (KPLC) post heavy annual losses consecutively over the accounting period of 1999/2000 and 2002/2003.

In summary, the specific causes of these devastating blackouts are as follows:-

Financial inability of the KPLC to replace damaged transformers, conductors and other materials as a result of having made massive losses in the last four consecutive years. The Government has, to the same extent, addressed this problem, but still requires massive support from our development partners. The funds needed by KPLC to restore quality power supply amount to around Kshs20 billion over the next four years.

Over-loading of transformers and conductors due to excess power demands. This problem will largely be addressed soon, with the installation of transformers and conductors of high capacities which is expected to commence from May, 2004.

Vandalism of transformers and conductors to extract copper and aluminium for sale. Special transformers from which oil cannot be drained easily are being installed.

Power surges through illegal connections which prevent KPLC from detecting any overloads of transformers and conductors easily thus causing the transformers to trip. This problem is being addressed through inspection of premises and selective installation of power meters to detect any excess consumptions related to sales. The installation of such meters is helping to detect and prosecute those found stealing power lines.

Old stocks which failed earlier than expected due to material fatigue having being in storage for long periods after their procurement. These stocks have been expended and, therefore, associated power outages will, therefore, decline as they are replaced.

Low quality poles as a result of having been immature and poorly treated for preservation. Ordinarily, a good quality pole should last for at least 25 years, but a large proportion of the current poles fail after five years or so.

Badly erected poles due to shallow holes which cause the affected poles to fall as a result of

conductor streaming tensions and rains-related erosion. Such poles have also contributed to transformer failure due to fall impacts.

Loose connections due to stock out of appropriate connectors thus causing lines to trip.

Mr. Temporary Deputy Speaker, Sir, lastly, the current procurement procedures which do not provide flexibility in procuring urgently needed items to address emergencies, power supplies related problems such as blackouts. These are lengthy and time-consuming. The Treasury is currently addressing the constraints posed by the existing procurement procedures.

I would like to assure hon. Members that, with the on-going financial restructuring of the company and the support which the Government expects from our development partners with effect from the next financial year, the number of power outages are expected to be reduced to below 6,000 per month by June, 2004, and further decline to below 1,000 per month over the next four fiscal years.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for responding to the issues I raised.

In Karen Estate, where I live, we experience two or three outages daily. The reasons given by the Assistant Minister do not seem to be valid. Who supplied the sub-standard poles and how much was he paid? If he was paid at the rate of a standard pole, has the Kenya Power and Lighting Company sought to recover the extra payment made in respect of the sub-standard poles? The Public Accounts Committee observed in its Report of 1999 that there was somebody who had supplied the KPLC with poles that could have lasted for 35 years. If we had so many poles at that time, where did they go?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, it is true that the supply of poles to the KPLC was monopolised. A certain company supplied the poles always through single sourcing. The supplier was a Mr. Hosea Kiplagat. As a matter of emergency, we have to replace over 5,000 poles. You will find poles inclined all over because they were harvested prematurely and they were not properly treated. So, they are not straight. To correct that error, we shall have to suffer.

The economy is suffering because we are undoing what had already been paid for. Every day, a transformer falls down because of the weakness of those poles, and the Ministry is being blamed for that.

On the question of whether the Ministry is taking any action, I would like to remind the House that we had constituted the Nyanja Commission, whose Report has been handed over to the Kenya Anti-Corruption Commission (KACC), which is investigating the matter. The Board has also set up a Committee which is investigating these matters. We have also ordered M/s Ernst & Young to carry out an audit and they will shortly give us the financial position of the KPLC and clarify whether there are any procurement procedures which were not followed. I assure the House that action will be taken against the people who were involved.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, given that these constant outages cause a lot of destruction to people's property and equipment, and being aware that the KPLC has no policy of compensation, what does the Ministry intend to do in terms of compensating the victims of the outages, given that they have admitted that part of the problem is as a result of their own internal problems and mistakes?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, the Ministry has given out guidelines on how to protect equipment. However, it is true that we do not have a policy or compensation. It is upon this House to legislate on such a matter to provide for compensation. However, we still advise our customers on the most effective way of protecting their equipment.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I am shocked that the Assistant Minister has blamed an entrepreneur who was awarded a tender to supply electricity poles which could be used for 35 years. The KPLC received those poles and paid the supplier after its officers were satisfied that they met the required standards. I thought the Assistant Minister would have pursued the people who ordered and received the poles instead of blaming the supplier. Be that as it may, I know that the KPLC compensates people whose equipment and gadgets are destroyed as a result of these power outages. Why is the Assistant Minister misleading this House by saying that the KPLC has no policy of compensating people whose equipment and gadgets are destroyed by power outages? Could he counter-check his facts with the KPLC and bring to this House a proper reply to that issue?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, I would like to assure the hon. Member that those people will be pursued. We are avoiding going to court with skeleton information. We want to file watertight cases. We do not want to take cases to court only for the accused persons to challenge us and we lose those cases. I also want to assure hon. Members that guidelines are already in place and that they can be followed. If a policy of compensation is in place, which I know that is not, it is upon the victims of outages to pursue the KPLC.

Mr. Temporary Deputy Speaker, Sir, I now beg the indulgence of the Chair to issue the next Ministerial Statement.

The Temporary Deputy Speaker (Mr. Khamasi): Please, make it very short, because we are running out of time.

REPLACEMENT OF KPLC CHIEF OFFICERS

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, in the morning, Mr. Angwenyi sought to know why some chief officers at the KPLC are being sent for further studies and who is to replace them.

Mr. Angwenyi's question could have forced the Minister to speculate, because the matter was only laid on a negotiating table by donors. As the Ministry discussed with the donors, some conditions were laid on the table. I believe that it will be premature for us to discuss matters which are still under discussion.

Lastly, I wish to seek the indulgence of the hon. Member that we allow these negotiations to continue, because such matters are not Government policy until they receive Cabinet approval. We should question such matters when they receive Cabinet approval. Even if the matter receives the approval of the Cabinet, it cannot be implemented before it is approved by this House. Therefore, we will issue a comprehensive Ministerial Statement when we reach there.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I am ready to offer my indulgence to the Assistant Minister's plea on condition that none of those qualified Kenyans is victimised, and that once they are through with the proposed training, they are assured of going back to their jobs until they reach their retirement age, unless they make a mistake in the course of their duty.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, hon. Members should appreciate that if we do not get the Kshs20 billion, which is badly needed, the KPLC will not be able to play its role in improving the economy of this country. Any move to improve the economy of this country will depend on the performance of the KPLC. I would like to assure hon. Members that we will not take any action that can jeopardise the positions of chief officers at the KPLC or the Government. We will take that into consideration. We assure the House that nobody will be harmed by this decision.

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

Next Order!

BILL

Second Reading

THE PRIVATIZATION BILL

The Assistant Minister for Finance (Mr. Katuku): Thank you, Mr. Temporary Deputy Speaker, Sir.

I beg to move that the Privatization Bill be now read a Second Time.

In moving this Bill, I would like to say that this is the second time this Bill is coming to the Floor of the House. The first time it came up for the First Reading, it never got past that stage. I am happy now we have got to this stage.

Mr. Temporary Deputy Speaker, Sir, you remember in the Minister's Speech, during the Budget Day, he promised that he would bring this Bill before the House for debate and enactment. This Bill which, I am moving, will provide for privatization of public assets and operations, including State corporations by requiring the formulation and implementation of the privatization programme by the Privatization Commission to be established by this Act, and for related purposes.

The Bill will deal with the weaknesses which are related to the privatization programme, which started to be implemented by the previous KANU Government, which had its own weaknesses. That is why we have found it very necessary, as a Government, to come up with this Bill so that we can deal with matters of transparency and accountability in disposing of shares owned by Government in public or private enterprises. This Bill will strengthen the oversight and make the programme or process independent of individuals. In this Bill, we will be creating a Commission which will handle all matters related to this, and annual reports of accounts will be tabled in this House to ensure transparency in the process.

We saw what used to happen previously in terms of privatization which was done without a Bill to guide those who were handling the process. As a result, you find that some of the institutions which were privatized, were sold at throw-away prices. I have in mind some of the hotels which were sold at throw-away prices to "correct individuals". This Bill will ensure that such enterprises are not given to friends, relatives, Government officers or those who are in power. I was an hon. Member of the Public Investments Committee, and I remember sometimes when we were discussing this issue of privatization, we realised that some of the institutions, for example, the Kenya Seed - which the Government had to move in to take possession of shares were sold out there without transparency. That is why some of the issues are in court. This is because there was no law or transparency followed, and that is why some individuals benefited where they do not deserve.

Mr. Temporary Deputy Speaker, Sir, the Kericho Tea Hotel is another good example of some of the hotels which were privatised in such a manner. We also have in mind the Milling Corporation of Kenya and the Cashewnuts Processing Plant in Mombasa. Some of these issues were not done within the law, since there was no law to provide for the process. Therefore, some individuals benefited. That is why we are bringing this Bill to this House, which of course, hon. Members will pass, so that we have a Commission which will regulate the sale of shares of these institutions.

You will agree with me that when we attained Independence, we invested heavily in these institutions, where Government, through taxpayers' money, put up a lot of enterprises which were strategic, for the purpose of making this country run. Some of these institutions are now becoming a

burden to the Government when they come back to the Treasury or the taxpayer to get money in order to sustain themselves. Therefore, we find it very burdening for the citizens of this country to keep on digging into their pockets to sustain such institutions. That is why Treasury ended up paying, in lumpsum, debts owed by corporations. At the end of the day, Kenyans would end up losing in terms of taxes, because the management of some of the institutions has become a problem, and that is why it is important to now put them under the management of the private sector so that we can have proper management. We know this will have its own impact. As a Government, we are trying to address this issue.

Mr. Temporary Deputy Speaker, Sir, as the NARC Government, we are trying to ensure that we enhance competitiveness within the private sector. As a Government, we are out to ensure that we provide a suitable environment rather than do business. We should provide the appropriate environment for the private sector to do business, because we have realised that these institutions have limited access to the required resources, because they have to come to Treasury, and Treasury may not have the money, and these institutions may not be able to function as required.

We have also realized that, as a Government, we cannot be a referee and at the same time a player in the game. If we are competing with the private sector out there, and we are the referees, we would be unfair to the private sector. We would like to ensure that we provide the appropriate environment, infrastructure and what is necessary for the private sector to move in and do business. The Government will do what is necessary to ensure that this is done.

Mr. Temporary Deputy Speaker, Sir, some of the money which will be realized from the sale of the shares can be invested in other areas of the economy or new projects. So, the taxpayer at the end of the day will now have the right to own shares in institutions, because the Government has been owning shares on behalf of the taxpayer. It is high time the taxpayer himself owned shares in institutions. It is in this spirit, that we are moving this Bill so that we can encourage Kenyans to own shares rather than the way it has been, where the Government has been owning shares on behalf of Kenyans.

Mr. Temporary Deputy Speaker, Sir, I would also like to point out that Kenyans need services. They do not need to wait for those services tomorrow. They need services immediately. Since the world is becoming a global village, we cannot afford to hold Kenyans to ransom where services are required. By putting some of these essential institutions into the private sector, it will ensure that Kenyans can get the services as quickly and as fast as possible. That is why we want to move towards that direction, because it would be a disservice to our people when they require some services not to get them. For example, if you want to send a message from here to your home and you want to use a corporation like the Postal Corporation, it may take long to have that delivery done. We should move towards privatization. For example, there are new players in the delivery business. You can get items delivered through the Akamba Courier Services and other courier companies.

Mr. Temporary Deputy Speaker, Sir, the issue here is to make our people get services as quickly as possible. In that respect, the Government is committed to the outright privatisation of commercial enterprises which are not considered strategic in terms of Government shareholding in such institutions. Where we find such a situation, we will move towards privatisation. We recognise that there are certain challenges associated with the privatisation programme. You will expect, as a result of privatisation, high tariffs, loss of jobs and limiting of access to profitable areas. We would like to indicate to this House that we are prepared for those challenges. I would like to inform hon. Members, that, in cases where privatisation has been carried out properly, those challenges have been addressed effectively. Utilisation of internationally available guarantee schemes are being used to reduce the cost of privatisation. We are ready to meet the challenges for the development of this

country. I would like to briefly touch on the components of the Bill.

Mr. Temporary Deputy Speaker, Sir, you will find that Part I of the Bill deals with the obvious; the preliminaries. If you look at Part II, it deals with the programme itself; the privatisation programme. That programme is designed to cover, for example, enterprises that have their own Acts. We will establish a Commission to deal with such issues. It will be approved by the Cabinet. The programme will not cover the Commission only. That way, we will not transfer Government entities and corporations to individuals without proper management. So, the process will ensure transfer of control of state corporations and other substantial Government entities in a proper manner.

Mr. Temporary Deputy Speaker, Sir, if you look at Section 7 of the Bill, it gives the Commission the exclusive authority to manage and implement the privatisation programme on behalf of the Minister. Therefore, you will notice that Clause 8 of the Bill specifically provides for other laws considered necessary in the process of privatisation. The Commission itself will not only lie on the existing privatisation Acts of the institutions but, also, more importantly, the Act itself will be able to harmonise cases where there is no harmony in the process of privatisation in the existing Acts.

Mr. Temporary Deputy Speaker, Sir, I would like to refer to Part III of the Bill. Clause 16 talks about Kenyans, participation in the privatisation programme. The process of privatisation will be open to both Kenyans and non-Kenyans. If you look at Part 1 of Clause 16, the Minister is given specific powers to intervene, where necessary, to ensure specific categories of Kenyans will benefit from that kind of privatisation. This Clause will also facilitate privatisation by a specified category of Kenyans immediately or in future. For example, you might be privatising an agricultural institution. In such a case, the Minister is given powers through the Commission, to either restrict the shares to the farmers--- That is why we said that it will ensure specified minimum levels are maintained; it will be done with all transparency and it will benefit the key players in that sector.

Mr. Temporary Deputy Speaker, Sir, the rest of the Bill provides for the establishment of the Commission. It gives the methods of privatisation. There is also a provision for appeals where individuals are not satisfied in the manner in which the privatisation process has been carried out. There is a provision for a tribunal which will look into matters that may be raised by concerned parties. It has also dealt with transition of shares. If you look at the Memorandum of Objects of the Bill, it clearly outlines a very transparent process. There is a law that is being put in place. We do not want to privatise our institutions without any law. We want to be guided by the law and where it has been infringed, we will say: "This is being done unfairly!" Anybody will be able to question any process which is not done within the law.

Mr. Temporary Deputy Speaker, Sir, it is very clear that this is a very important legislation which requires to be passed as soon as possible, so that we can privatise some of our sectors. I have in mind the Kenya Railways. We would like to privatise some of the services. I have in mind Telkom Kenya. We have had problems with the sugar industry. We want to privatise the sugar industry, so that the management could be done in a more corporate and private sector way. The sugar industries are coming back to the Treasury for more funding to do their business. It is time we moved towards privatising some of those institutions.

Mr. Temporary Deputy Speaker, Sir, we would also want to move in terms of KPA. We want to move towards a partnership with the private sector in some of the areas where we feel we need private sector services so that we have efficiency in our ports, for example, in clearing of goods where we do not want to have congestion. Those are the areas we would want, as soon as possible, to have them privatised. That is why we have been very consistent as a Government that we cannot move ahead--- At one time, we were under pressure to move towards privatising. But as

a Government, we said we must put a legislation in place so that we can be able to privatise in a more modern way, not the way our brothers in the Opposition did when they were in power and which benefited some of them. We want to move towards a transparent system and those who benefit can do so within the law. We do not want a situation where it would be at the mercy of the Minister or anybody else to say, "So-and-so should buy this."

It is painful to see some of the institutions that were very strategic being sold at throw-away prices. For example, Kericho Tea Hotel, which is a big hotel, was sold to a friend of the Ministers of the previous Government at Kshs4 million. That is ridiculous. We would like to move towards a situation where there is transparency in the process.

I do not want to politicise this Bill. I wish to say that I would appreciate comments from Members on this Bill so that, as soon as possible, we would be going into the Committee Stage and make the necessary amendments, if any.

With those remarks, I beg to move.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I rise to second this Bill. This is a Bill that should have seen the light of the day in this House over ten years ago, if not much earlier. As you know, the history of this country is such that, at Independence the Government either inherited or acquired a lot of assets extending from industrial undertakings to trading concerns. These assets were and still are the property of the people of the Republic of Kenya. The Government was only a custodian or trustee, holding them in trust on behalf of the people of Kenya. The reason we, as NARC Government, are bringing this Bill now, and the reason why the NARC Government, for the last 14 months, has not privatised any public entity, is because we believe in fairplay, transparency and the rule of law.

Mr. Temporary Deputy Speaker, Sir, when you talk about privatisation in this country, it rings like a history of fraud; fraud of monumental scales. The case of Kenya Seed Company is well known to everybody in this House and in this country. We have had disastrous undertakings where public assets were handed over to friends; where public assets were literally dished away by the Government of the day. This has had the effect of depriving Kenyans of the benefits of assets that their own Government was holding in trust for them.

When you talk of privatisation, you cannot help but think of the stories of Milling Corporation of Kenya, Fluorspar, Kisumu Cotton Mills (KICOMI), Kenya Seed Company, the Cashewnut Factory in Mombasa, various Kenya Tourist Development Corporation (KTDC) hotels. These institutions were simply given to friends under the guise of privatisation and the people of Kenya ended up as the losers.

Mr. Temporary Deputy Speaker, Sir, if I was the Minister for Finance, I would have incorporated, in this Bill, a clause to retrace our steps and demand an account of those who took public assets and I enjoin them to return them to the people of Kenya.

(Applause)

A civil law can apply retrospectively. Retrospective legislation is not a crime which is barred by the Constitution. The remedy of tracing which is available in our common law ought to have been applied. I hope my colleague, Mr. Katuku, is listening. When we go to Committee Stage, he should find a way of invoking the remedy of tracing to have people account for assets fraudulently and illegally taken away from the people of Kenya for the benefit of individuals and groups of individuals.

Mr. Temporary Deputy Speaker, Sir, now that we want to have a proper legal framework for privatisation, it is my humble submission that, in certain categories as is provided for in the Bill,

Kenyans must be given the first priority. We have enough Kenyans in this country who can pull resources together, either as individuals or co-operatives, to acquire assets. By Kenyans, I am not thinking of brief-case carrying Indians, who have quite often acquired assets, sold them off and left to go and settle in Canada or the United Kingdom or some other country. The first priority must be given to indigenous Kenyans. The Government can assist them to syndicate loans from commercial banks where the Government has equity, for example the Co-operative Bank, so that they can acquire these assets so that Kenyans can also enjoy the benefits of our Independence; what is commonly called 'fruits of Independence' which have been accessible to very few Kenyans to the exclusion of others.

Mr. Temporary Deputy Speaker, Sir, in the process of privatisation, the Government should also look at strategic assets. There are certain strategic assets where, even as we divest, the Government should continue playing a critical role in cushioning Kenyans from the possibilities of creating monopolies that will end up hurting *wananchi* or fixing the cost of provision of services.

In this regard, I have in mind the need for the Government to strengthen the regulatory authorities, including the Communications Commission of Kenya (CCK), Electricity Regulatory Board (ERB), *et cetera*. I understand a Bill is soon coming to harmonise the regulation so that we have a common utilities regulator and the people of this country can be protected from the vagaries of capitalism which, as one writer says, "constantly rears an ugly head in the face of the consumer."

As we privatise, we need to look at the valuation of our assets. I am happy that the Bill provides that before we privatise anything, there must be a comprehensive evaluation of the assets of the organisation to be privatised. This evaluation must take into account the future prospects and future expansion programmes of such an asset.

If we are talking of Telkom Kenya, for example, if we are to privatise it, anybody who wants to take over it will have to take into account the expanded East Africa community that is going to be a catchment for the organisation, and many other factors that will ensure that the country gets just returns for the investment we have put in.

I want to urge my colleague, Mr. Katuku, to look at Clause 33 which is about the members of the Commission that will be set up. I have a feeling that he has omitted very critical players in our economy who ought to be included. Any privatisation will naturally include loss of jobs and sometimes victimisation of workers. I would want the Assistant Minister to include the Central Organisation of Trade Unions (COTU) as a member of the Commission. This is because COTU will then ensure that there is no reckless and malicious dismissal of workers simply because somebody else has taken over a company, or wants to take over a company and wants to employ his relatives or kinsmen at the expense of the people of this country who have built those organisations.

Equally, I would want to urge the Assistant Minister to ensure that the National Chamber of Commerce sits in this Commission. This is because it brings together businessmen of this country who can syndicate money to acquire assets. I know there is the Federation of Kenya Employers (FKE) but employers normally do not speak for workers. If we want to protect workers, the worst person to send to speak for them is the employer. The employer will always want to have a better deal against the employees.

Since privatisation is not going to be a continuous process, it is going to start and end at some time, it would not be wise to have a standing tribunal in this matter. What we need to do is to provide for a tribunal whose composition shall be *ad hoc*; as and when we have a dispute to be dealt with arising out of privatisation. That way, we will cut down on the costs because we do not want to have a tribunal that is there full time but ends up sitting once in two years or not at all, and we are busy paying them allowances and providing them with cars and offices. That is money we can use in doing other things to the benefit of this country.

We have organisations that are in dire need of not only privatisation but privatisation to make them work better. I have in mind the Kenya Railways Corporation which has virtually ground to a halt. I know that there are attempts to make the KR work. However, in the structure in which it is, it will just be like keeping it on a live support machine. I think it is important that we get a strategic investor to come in and retain some equity by Government, especially given the fact that KR owns vast real estates in this country. A lot of land in this country and prime properties belong to the KR. We know some land was grabbed by land grabbers especially within Nairobi, Nakuru and parts of Mombasa, but we also know that the KR has quite a number of sizeable assets. If there will be privatisation of the Kenya Railways Corporation (KRC) we should avoid doing what was done to the Kenya Seed Company, where a bunch of fellows moved in discretely, purporting to buy the company without taking into account the vast tracts of land that the company owns in Trans Nzoia. By such actions, we will end up wheeling away a public asset for free. If, for example, Nzoia Sugar Company or Mumias Sugar Company were to be privatised, the evaluation committee must take into account the thousands of hectares of land that people of this country surrendered to companies that started sugar factories as part of their assets. If this is not done, we will be handing over the factory whose net value is in the negative without taking into account that we are equally handing over, for example, 10,000 hectares of land to an investor. These are things that must be looked at.

We have the Kenya Ports Authority (KPA). Once again, it was the will of God that the KANU Government did not privatise the KPA. If we moved now to privatise the KPA, like I believe we shall, and have the Government retaining some nominal equity and turn it into a free port--- Any hon. Member in this House who has visited a country called Dubai can appreciate what a port alone can do to an economy. The Port of Mombasa can serve a hinterland of close to 300 million people. The people of East Africa, Ethiopia, Sudan, Eastern Congo, Rwanda, Burundi and Zambia can use the Port of Mombasa. In fact, if we privatised and turned Mombasa Port into a free port, the Minister for Tourism and Information, Mr. Tuju, would not be crying around about lack of tourists. This port can be visited by an average of close to 20 million people a year. The services that they will be given by the people of this country; the hotel, banking and paperwork by those involved will boost the economy. We will not be crying for tourists. The economy will boom and we will laugh all the way to development.

As we privatise, we must constantly look at the bigger picture of this country; that all these assets belong to the people of Kenya. If we are privatising an asset in a region, it is my humble wish that a portion of the proceeds from the privatisation must go into the social dimensions of the people of the area; people who have looked after the assets and surrendered their land for the building of the assets. This will make them feel that they were the custodians of these assets and that the benefits are coming back to them.

We have assets in the tourism sector. For example, we have the Marsabit Lodge and many other lodges. However, some assets were taken away. For example, we have the Kericho Tea Hotel which was allocated as a gift to a friend by a friend. All these ought to be looked at and accounted for if the people of this country have to benefit from the assets that their forefathers protected so well.

Mr. Temporary Deputy Speaker, Sir, finally, in the process of privatisation, there are certain places where we have freehold land. It is my humble wish that if assets would be acquired by foreigners, then the Minister for Lands and Settlement must convert the holding of those tracts of land into leaseholds and not freeholds. We should not allow non-Kenyans to hold freehold land in this country. They should only own leasehold land. We can allow the foreign investors to lease the land for 99 years or 50 years and pay rent for it on an annual basis. The country will be the loser if

the Government allocated freehold land to foreign investors.

Mr. Temporary Deputy Speaker, Sir, finally, privatisation means that we are looking and reaching out to investors to invest their money in this country. But this country will not be a preferred destination for investors if we, in the political arena, continue behaving the way we have been behaving and continue abusing each other. Every single morning you pick up a newspaper in this country, all you read is angry words thrown against one another. Every single politician who walks into the tent out there goes to abuse another politician and every single politician who calls the Press has a mouthful against another politician. This country cannot attract investors if politicians continue behaving the way they are behaving. Investors will not invest their money in a country where people are quarrelling. They will also not go to a country where everybody is busy creating a picture of disharmony, lack of tranquillity, lack of foresight and uncertainty. Kenyan politicians must from now henceforth, find a way of lowering the political temperature in this country. We must learn to speak and reason with each other. We must also learn to agree and disagree with civility. A point of disagreement should not degenerate into calling each other names.

Our colleagues across the Floor and my colleagues on this side of the House, our calling is only one; to serve the people of Kenya. We must provide an enabling environment for investment to flow into this country. We ought to know that next door, Uganda, wants the same investors who want to come and invest in this country. We also ought to know that next door, Tanzania, wants the same investors who want to come and invest in this country. If we create an impression that we should be the last alternative for any investor to go and invest, we are doing a great disservice to this country. Let my colleagues wake up and know that Kenya is greater than any one of us. The interest of this country and the people of this country are superior to the interests of reckless and selfish politicians who want to achieve things without paying attention to the people of this country and their interests.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to second the Bill.

(Question proposed)
(Mr. Muturi stood up in his place)

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Muturi, are you the official respondent?

Mr. Muturi: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Khamasi): Then proceed!

Mr. Muturi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to respond. I would [**Mr. Muturi**] like to say from the outset that I support this Bill, subject of course, to some amendments which I believe we shall introduce at the Committee Stage.

First of all, I wish to say that the last bit of the contribution, from my former classmate, roommate and learned friend, Mr. Moses Masika Wetangula were very kind words of advice. In fact, I wonder how we can have them printed for the benefit of the majority of the hon. Members of that side of the House.

(Applause)

I am saying this because it is a well known fact that it is that side of the House that a lot of what Mr. Wetangula has said, namely calling of names and Press conferences to hurl insults at one another usually, happens most.

The Assistant Minister for Finance (Mr. Katuku): There is a ceasefire!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I am glad to hear that.

Regarding the Bill, I want us to appreciate, even as we talk about the various state enterprises, that they fall under many categories. There is a category of state enterprises which is purely for providing services, which are mainly regulatory in nature, for example, learning services which our public universities and various research institutions offer. All those institutions fall in the category of public enterprises which offer services to the country. Nevertheless, these institutions take a substantial proportion of public resources.

There is also the category of public enterprises which are purely *quasi* commercial enterprises. These institutions include Mumias Sugar Company, Kenya National Trading Corporation (KNTC), Kenya Ports Authority (KPA), Telkom Kenya and Kenya Railways Corporation (KR). These parastatals provide services but on commercial basis. If you look at the statutes which established them, you will find that there is a requirement that they must give dividends to the Government. This is not the case when it comes to a public enterprise like a public university. There is no requirement that the Government expects any dividends. What the Government expects them to do is to produce qualified personnel to serve this country, and if need be, to export to the outside world as long as the country benefits. Those are the dividends the country would expect from such public enterprises. There are public enterprises such as the one that my good friend, Mr. Boit, until he joined politics, was heading. That is the Kenya Medical Training College (KMTC). We do not expect dividends from such an institution. All we expect from that institution is the product such as the many "girls" and "boys" whom Mr. Boit had an opportunity to produce through that institution. This is the dividend that the country expects to reap from the public resources which go into the maintenance of such institutions. Of course, I cannot forget that from the universities, we have qualified personnel such as my good friend, Prof. Olweny, who is on the other side of the House. He is now offering his services and, therefore, dividends to this country, here in this House.

Therefore, even as we talk about privatisation, there will, of course, be need for the Commission that is proposed to be set up, to look into all these categories of public enterprises. If it will do this, it will know that if a public university wants to get into some joint venture to do research and produce, maybe, medicine---

An hon. Member: The Nyayo Pioneer Car!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I am being reminded of the famous Nyayo Pioneer Car and such like projects. Obviously, there will be need for the Commission, in proposing the extent to which privatisation will take place, to take into account the national interest of the country.

I do support the need, like it is provided for under Clause 3, to have a programme formulated by the Commission. But I have a problem in approving that, once the programme is formulated by the Commission, it will merely be taken to the Cabinet for approval.

Mr. Temporary Deputy Speaker, Sir, Mr. Katuku and Mr. Wetangula, when moving and seconding the Bill, gave us insights into the past attempts at privatisation. We have all agreed that we are now in an era of greater openness and transparency. Therefore, I want to appeal to the Minister to consider a place in the approval process, for this House to input into what is going to be privatised. That is because we have departmental committees of this House which deal with very many aspects of public enterprises. We should not leave it to the Cabinet only or this commission which, if you look through the composition under Section 33, is so heavily full of Government appointees! We run the risk of having certain things being done in a manner that may not be extremely transparent, as we would have expected. Therefore, I would be urging the Minister to

consider a place in the process, a role to be played by this House or its committees. That is because we have parastatals in this country which transcend all spheres of our lives. We have parastatals in the agricultural sector. We have parastatals in the medical world like the Kenyatta National Hospital, for example. We have parastatals in telecommunications and transport. Name it! They are in every sphere. Therefore, since we have departmental committees of this House dealing with all those spheres, I want to urge the Minister to consider involving the House in that process, if only to carry the entire nation. This is the embodiment of the Kenyan political elite and, therefore, we would want the Minister to expand the regime for approval to include the House.

Mr. Temporary Deputy Speaker, Sir, Mr. Moses Wetangula talked about the inclusion of Central Organisation of Trade Unions (COTU). I wholly agree. Some countries like Ghana, which did their privatisation a little earlier, about ten or 11 years ago, are today grappling with some of the unforeseen problems in the process of privatisation. One of them is to do with the workers. We have several Kenyans working in those institutions. Some of them belong to Savings and Credit Organisations (SACCOs). There are institutions that do not have clearly laid down pension schemes. I would like to suggest that we have a provision specifically detailing the Commission to ensure that, at every privatisation, the interests of the workers, who have been working in those organisation, be considered. We know that after they have been taken over by new owners, there is a real chance that the new owners may say that they will only take a particular number of workers. They will also negotiate that they will only be held responsible to pay things like pensions for the years those workers have worked in those institutions. It is important that we put in a Clause in this Bill that enjoins the Commission to, as a matter of priority, take cognisance of the workers' welfare which will not just be limited to pensions but all other dues under their employment contracts.

Mr. Temporary Deputy Speaker, Sir, I also support the idea of not having a permanent Privatisation Appeals Tribunal as proposed in the Bill because it is not indicated when the Chairman of the Tribunal once appointed will leave office. It is only the other members who are given three years. So, it seems to suggest to me, and granted that we want to do things above board, we should not anticipate legal work for the Tribunal; that everyday there will be work for the Tribunal to do. There may not be disputes at every privatisation. Therefore, we should limit it to an *ad hoc* operation such that we can make provision that the Minister, in consultation with the Chief Justice, will appoint a tribunal to hear any disputes that may arise from a privatisation process. In this country we have approximately 200 parastatals. So, I do not see what work a permanent Privatisation Appeals Tribunal will be doing and it may be a drain on the public coffers when we are hoping that by coming up with this legislation, we will save the Exchequer from part of the drain that it has been experiencing.

Mr. Temporary Deputy Speaker, Sir, I would want to look at, for instance, the provisions relating to the powers of the Minister especially under Clauses 15 and 16. That is the powers of the Commission. Clause 15(1) says:-

"Both Kenyans and non-Kenyans are eligible to participate in the privatisation, subject to directions under Clause 16."

One example is Clause 16, subsection (1)(a) which says:-

"For specific privatisation, the Minister may direct the Commission to-

(a) limit participation in the privatisation to Kenyans or a specified category of Kenyans."

Mr. Temporary Deputy Speaker, Sir, I have no quarrel with the Minister having the power to direct the Commission to limit a certain privatisation to only Kenyans, but when he says:- "to a specified category of Kenyans", and we have just been talking about Kericho Tea Hotel having been sold to a private individual, then I mean that is the way most of these institutions went. The National Milling Corporation went that way. They went to a specified category of Kenyans. This specified

category of Kenyans can be Ministers or friends of the Minister.

I want the Minister to consider this particular wording because I think it seems to be opening old wounds. It means that the Commission can actually be directed by the Minister to sell a particular private entity to hon. Captain Nakitare or hon. Charles Kilonzo and he will be perfectly within the powers we shall have given him here. I think this maybe dangerous and we do not want to revisit what happened in the last ten years.

Mr. Temporary Deputy Speaker, Sir, when I look at what is provided for under Clause 21, I will encourage the Minister because this is a clear deviation from the past. It says:-

"If shares are sold as part of a privatisation, neither the Government nor the public entity that sells the shares shall extend credit or provide financing for the purchase of the shares."

Mr. Temporary Deputy Speaker, Sir, I am happy that "The indomitable" hon. Katuku is the one moving the Bill. He sat with me in the Eighth Parliament in the Public Investments Committee (PIC) and he can attest to situations whereby the enterprises or the Government would actually sell its shares or its own holdings in such a way that it will amount to actually giving money to the person buying. Of course, a very good example which we are seeing is what is going on in the Goldenberg Commission of Inquiry. When you read some of those transactions you become baffled. That you are given money, then you buy foreign bonds and then you sell them again to the same Government that had given you the money. This is the kind of situation this Clause is avoiding. I think this is a good invention to avoid falling into the pitfalls of the past.

Mr. Temporary Deputy Speaker, Sir, I am a little uncomfortable regarding some power given to the Minister under Clause 29. It says:-

"The Commission shall keep and maintain proper records for each privatisation." That is okay. However, Clause 29, subsection 2 says:-

"The Minister may make regulations governing the records required under subsection (1)."

This means, if the Minister thinks that some certain privatisation has gone in a funny way, he may direct the Commission that:- "Please, for these ones, bring them to my office."

QUORUM

Capt. Nakitare: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is there a quorum in the House? There are only two hon. Members!

The Temporary Deputy Speaker (Mr. Khamasi): No, we do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Khamasi): Order, Members! We have a quorum now. You may proceed, Mr. Muturi.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, I was talking about some of the powers given to the Minister for Finance. If you look at what is provided for under Clause 33(1):

"The Commission shall comprise the following members:-

- (a) A Chairman appointed by the President;
- (b) the Attorney-General; (c) the Permanent Secretary to the Treasury;
- (d) the officer appointed as the Investments Secretary in the Treasury;
- (e) the Permanent Secretary in the Ministry responsible for planning;

(e) four Members, not being public officers, appointed by the Minister by virtue of their expertise, in such matters as will ensure that the Commission achieves its objectives;---

Mr. Temporary Deputy Speaker, Sir, I do not know what criterion has been proposed for the Minister to use to appoint these officers. I want to suggest that posts like these ones be advertised and, proper and transparent interviews to be conducted so as to be able to appoint suitably qualified Kenyans to serve in those positions. We should not leave such appointments at the discretion of Ministers. Our recent experience in the last 14 months shows that we have a penchant for recycling grannies to come and serve in such important corporations and especially in cases where we are being told, "by virtue of their expertise in such matters as will ensure that the Commission achieves its objectives."

Mr. Temporary Deputy Speaker, Sir, we run a great risk if we leave this Bill as it is. We may continue having grannies being appointed to run a Commission as serious as this one. It is supposed to advise the entire country on privatisation programmes.

Under Clause 44(1), it states thus:

"The Commission shall cause an annual report to be prepared each financial year."

But then, again, in Clause 44(2), it states:

"Without limiting what may be included in the annual report, the annual report shall include:

(b) such information as the Minister may direct."

Mr. Temporary Deputy Speaker, Sir, I have a lot of problems with Clause 44(2b). The phrase; "Such information as the Minister may direct", means that they are giving with one hand and taking away with another. A clever Minister will know the manner in which a privatisation programme shall take off and, thus, direct the whole privatisation programme. Why should the Minister have the powers to direct privatisation programmes when we are creating an independent Commission? The Minister for Finance should consider amending that particular Clause or, delete it entirely because we do not need the Minister to the Commission on what to include in the annual reports which are supposed to be tabled by the Minister seven days after the House meets. I suggest that the Minister considers deleting that Clause so that we have the Commission operating freely.

As we have seen under Clauses 50 and 51, specific offences have been communicated on persons who receive information by virtue of their being in employment with the Commission. That is good. But then, all these other things which have been provided for in other sections create fertile grounds for officers working in the Commission, or even the Commissioners themselves to commit offences, either by way of omission or commission. At the end of this Bill, after Clause 53, I will be proposing or suggesting to the Minister to include a General Penalty Clause, that specifies that:-

Anybody who contravenes the provisions of this Act for which no specific penalty is provided for, shall be guilty of an offence---

The Attorney-General will be able to advise the Minister on the terms of this Clause.

Hon. Members: That is a felony.

Mr. Muturi: Yes, that is a felony. That person will be liable to imprisonment or to a fine. That will be a General Penalty Clause, which is important in this kind of legislation.

Some of my propositions will be best articulated when we get to the Committee Stage, otherwise, I want to say that I support this Bill, and urge the Commission, once created, to move with speed and carry out proper evaluation of our public investments through professionals in order to come up with the appropriate and correct status of the public investments in the country. I am one person who believes strongly that we should not spend public resources supporting public

enterprises that should, by their very nature, be generating income, not only to sustain themselves, but also to pay dividends to the Government. Such institutions are regional in our country. They include institutions like Tana and Athi River Development Association (TARDA), which have expansive tracts of land lying idle. They run to the Treasury every year to be bailed out. Indeed, the Treasury has also been encouraging this trend, because even if you look at the Treasury's circular No.3 of 30th January, 2003, which was asking them to present their Budget to the Ministry. When they present their Budgets, they actually indicate that they do not even expect to earn anything. Why are they expecting to earn nothing? Of all parastatals, why should KENGEN expect to be given money to operate from the Treasury?

Mr. Temporary Deputy Speaker, Sir, I think it is a high time that we moved away from that trend and encouraged such institutions to privatize. If we think that we need to keep some of them for a while, because I still believe we need to get rid of these parastatals so that the resources which are spent year in, year out, maintaining or bailing them out can be used in other social sectors within our country.

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

Mr. J.M. Mutiso: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to support this Bill, which is a very important Bill. I would like to make a few general comments because I know during the Committee Stage, we shall have amendments to various clauses.

Mr. Temporary Deputy Speaker, Sir, privatisation is a very contentious issue, particularly when it is donor-driven. Last week, I attended a workshop on the Kenya Financial Sector Reform, which was sponsored by the Ministry of Finance and the World Bank. The most interesting aspect is that in all those seminars and workshops, parastatals are being targeted for privatisation. As a matter of fact, when we say that we are privatising a utility, there are certain standards or conventional methods which are recommended world wide for such an exercise. I would like to be very specific on the issue of privatising Government owned financial institutions. Because of the banking crisis of the late 1990s, the Central Bank had to revise its requirement for sustaining, or opening new banks. This brought about a problem in the rural areas as far as banking services are concerned.

Mr. Temporary Deputy Speaker, Sir, under the new initiative of privatisation, the National Bank of Kenya and the Kenya Commercial Bank are being targeted by the Bretton Woods Institutions to be sold for a song to foreign-owned banks. I would say that these two institutions are Kenyan jewels in the financial sector. The only problem is that they were mismanaged at a point in time in the history of this country. These were specific thefts which made these banks to malfunction and have non-performing loans. The period between 1994 and 1998, as per the records and even by the reports of the Controller and Auditor-General, the non-performing loans of the National Bank of Kenya amounting to about Kshs6 billion were loans which were dished out to specific individuals. They were not repaid from the beginning. Therefore, we cannot, *prima facie*, say that the National Bank of Kenya has under-performed. It was not given a chance to be measured along other prudent financial management standards.

Mr. Temporary Deputy Speaker, Sir, I have read the Bill, but I have not seen a single clause which has been recommended by the Minister, either through the Commission or otherwise, to have these public utilities privatised through the capital market; the Nairobi Stock Exchange. This is where the catch is. The Bretton Woods Institutions want the National Bank of Kenya and the Kenya Commercial Bank to be privatised to the Common Wealth Development Corporation and Standard Bank of Kenya. I cannot remember the third body, but it is a capital asset management company. This is a private arrangement. Under the Financial Sector Assessment Programme, the institutions have told the Minister that if he does not bring this Bill to the House before the end of this financial

year and have it passed with speed, they will not give him money. It is immoral and the timing is questionable. I am, therefore, urging this House to tread carefully in this Bill. It is one of the most contentious issues in the World Trade Organisation circles. It touches on the contentious issue of procurement, which will be part and parcel of the execution of this Bill. I challenge the Ministry to put in place the necessary safety nets, so that privatising of the parastatals and our financial jewels is done in the most prudent manner.

I would like to comment on the number of parastatals we have in this country. This is a subject of debate. At no given time have we been told the number of parastatal bodies or public utilities. We always know about the utilities when a certain question is raised. For instance, Kenyans had believed at one point in time that the Kenya Seed Company was a public body, only to learn the other day when a storm kicked up that the Government did not have any control over it. This brings us to the need to have in the schedule the specific parastatal bodies that the Minister intends to deal with.

One report has stated that the number of parastatal bodies may be 113. Another report gives 191 as the number of public enterprises. It is very important for the Minister to give us the specific number of public utilities, which he intends to have covered by this Bill. Indeed, it has been a problem to manage the national debt in terms of how much is owed by parastatal bodies. Therefore, as we privatise them, it is important to realise that they are part of our national wealth. We should have quantitative specifications as to how this exercise will be carried out.

As far as the issue of regulation is concerned, there should be a balance in the membership of the privatisation commission. The public should be part and parcel of the privatisation commission. I do not know which area would be best to include the public from, but I suggest that stakeholders should be drawn from every sector of the economy in order for the commission to benefit from each sector's knowledge and experience.

Business is information, and information determines price. We cannot operate in an atmosphere of secrecy. Clause 39 spells out the information conditions for privatisation. I fail to understand why a public enterprise should not have its assets and reserve price made known to the public for purposes of the privatisation exercise.

The issue of the Commission keeping information acquired by it confidential and not disclosing it is a very dangerous one, particularly when it comes to privatising utilities which impact so much on this economy. For example, we now have the privatisation of the Kenya Railways Corporation. It is a conglomerate of so many sub-utilities, and so there is also the risk of under-valuation and over-valuation. This afternoon the hon. Minister for Trade and Industry, Dr. Kituyi, told us that the Numerical Machining Complex, which we had believed before to be part and parcel of the Kenya Railways Corporation is no longer existing under the Corporation. It now exists as a separate entity to be re-located to a different area.

This is a very grave issue as far as addressing the privatisation of public utilities is concerned. There is nothing confidential about privatisation and information should be readily available. Even when we talk about privatising these utilities through the Nairobi Stock Exchange, or the capital market, the disclosure requirements will require these utilities to be listed to provide regular reports, especially in public publications or the electronic media. Therefore, I suggest that this Clause 49 is totally irrelevant. It does not hold water and should be erased from this miscellaneous section.

I appeal to the Minister not to rush through this Bill. It has both domestic and international implications. It is a trap. For example, after the WTO negotiations in Cancun failed, the big economic blocks, that is the United States and European Union, are now trying to secure some positions bilaterally. Some of the agents of these economic blocks are the Bretton Woods

institutions.

I am not jeopardising the financial support we get from the World Bank, but we cannot privatise our jewels for a song. We cannot be bound by policies which also have international implications. If, today we agree on this Bill and tomorrow we find that we can also have even our bedrooms privatised, what will happen? This Bill raises very grave issues and, therefore, there should be no rush. It should be handled carefully. Let us even have the Departmental Committee on Finance, Planning and Trade calling a public hearing on this issue because there is a trap.

Mr. Temporary Deputy Speaker, Sir, I support

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this very important Bill. Before we address the issue of privatisation, we must first find out what the objective of the Kenyan nation was in nationalising some corporations at Independence.

At Independence, we found that the assets of this country were owned by non-Kenyans. Therefore, our Government, in its wisdom, thought that we had to indigenise some corporations and assets for the benefit of the indigenous Kenyans. Things have changed over the years. We are now under neo-colonialism where we do not make our own decisions. This morning we were told that some development partner has insisted that some of our people working in certain parastatals be re-trained before we can be advanced further support. That is neo-colonialism. As a sovereign state, we do not have the capacity to manage our own affairs as we see fit. I am not trying to say that all our parastatals have performed well. In fact, most of them have performed very poorly. Have we ever tried to establish why?

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

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

The Assistant Minister for Energy earlier on issued a Ministerial Statement on KPLC. We were informed that electrical poles which would have lasted this country 35 years from 1999 were not delivered, but money was paid. That is one of the reasons why KPLC is going under. So, you cannot blame the management of KPLC. There must have been some form of interference. Probably, they were told that they had to buy air from so and so. Therefore, we are trying to address the symptoms of a problem, but we have not diagnosed and found out how we can uproot it. The major problem in this country is interference in the performance of our parastatals; interference by those who are charged with the responsibility to manage them, Ministers, Permanent Secretaries and sometimes from the highest authority in the land. So, we should address the symptoms of interference. The first thing we should do is to address that issue of interference. There have been numerous documented cases in the Public Accounts Committee and the Public Investments Committee Reports where, for example, a bic pen which normally costs between Kshs10 and Kshs20 in the market is sold for a Kshs1,000. How do you expect a corporation which has been ordered to buy a bic pen worth Kshs10 at Kshs1,000 to survive? How will it perform? We are trying to give away the assets of the people of Kenya to others, especially foreigners, without finding out why they have not performed well.

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

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

Mr. Temporary Deputy Speaker, Sir, we all know that in the first 10 to 20 years of our Independence, our parastatals performed very well. They introduced our people into entrepreneur activities and gave them dividends. They employed our people. For example, there was one time when the Kenya Railways Corporation (KRC) had 26,000 workers. Those were Kenyans who derived their livelihood from KRC. There was a time when Kenya Ports Authority (KPA), the then Kenya Harbours Corporation (KHC) employed 30,000 workers. Those were Kenyans who derived their livelihood from that parastatal. However, because of interference, these corporations have gone under. The assets of these corporations have been plundered with abandon. No action has been taken against these people who have plundered these assets. For example, the KRC owned valuable prime land all over the country. What happened to this land in the last ten years? This land was dished away to individuals; the so called well connected individuals for just a penny.

Mr. Temporary Deputy Speaker, Sir, an acre of land in Parklands, which, normally, would cost Kshs10 million, was sold for Kshs100,000. There are documents to that effect. What have we done to address that issue? How are we going to recover the assets that were illegally given to people for free? What are we going to do? When are we going to take action? I hope that as we enact this Bill into law, we will put some safeguards in it to ensure that the assets of this country are not given away for free.

Mr. Temporary Deputy Speaker, Sir, before we undertake a major privatisation exercise in this country, we must, first, find out what impact it will have on employment. At present, unemployment is a time bomb rather than an atomic bomb. We have young people who have finished university, college and high school, but who have not been employed for the last 12 years. Some of them are approaching the retirement age before they have got a job. We must look into this issue. How are we going to address the problem of unemployment?

We have been carried away by the issue of privatisation, which is the in-thing for the Breton Woods Institutions. About one and a half years ago, we wanted to privatise one of the few well performing institutions in this country, namely, the Kenya Re-Insurance Corporation. The institution, which was worth close to Kshs4 billion, was being sold for Kshs240 million, which is less than 5 per cent of its value. If it were not for the Public Investments Committee (PIC) - I thank Messrs. Muturi and Wamunyinyi for raising the issue - we would have given away our assets in that institution to South Africans for almost free, and yet we always move around the world begging for money. We are giving away our assets for free and going out there to beg. It is embarrassing!

Mr. Temporary Deputy Speaker, Sir, three years ago, we liberalised the cellular telephone sector. We sold our right to that sector to *Kencell* and *Safaricom* for approximately Kshs4 billion. That figure was arrived at on the basis that each of the two companies will have a maximum 35,000 customers in three years' time. It was believed that by now, each of the two companies would be having about 35,000 subscribers. Because of that under-estimation, we only got Kshs4 billion. Today, each of those companies has got over one million subscribers. That is thirty times over and above our estimate, which means that we lost. We only got only one-thirtieth of the amount we should have received from *Kencell* and *Safaricom*. If we had based our estimate on 500,000 or one million subscribers, we would have got Kshs30 billion or Kshs40 billion from the two companies. It is clearly evident that the people who were valuing these assets were compromised. At that time, Morocco licensed a mobile phone company and its subscription was estimated to be the same as in Kenya. I have established that it is slightly lower than that in Kenya today.

Mr. Temporary Deputy Speaker, Sir, Morocco got US\$1.2 billion for the sale of that service. At that time it was in all the international investment publications, but we disregarded that kind of information. Ghana did the same at that time, and they got seven times more than what we got in Kenya, for the equivalent asset sold for mobile phones. As we enact this law to privatise our assets and our companies, we must have safeguards, so that people do not give away our valuable assets outside this country.

Mr. Temporary Deputy Speaker, Sir, we are privatising because we have failed to manage our parastatals correctly. Are we going to privatise all of them in one day or over a period of time? If we are going to privatise over a period of time, why do we not bring a Bill in this House to streamline the management of our parastatals so that we privatise at our own pace? I have heard some people saying that we should privatise our ports because that is a business commercial enterprise. We should privatise our airports and everything else. Actually, I would not be surprised when next time we privatise our State House, so that the President pays rent.

Mr. Temporary Deputy Speaker, Sir, as an hon. Member of the Departmental Committee on Energy, Communication and Public Works Committee, we made an educational tour to Australia, Singapore and Dubai. In each of those countries, their ports are owned by the states. We went to the Port of Melbourne which is owned and run by the State of Queensland. We went to the Port of Sydney which is owned by the Government of New South Wales, but they have leased it out to some management consortium. When we went to Singapore, we realized that the Port of Singapore earns that Government in excess of US\$11 billion a year, and it is owned by the State of Singapore. It is managed professionally, because the Government does not want to interfere and yet it owns it. Why can the Port of Mombasa not perform as much or nearly as much? It is because of Government interference. If we can guarantee professionalism in the management of our assets, there will be no need to hurry to privatise our assets.

Mr. Temporary Deputy Speaker, Sir, we also toured the Dubai Port. I heard one hon. Member praising Dubai Port this morning, because it is a free port. He believes that a free port means that it has been privatised. It is not privatised. The Port of Dubai is being managed by the State of Dubai in the United Arab Emirates. It is a free port because they do not tax the transactions being conducted in that port. But the port is not privatised. In fact, the port earns that country more money than the whole year's Budget of the Kenya Government. They are now exporting management services to other countries. They recently exported their management services to the Port of Djibouti, and the Port of Djibouti in the last 18 months has overtaken the Port of Mombasa's output, because professional management has been accepted there.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of information, Mr. Temporary Deputy Speaker, Sir.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I will take it.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I would like to inform Mr. Angwenyi that the Port of Djibouti is doing very well because Ethiopia is landlocked and it uses that port 100 per cent, which is not available to us here.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I am surprised that my friend here, who is one of the most efficient Assistant Ministers we have in this country, does not know that Uganda is also landlocked.

Mr. Temporary Deputy Speaker (Mr. Khamasi): You agreed to be informed!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I want to inform him that Uganda, Rwanda, Burundi and Ethiopia are also landlocked. Ethiopians have been begging us to construct a two-way road to Ethiopia, so that they can use our Port. Why can we not use some money to get business in Ethiopia? We should think about that, so that we can expand our operations at the Port

of Mombasa. What I am saying is this: Let us not rush to privatise. As we enact this law, let us make sure it does not take away our assets.

Mr. Temporary Deputy Speaker, Sir, the Bill provides that some institutions will be represented in the Commission. I have realised that we have forgotten two major institutions. I support the Minister that the Central Organisation of Trade Unions (COTU) must be there to take care of the interests of our workers. The National Chamber of Commerce must also be included to take care of the commercial people in this country. The Nairobi Stock Exchange (NSE) should also be included. We can privatise through the NSE. That will expand our NSE. The Capital Markets Authority should be there. What is the purpose of the Capital Markets Authority, if they cannot move in when we are privatising, and make sure that we create capital as we privatise? So, let us not hurry. I know we are being pressed by our development partners. But, as you know, the World Bank and International Monetary Fund (IMF) have never succeeded anywhere in the world. They cannot give you one case example where they have succeeded.

Mr. Temporary Deputy Speaker, Sir, they tried to push Mr. Mohammed Matiah in Malaysia and he said: "Go away with your dollars!" They stuck to their guns the same way Mr. Michuki stuck to his guns in trying to bring sanity in our roads, and he has succeeded substantially. That is the type of leadership that we want in this country! We want a leadership that can stand up and say: "After all, we have not been receiving any major assistance from the IMF and World Bank in the last ten years!" The least assistance we got was to create Westmont. Westmont is a power producing company in Mombasa where we pay Kshs93 million every month, whether or not they produce a single kilowatt of electricity! The other thing they gave us was IBERAFRICA in Embakasi, where we are paying Kshs135 million every month, whether or not they produce anything. If they produce something, we pay ten times what we pay to KenGen.

Mr. Temporary Deputy Speaker, Sir, the privatisation euphoria is completely unfounded. What I am saying is that, let us look at parastatals that we believe we may not be able

to manage without the technical know-how or managerial expertise. We can slowly try to privatise them. In any case, our objective should be that we privatise up to 49 per cent. We must have a controlling interest in those companies. After all, there must have been some sense in acquiring them in the first place. You saw what happened to Kenya Airways. We gave it away! But, fortunately, we gave it to the Kenyan investors. It is now making money and small-scale shareholders are now receiving some dividends. It is providing very high quality service. We should move in the same direction. We have privatised our banks. The National Bank of Kenya and Kenya Commercial Bank are now making money. Those companies were created by Mr. Michuki again! Mr. Michuki, maybe, we should give you a MBE or something, to appreciate your contribution. He is the one who created those banks. We must also think about our people in the rural areas. How will the people of Shinyalu get banking services if we are going to privatise national banks? If you privatise Co-operative Bank of Kenya, Kenya Commercial Bank and everything else, and they become like Barclays Bank which makes Kshs 4 billion a year, and retrenches our people who work there---

With those few remarks--- I have not finished! I will finish next time.

ADJOURNMENT

Mr. Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members. We have now come to the end of today's business. Mr. Angwenyi, you have a balance of ten minutes to debate on

this Bill when it resumes. The House stands adjourned until tomorrow, Thursday, 22nd April, 2004, at 2.30 p.m.

The House rose at 6.30 p.m.