

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 9th July, 1998

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of the Kenya Coffee Auctions Limited for the year ended 30th June, 1997 and the Certificate thereon by the Auditor-General (Corporations)

Annual Report and Accounts of the Coffee Board of Kenya for the year ended 30th June, 1993 and the Certificate thereon by the Auditor-General (Corporations)

Annual Report and Accounts of the Western Kenya Rice Mills Limited for the year ended 30th June, 1995 and the Certificate thereon by the Auditor-General (Corporations)

Annual Report and Accounts of the National Irrigation Board for the year ended 30th June, 1995 and the Certificate thereon by the Auditor-General (Corporations)

Annual Report and Accounts of Tea Board of Kenya for the year ended 30th June, 1996 and the Certificate thereon by the Auditor-General (Corporations)

Annual Report and Accounts of Mwea Rice Mills Limited for the year ended 30th June, 1995 and the Certificate thereon by the Auditor-General (Corporations)

Annual Report and Accounts of Nzoia Sugar Company for the year ended 30th June, 1993 and the Certificate thereon by the Auditor-General (Corporations)

Annual Report and Accounts of Nzoia Sugar Company for the year ended 30th June, 1994 and the Certificate thereon by the Auditor-General (Corporations)

*(By the Assistant Minister for Agriculture
(Dr. Wamukoya) on behalf of the
Minister for Agriculture)*

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. I do not know whether you heard the Assistant Minister say "I wish to table". He did not lay any Papers on the Table; he just expressed a wish!

Mr. Speaker: Well, I suppose the wish has now been translated into an actuality.

ORAL ANSWERS TO QUESTIONS

Question No.136

TERMS OF SERVICE FOR ANTI-CORRUPTION AUTHORITY DIRECTOR

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

(a) what the terms and conditions of service for the Director of the Kenya Anti-Corruption Authority are; and,

(b) how many cases the Authority has handled and disposed of since its establishment and what the cases are, if any.

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

(a) The Director of the Kenya Anti-Corruption Authority was appointed on 1st December, 1997. By

law, the Authority is required to be independent and, therefore, it was given the freedom to work out terms and conditions of service not only for the Director, but other staff also, including members of the Advisory Board. The Authority has yet to submit its recommendations to the Government for funding. In the meantime, the Authority has started functioning using officers seconded to it from various departments of the Government.

(b) Since its establishment eight months ago, the Authority has been settling down, acquiring offices, equipment and personnel. The Authority has now started operating, but has not disposed off any case yet. The Authority will dispose of cases through our courts which are open courts. Some cases have already been taken to court while others are still under investigation.

Mr. Sifuna: Mr. Speaker, Sir, arising from the Assistant Minister's reply, could he tell us the criteria which were used in appointing the Director of the Kenya Anti-Corruption Authority, when he has a questionable character?

Mr. Speaker: Order, Mr. Sifuna! Mr. Sifuna, just look at your Question. It does not ask the criteria for appointing the Director of the Kenya Anti-Corruption Authority, but the terms and conditions of service. So, you are irrelevant! Can you rephrase your question?

Mr. Sifuna: Mr. Speaker, Sir, I was trying to build up my question.

Mr. Speaker: Order, Mr. Sifuna! I think you were probably in this House yesterday. I am not going to allow hon. Members to digress, infringe upon the Standing Orders on irrelevancies under the guise that they are building their question. You must build your question before you stand up and it must be relevant to the original Question regarding the terms and conditions of service of the Director of the Kenya Anti-Corruption Authority Director! Now, proceed!

Mr. Sifuna: Mr. Speaker, Sir, with due respect, I will proceed, but I will reserve my comments. Could the hon. Assistant Minister tell us why it has taken too long for the Director of the Kenya Anti-Corruption Authority to handle so many cases which he is aware of, especially going by the Public Accounts Committee and Public Investments Committee Reports which should have given him the guideline as to who should be prosecuted? Why has he taken too long and yet he is enjoying public funds? In fact, he is a corrupt man!

Mr. Angwenyi: Mr. Speaker, Sir, the Kenya Anti-Corruption Authority is not a witchhunting Authority. It is a professional and a legal instrument that the Government will use to get those who are involved in corruption and to curb corruption. So, the Authority is not going to hurry to the courts for cases which are not fully investigated.

Mr. N. Nyagah: On a point of order, Mr. Speaker, Sir. Under part "b", the Questioner asks how many cases the Authority has handled. I would like to ask the Assistant Minister to give us an answer as to why no taxation was paid on the tyres that were imported from Korea, known as Kum-Ho tyre. Who imported them and why has there been no taxation paid on part of the handling?

Mr. Speaker: Mr. Nyagah, in all honesty, unless the Minister is an angel, how would he know what Kum-Ho tyre is? Is it part of the Authority?

Mr. Angwenyi: Mr. Speaker, Sir, Kum-Ho tyre is not part of the Authority.

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. Before hon. Sifuna sat down, he made a serious remark regarding the Director of the Anti-Corruption Authority. He said that the Director is a corrupt man. He is responsible for the accuracy of that statement. Could he be called upon to substantiate the allegation that the director of the Anti-Corruption Authority is a corrupt man?

Mr. Speaker: Order! Order! Mr. Munyasia, actually you are the one who is making those allegations now. I am not going to allow hon. Members to turn a Question into a debate out of the blues, for the sole purpose of tarnishing the name of a Kenyan who cannot defend himself/herself here. If I were Mr. Mwau, I would begin by investigating some Members.

Mr. Maore: Mr. Speaker, Sir, the Assistant Minister here is saying that after eight months since the Authority was established, the Government is waiting for the same Authority to define its own terms of reference on how it is going to operate and submit a budget. Could the Assistant Minister state clearly whether, the reason why the Authority is not able to operate is that it was just constituted *ad hoc* to satisfy the demands of the IMF and the World Bank, and that, actually there are no intentions of making it operational?

Mr. Angwenyi: Mr. Speaker, Sir, I did not say what the hon. Member claims I said. I read what I said and, maybe, if I was allowed to converse in Kimeru, I would explain to him what I said. After all, he is my brother.

Mr. Maore: On a point of order, Mr. Speaker, Sir. You remember the verse in the Bible that says: "It is better if they kept quiet, for in their silence they might be mistaken for being wise." This Assistant Minister knows very well that I am well versed in English. He has heard me, and he knows it. So, let him not be cheeky.

Mr. Speaker: Order! Order! Can you contain your tempers? Every Member sitting here is actually certified as being literate in English and Kiswahili. Otherwise, if you were not, you would not be sitting here. Proceed.

Mr. Angwenyi: Mr. Speaker, Sir, I said that with a light touch; he is my cousin from Meru. The terms of reference for the Authority are contained in the appropriate Act. We wanted the Authority to develop adequate terms so that when they fail in their job, they would not blame that on poor terms of service.

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

Mr. Speaker: Order! Mr. Maore, do not personalise this issue. I want a few other Members to contribute. I am almost going to the next Question. This Question has taken too long.

Mr. Maore: On a point of order, Mr. Speaker, Sir. This is going to be the first incident in this country whereby an organisation is established by the Government and is then asked to define its own terms of reference and conditions of service. That is what he has said. Is it in order for the Government to ask the Anti-Corruption Authority to define its own terms of reference?

Mr. Angwenyi: Mr. Speaker, Sir, at one time I worked at the Directorate of Personnel Management. Whenever we instituted an organisation or an entity of the Government, they would work out their terms of service, then they would be approved by the Government. To add to what has been said, I would urge the Chair to defend those members of the public whose names are tarnished in this house. I believe that this House is not here to destroy the names of Kenya citizens.

Mr. Sifuna: Mr. Speaker, Sir, this is an honourable House. It is eight months since the Anti-Corruption Authority was established. We have been trying to find out the terms and conditions of service of this Director. We want to know how much he is being paid, his terms and conditions of service and his salary scale. This is what we wanted to know from the hon. Assistant Minister. He is just trying to take us left and right. Would he tell this House how much this Director earns per month and what his job group is? He has stayed in office for six months with a record going back to the PAC and PIC Reports. How much does he earn, despite the fact that he was banned from travelling to the United States of America?

Mr. Angwenyi: Mr. Speaker, Sir, the Director is not a civil servant. The Director and his Advisory Board work on an honorarium until the terms of service are properly developed for the other Members of the Authority.

Question No. 396

NUMBER OF POLICE INSPECTORS
FROM MAASAI COMMUNITY

Mr. Sankori asked the Minister in the Office of the President:-

- (a) if he could inform the House how many Maasai from Kajiado District are of the rank of Inspector in the Administration Police Force; and,
- (b) what their names are and when they were appointed to the ranks.

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

- (a) Promotions in the Administration Police Force are not done on the basis of district or the tribe of origin.
- (b) Arising from the reply above, part "b" does not arise.

Mr. Sankori: Mr. Speaker, Sir, it is so absurd that the Assistant Minister in the Office of the President can dare mislead the nation that the promotion and even the recruitment of Administration Police officers is not done on basis of districts or tribes. Then why do you normally go to the districts?

Mr. Angwenyi: Mr. Speaker, Sir, recruitment is not done on district basis. However, for purposes of convenience, the points where the recruits are met is at the district level. But the recruitment is not restricted to the districts concerned.

Mr. Kanyauchi: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister not contradicting himself? The Question specifically refers to the number of Maasai's who have been promoted to a certain grade. Now, he says that recruitment is done according to districts for convenience. Is it then true that the Minister does not know which specific districts Maasai's come from and that is why he cannot answer part "a" of the Question?

Mr. Speaker: Order! Actually, thinking about it, I should never have approved this Question the way it

is. It is so tribal.

Mr. Mwiraria: On a point of order, Mr. Speaker. Having approved the Question the way it was, is it in order for the Assistant Minister to refuse to answer it, without saying that he is refusing to answer it? The Question is very specific.

Mr. Speaker: I think the Assistant Minister is right. I have no quarrel with the answer he has given. The problem is with the drafter and the Chair for approving the Question the way it is. On several occasions I have been on record here, as saying that, we should never tribalise debates. I have become a culprit. Mr. Sankori, shall I allow you to ask a question of a general nature about the residents of Kajiado rather than the Maasais of Kajiado, or shall I cancel the Question?

(Several hon. Members stood up in their places)

Order! Order! Mr. Sankori!

Mr. Sankori: Mr. Speaker, Sir, I respect your advice, but I am sure that you are only saying that because you are also a Maasai. If you were from another tribe, you would--

(Laughter)

Mr. Speaker: Order! Order! I am neither a tribe nor a person, I am the Chair! So, I cannot have a tribe, I do not even have blood in me. I am the Chair. Now, proceed!

(Several hon. Members stood up in their places)

Order! Order! Could you allow him to finish?

Mr. Sankori: Mr. Speaker, Sir, I will have to take your advice. I will reframe the Question, but the fact remains that the Office of the President should actually not try to avoid answering the Question because I know that there is not a single Maasai police inspector from the community residing in Kajiado District.

Mr. Angwenyi: Mr. Speaker, Sir, I did not want to indulge myself in categorizing our officers on the basis of tribes. However, to give an example to hon. Sankori, of a Maasai who is an inspector, I can give the name of Joseph ole Serimoi; PNo.74013847. You can check that. Thank you.

Hon. Members: From where?

Mr. Ndwiga: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to tell this House and the nation that they do not recruit officers on tribal basis and they do not know who is a Maasai and who is not a Maasai, when it is so obvious that this Government thrives on tribalism? Identity cards are the basis of recruitment. Indeed, if you are in Kajiado and your national identity card reads that you are from Embu, you will not be recruited there. So, the Assistant Minister knows very well how many Maasais he has got in his force and, therefore, he should answer this Question and tell us how many of them are inspectors and how many of them are sweeping District Commissioners' offices.

Mr. Angwenyi: Mr. Speaker, Sir, I do not agree with the premise on which the hon. Member for Manyatta is basing his questions. The Government of Kenya is a Government of all Kenyans and it recruits all Kenyans on the basis that they are citizens of this country.

Mr. Sankori: On a point of order, Mr. Speaker, Sir. I have taken your advice, I will reframe this Question as you have advised and I hope it is going to be answered properly.

Question No.387

ILLEGAL CURFEW BY CHIEF IN UMALA

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

(a) whether he is aware that the Chief of East Alego has imposed an illegal curfew in Umala and uses the Administration Police to harass and chase market users from Adhiegra Market in Umala from 6.00 p.m. everyday of the week; and,

(b) if the answer to part "a" above is in the affirmative, what steps he will take to stop these illegal orders by the Chief.

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

(a) No, I am not aware.

(b) I am not aware of any illegal orders by the Chief.

Mr. Oloo-Aringo: Mr. Speaker, Sir, yesterday you advised the House that Ministers should not behave like robots. I was going to be very generous to my good friend, the Assistant Minister in the Office of the President because I know that since this issue came up, the District Commissioner has called this Chief who was trampling on people's human, legal and constitutional rights like a hippopotamus. He has since summoned this Chief and discussed with the Chief and also held a baraza in this area. I was prepared, therefore, not to press him with further questions, but when he says that he is not aware--- Could the Chair advise me on what to do when the Assistant Minister and his civil servants are contradicting themselves? On the ground, the DC and I have jointly held meetings in the area, as soon as this Question reached him. Now, the Assistant Minister is saying that he is not aware yet yesterday you advised that Ministers must not behave like robots. But this one, who is a very good friend of mine, is just demonstrating that he is a robot.

Mr. Speaker: Order! By the way, Mr. Oloo-Aringo, I never used such a word and I do not want you to use that word either. Do not ever put words into the Chair's mouth.

Mr. Oloo-Aringo: Mr. Speaker, Sir, I do not want to contradict you, but I would like that statement I have made to remain because I would like me to express myself as best as I can.

Mr. Sunkuli: Mr. Speaker, Sir, I really enjoy my hon. colleague's poetry. But let him continue being generous and ask me further questions that will enable him understand why I answered the Question the way I did, because unless I am aware of certain facts, I cannot stand here and say; "Yes I am aware."

Mr. Oloo-Aringo: Mr. Speaker, Sir, towards the General Elections, the District Commissioner who was there had given instruction to chiefs in the area to deal firmly with the so-called Opposition politicians and yet in the area, NDP has support of 99.9 per cent of the people of the area. Now, if such sort of instruction comes from the DC and chiefs are implementing them, including harassing people in market places and forcing people in this particular market place to leave the market and go home by 6.00 p.m., this is a matter which involves the human rights of the ordinary people at the village level. Could the Assistant Minister then take action on this issue?

Mr. Sunkuli: Mr. Speaker, Sir, if the Chief is doing such a thing, it is absolutely illegal. The District Commissioner has no business issuing illegal orders to the chiefs. We have had to amend the law relating to chiefs' powers. Chief's power do not allow a chief to infringe on the constitutional rights of the citizens of this country. I want to urge the hon. Member to give me more information, whenever he feels inclined to do so, that will lead me into ensuring that a chief who goes beyond his powers is dealt with in accordance with the law.

Mr. Sambu: Mr. Speaker, Sir, considering the extensive misuse of the Administration Policemen by the chiefs and Dos, three weeks ago a chief in Kaptumo Division of Aldai in Nandi ordered policemen to go on a night raid. Two people were killed; a mother and her son. Could the Government consider putting into effect the legal and the administrative recommendations of the IPPG so as to curb the misuse of the administration policemen?

Mr. Sunkuli: Mr. Speaker, Sir, amendments to the chief's Authority Act have been effected by the Government and I think it is up to every chief to understand what those amendments imply. I am not specifically aware of the reference to Kaptumo. The hon. Member comes from Mosop and so maybe both of us need to acquaint ourselves with the real situation.

Mr. Munyao: Mr. Speaker, Sir, this House needs some guidance from you. I am sure you listened to the Assistant Minister like I did. The first time the Assistant Minister said that he was not aware. The hon. Member, who is an elected Member from that area assured the Assistant Minister that he was aware. Later on he came to give some details and asked the Questioner to give him more details. This Question has been with you and it went to the Ministry and it has been there for more than two months. Is he in order to come here and say that he would the Member to give him more details? What other details does he want to be given? I think we need some guidance from you because he is a good friend of mine. I do not want to say what I should say, but---

Mr. Sunkuli: Mr. Speaker, Sir, the very respectable Secretary-General of DP did not hear me correctly. I said that if in future this should happen, the hon. Member should feel free to inform me and then I will deal with any Chief who does not abide by the amendments. But about the orders he has referred to, none has been laid on the Table of the House and I am not aware of any.

Question No.210

RURAL ELECTRIFICATION IN URIRI CONSTITUENCY

Mr. Omamba asked the Minister for Energy:-

- (a) what was the Ministry's plan regarding rural electrification in Uriri Constituency; and,
 (b) what were the social benefits for Uriri constituents from the Gogo Hydro-Electric Power Station.

The Assistant Minister for Energy (Mr. Manga): Mr. Speaker, Sir, I beg to reply.

(a) The Government has a plan to supply electricity to centres, schools and dispensaries in this constituency. The Government has already supplied electricity to Oyani Market, Thimjope School, Arambee and Luoro schools in Uriri Constituency at a cost of Kshs8.5 million under the Rural Electrification Programme. The Government also plans to extend electricity to Angaga and Ugwethi centres when funds become available.

(b) The social benefits for the Uriri Constituency from the Gogo Hydro-Electric Power Station include the provision of electricity, as I have said, above and also attendant voltage stability due to the proximity of the power station.

Mr. Omamba: Mr. Speaker, Sir, I have come to realise that there is a tendency by the Ministers to avoid giving the right answers. I have observed that very keenly. Only a few individuals in those schools contributed the money required for the installation of electricity. And, mark you, these areas are far away from the electric power line which is 50 kilometres away. Only the rich individuals were able to contribute that money. This is not money from the Ministry of Energy, but from the sugar-cane growers. The electric power station at Gogo is 50 kilometres away from the area he is talking about. This is near Maasailand. He has said that there is a power line in Angaga, but Angaga is not in my Constituency. It is in Rongo---

Mr. Speaker: Mr. Omamba, where are you? Can you ask the question?

Mr. Omamba: Mr. Speaker, Sir, I am saying that there is no proper electrification done in my constituency. Our people are not benefiting from it.

Mr. Speaker: Mr. Omamba, order! Order! As a new Member maybe I can assist you. What you should stand up and ask this Assistant Minister is: "Are you aware that there is no electrification work going on in Uriri, or that the work has stopped"? Something like that ending with a question mark so that he can answer.

Mr. Omamba: Thank you, Mr. Speaker, Sir, for advising me, but Angaga is in Rongo Constituency and Ugwethi in Migori Constituency, not in Uriri Constituency.

Mr. Manga: Mr. Speaker, Sir, there are other centres which are in Uriri Constituency, and these are centres like Ulanda Mission, Awendo and Uriri Markets.

Dr. Ochuodho: Mr. Speaker, Sir,---

Mr. Speaker: Order! Order! Dr. Ochuodho, when you stand on a point of order, it does not mean that you have got the Floor. So, do not stand and begin addressing us. You must wait until I have called your name! That is the only licence to talk. Now, what was it?

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. Is this Assistant Minister in order to mislead this House that Awendo and Ulanda centres are in Uriri while they are in Rongo Constituency?

Mr. Manga: Mr. Speaker, Sir, I have no intention of misleading this House. I know that these constituencies were created recently and if the power line happens to be on the other side of the constituency, I am very sorry about that. But this is the position.

Mr. M. M. Galgalo: Mr. Speaker, Sir, now that the hon. Member has said that there is no electrification that has been done by the Ministry of Energy in his constituency, except in the homes of some wealthy people, who have raised money to electrify their homes, can the Assistant Minister now assure the House that he is going to electrify the locations and markets in Uriri Constituency?

Mr. Manga: Mr. Speaker, Sir, I have said that the Government has plans to supply electricity through this programme to all the areas where it is possible. It is not right to say that Uriri Constituency does not have any electricity supply project because Uriri Market, which I am sure is within Uriri Constituency, is electrified. Another thing is that whatever payment is done, it is a contribution required by the Act. One has to pay a certain percentage to get electricity supply, but markets and schools are not charged anything.

Mr. Omamba: Mr. Speaker, Sir, there is a transmitter at the power base which can supply power to the neighbouring health centres and schools. Why jump to 50 kilometres away and leave the area bordering the transmitter?

Mr. Manga: Mr. Speaker, Sir, the fact that electricity is generated from a point does not mean that, that electricity is stepped down. There is a source from where it is stepped down. We would need to step it down from this source before bringing it back to that place. This is what I want to tell the hon. Member.

OVERCHARGING BY LAND
ADJUDICATION COMMITTEE

Mr. Maore asked the Minister for Lands and Settlements:-

- (a) whether he is aware that Land Adjudication Committee for Amwathi II and Kawiru locations in Mtuati and Ndoileli divisions, respectively are overcharging for their services; and,
(b) if the answer to "a" above is in the affirmative, he could state how much is supposed to be paid at every stage and order urgent investigations into alleged overcharges ranging from Kshs1,500 to Kshs2,000 per complainant.

The Assistant Minister for Lands and Settlement (Mr. Arap Leting): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that Land Adjudication Committees for Amwathi II and Kawiru locations in Mtuati and Ndoileli divisions respectively are overcharging for their services.

(b) No fees are supposed to be charged by Land Adjudication Committees. Their services are supposed to be rendered on voluntary basis. In future, if we find any such committees charging, we will report them to the law enforcement agencies. However, in the meantime, we are organising to issue a circular to all Adjudication Committees in the country to stop making such charges.

Mr. Maore: Mr. Speaker, Sir, I wish to express my gratitude to the Assistant Minister's sentiments expressed in the last sentence of his answer. However, I would like to tell him that I brought up this Question because it had come to my attention that the Land Adjudication Committees were charging people for the services rendered. The Assistant Minister and the Land Adjudication Committees know very well that these charges are not supposed to be there. In fact, they do not issue receipts after the payments are made, like it happens in cases of bribes. When you take a bribe, you do not issue receipts. The Land Adjudication Committees ask for something called "lunch". So, we are asking the Assistant Minister, in his circular, to define the size of the "lunch" for the Committee members.

Mr. arap Leting: Mr. Speaker, Sir, that is why we are drafting the circular. We want to make sure that the problem of land will not arise in future. If some charges are to be made, the committee concerned must accept them. The Ministry of Lands and Settlement has also to support such an agreement. As the hon. Member has mentioned, the issue of charges started as a small token of appreciation for voluntary services given by those served by the Committee. It is true that the figure for lunch has kept on rising. That is why we are going to put a stop to it.

Mr. Maore: Mr. Speaker, Sir, I express my gratitude for the quality of the answer given by the Assistant Minister. Can the Assistant Minister state when this circular will be issued? If he does this, the Ministry will hurry up and issue this important circular.

Mr. arap Leting: I cannot fix a particular date, but this will be done as soon as possible.

Question No.332

DEGAZETEMENT OF FOREST LAND

Mr. Kihara asked the Minister for Natural Resources:

- (a) whether he could inform the House how many hectares of forest land has been degazetted and alienated in the last five years; and,
(b) whether he could also inform the House the use to which such alienated land has been put.

The Assistant Minister for Natural Resources (Mr. Lengees): Mr. Speaker, Sir, I beg to reply.

- (a) A total of 9,709.26 hectares of forest land have been degazetted and alienated in the last five years.
(b) Most of the degazetted land has been given out to needy Kenyans for settlement and public utility.

Mr. Kihara: Mr. Speaker, Sir, can the Assistant Minister tell this House where the settlement of landless Kenyans has taken place in the last five years?

Mr. Lengees: Mr. Speaker, Sir, let the hon. Member ask the Question again. I did not get his question properly.

Mr. Kihara: Mr. Speaker, Sir, in which part of Kenya has this settlement taken place in the last five years?

Mr. Lengees: Mr. Speaker, Sir, there is a long list which shows the areas where the settlement of landless Kenyans took place. I think the settlement of landless Kenyans covered almost all the provinces in the country.

Mr. Ndicho: Mr. Speaker, Sir, the Assistant Minister has misled this House by saying that people who were settled on this alienated land were landless. The truth of the matter is that the people who have been allocated this land are those who already own land elsewhere. Many Kenyans do not even own an inch of land in this country when people who have a lot of land continue to get more. Can the Assistant Minister assure this House that landless Kenyans who do not own any land will be allocated the alienated forest land? If the Assistant Minister is not going to do that let me tell him that when we take over the Government from KANU we will repossess all that land and allocate it to needy Kenyans.

Mr. Lengees: Mr. Speaker, Sir, I think it will take time for the hon. Member to take over this Government. However, I want to assure the House that the Government is trying to establish those who are landless in order to settle them on degazetted forest land.

Mr. Wamae: Mr. Speaker, Sir, can we know from the Assistant Minister what policy the Government is applying to degazette forest land since Kenya has only 3 per cent of it? We should get more forest land, and not the other way round.

Mr. Lengees: Mr. Speaker, Sir, I do not know why hon. Members are so bitter about the degazettement of forest land when such land is given to purely needy Kenyans.

Mr. Michuki: Mr. Speaker, Sir, can the Assistant Minister tell this House the amount of acreage the Government plans to excise from gazetted forests for the purposes of satisfying their political objectives? In April, 1994, I asked a similar Question to the one now in this House. At that time, the Minister stated that 47,248.2 hectares had been excised from gazetted forests. How many hectares of forest land does the Government want to excise? Kenyans want to know the amount of forest land they will have in future.

Mr. Lengees: Mr. Speaker, Sir, countrywide acreage of land under forest is much bigger than the fraction of 9,709.26 hectares of degazetted forest land.

Mr. Koskei: Thank you, Mr. Speaker, Sir. I really want to thank the Government for having settled my people in Tuinet and Ndoinet Settlement Schemes. When is the Government going to issue these people with title deeds?

Mr. Lengees: Mr. Speaker, Sir, that is a different question. However, this will be done as soon as the settlement process is completed.

Mr. Maore: On a point of order, Mr. Speaker, Sir. This is a very serious point of order. The House wants to know the amount of degazetted forest land. The Assistant Minister has said that there are 9,709.26 hectares of forest land that have been degazetted and alienated in the last five years. On April 6th, 1994, the then Minister actually gave a breakdown of 47,248.2 hectares of degazetted forest land. Which is the right answer?

Mr. Lengees: Mr. Speaker, Sir, I think the hon. Member is referring to the old Question of 1994. This is a new Question which covers the last five years.

Mr. Kihara: Mr. Speaker, Sir, the 9,709.26 hectares cover the last five years, while the 47,248.2 hectares covered 10 years up to 1994. So, the Assistant Minister is not correct to say that only 9,709.26 hectares of forest land have been degazetted. Has this alienation of forest land resulted in change of district boundaries? This is what has taken place in some areas. Laikipia and Baringo Districts' boundaries have changed as a result of alienation of forest land.

Mr. Lengees: Mr. Speaker, Sir, I am not aware of that.

QUESTIONS BY PRIVATE NOTICE

MORTUARY FACILITIES FOR MUKURWEINI HOSPITAL

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

(a) Is the Minister aware that since Mukurweini Sub-District Hospital was opened on 8th February, 1997, theatre machines and mortuary cold rooms have not been installed?

(b) Is he further aware that corpses are usually left in the wards with sick patients for almost three days due to lack of mortuary facilities?

(c) If the answers to "a" and "b" above are in the affirmative, when will the Minister, as a matter of urgency, install the theatre machines and make the mortuary cold rooms operational?

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

(Question dropped)

Dr. Ochuodho: Mr. Speaker, Sir, before I ask the Question, I want to thank you, this being a matter of importance and urgency, for allowing it to be considered by Private Notice.

PURIFICATION OF DRINKING WATER IN NYANZA

Dr. Ochuodho: Mr. Speaker, Sir, I beg to ask the Minister for Water Resources the following Question by Private Notice:-

(a) Could the Minister confirm or deny that the soap solution "JIK" is the main detergent currently being used in various parts of Nyanza Province to purify drinking water?

(b) If the answer to "a" above is in the affirmative, could he inform the House what remedies are being taken to rectify this grave anomaly?

The Minister for Water Resources (Mr. arap Ng'eny): Mr. Speaker, Sir, scientifically speaking, this Question is deep and wide. For that reason, I would like to request for more time, so that we can answer this scientific Question scientifically.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. You notice that many of us have been elated because, for the first time, we were on the brink of hearing an answer from hon. arap Ng'eny. Even this early privilege is just slipping away from us, because the Question is deep. Did he expect us to ask shallow Questions?

Mr. Speaker: Order! Order! I think, hon. arap Ng'eny has not only answered Questions here, but has also contributed to debates. So, he is not a stranger to the House.

Dr. Ochuodho: Mr. Speaker, Sir, the issue at hand is a very grave matter. I have confirmed with the Provincial Medical Officer of Health, that people are consuming poison because "JIK" detergent is being used to purify water in Nyanza. While I am delighted with the concern of the hon. Minister, I will only agree that the Question be deferred, on condition that he promises a very comprehensive answer.

Mr. Speaker: Very well, Dr. Ochuodho! Is Tuesday okay with you, Mr. arap Ng'eny?

The Minister for Water Resources (Mr. arap Ng'eny): Mr. Speaker, Sir, I request that I be allowed to reply to this Question on Thursday.

Mr. Speaker: I think, the first thing that strikes me in this Question is the word "JIK" which we associate with a washing detergent. I think that is what is worrying Dr. Ochuodho and the Minister. If the Minister thinks that by Thursday he will have looked into this Question properly, because this is a matter that actually concerns the lives of people, I am inclined to agree with the Minister, and defer the Question to Thursday next week.

(Question deferred)

BILL

Second Reading

THE KENYA COMMUNICATIONS BILL

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Speaker, Sir, I beg to move that The Kenya Communications Bill be now read a Second Time.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I wish to seek the guidance of the Chair on this particular issue on the Order Paper. I wish to propose, and that is why I am seeking your guidance.

Mr. Speaker: How can you "propose", when you are seeking my guidance?

Mr. Anyona: Mr. Speaker, Sir, I am seeking your guidance on my proposal as concerns procedure. In the first place, my proposal is that this Bill, and the next one, are not properly on the Order Paper. If you consider that this is not the stage I should raise this issue, then I would want to raise it after he has moved the Bill, that this Bill is not properly before the House. So, I would like your guidance---

Mr. Speaker: Why is it not before the House and it is on the Order Paper?

Mr. Anyona: Mr. Speaker, Sir, the Kenya Communications Bill is not properly on the Order Paper, and therefore, will not be properly before the House even after it has been moved. This is because, in accordance with the provisions of Standing Order No.101, the Bill was read the First Time before the House on 9th June, 1998. According to the provisions of Standing Order No.101(a), paragraph 1, the Bill was then, accordingly, committed to the relevant Departmental Committee on the same day.

Mr. Speaker, Sir, according to the provisions of Standing Order No.101(a) paragraph 3, the relevant committee was required to report to the House within seven days. Now, the definition of "day" under Standing Order No.2, is clearly a Sitting Day, it is not a calendar day. If you reckon, from 9th June, 1998 to this day, today is the 14th day. So, the first thing is that the committee has not complied with the rules of the House. The second proposal is that, even as we are sitting here now, the Committee has not reported to the House. There is no report of the committee before the House.

Mr. Speaker, Sir, the meaning of Standing Order No.101(a) paragraph 3, as I understand it, is that, when the committee presents its report, the Minister then appoints a day when the Bill can be read a Second Time. My understanding is that the House is required to get sometime to read the report. I think it applies to both the first and the second Bills.

Mr. Speaker: I think I get the gist of your complaint. It is, that the Bill has not been reported to a Departmental Committee and the Departmental Committee has not made a report to the House, as it is mandated under Standing Order No.101(a). The Departmental Committee is, as a matter of fact, commanded by that Standing Order, to report to the House within seven days. Now, as far as you are concerned, they have not done so, and therefore, you are saying that because the Departmental Committee has failed to comply with that Standing Order, the Bill should never come before the House, until the Departmental Committee complies with that Standing Order.

There are two or three things I would like to say about the problems you have raised before the House. First, this is a new procedure and this is the first time we are adopting it. It is the first time we are using this kind of procedure on Bills. Secondly, as the administration arm of the House, there have been several cases where we find it extremely difficult to get the relevant Departmental Committees to convene a meeting, generally for lack of quorum. Therefore, many Bills that are being committed to the various Departmental Committees do not get considered, because, in more cases than not, the relevant Departmental Committees do not raise a quorum. Therefore, they do not meet. The third observation is that Standing Order No.101(a), as it is, I do not think, was ever intended to mean that if a Departmental Committee does not meet within the time stipulated, and therefore, report back to the House within the seven days, that that Standing Order can be used to delay the entry of a Bill to the House. That would never have been the intention. It is not the Minister's fault that the committee did not give a report. It is the fault of the committee not to have made a report.

My conclusion is that if the committee has not made the report within the time mandated to it--- In fact, they are actually obligated to make the report within seven days. Now, if they do not do that, in my view, the Minister is at liberty to have the Bill read a Second Time, and proceed. This is because it is assumed that the Departmental Committee has refused or neglected to make a report to the House, and whatever the House may deem to do about that Departmental Committee is entirely upon it. So, that is my ruling; the two Bills are properly before the House.

Mr. Raila: On a point of order, Mr. Speaker, Sir. I am not rising to challenge your ruling. However, we would like to get a clarification. The reason why this House decided to go back to the committees was because we felt that we were not doing justice to Bills that were to be presented in this House. That is the reason why we needed to go to the committee practice, as is practised in other Commonwealth Parliaments. To the best of my knowledge, where this committee system is in practice, a Bill is never brought, introduced and debated in the House before a committee has looked into it. I think we will be creating a very dangerous precedent if we were to say that under Standing Order No. 101---

Mr. Speaker: Order! I did not complete what I should have said. I appreciate your sentiments hon. Raila, but let me appraise you on what took place. I think I made some personal omissions. Although the Committee did not comply with Standing Order No. 101, I am informed that as a matter of fact, the Committee did actually meet and deliberated upon this Bill. I am further informed that the Committee has already compiled a report, and it was chaired by hon. Mbela. Thirdly, I am informed that there is already a mutual agreement between the Minister and the Chairman of the Departmental Committee; that upon the Minister moving the Bill, the Chairman of the Departmental Committee will second the Bill, explain to the House what transpired, and inform the House of any recommendations that they may have made on the Bill. I am not saying that this is not what ought to have happened. There is a difference between "is" and "ought". The "ought" bit is that the Committee ought to have reported to the House within seven days. The "is" bit is that the Committee did not report to the House within seven days. My view is that, that should not tie the Bill forever, and make it a captive of a Departmental Committee, which did not comply with the Standing Orders.

The practical thing to do is this: As we try to develop a working committee system, we shall require every hon. Member to assist. I agree with hon. Raila that it is a very useful tool of the House. As we try to develop this system, let us also find out ways in which we can make it work much more smoothly. The first

thing is that every hon. Member of a Departmental Committee should attend the Committee's meeting, when he or she is called upon to do so. Secondly, every Chairman of a Departmental Committee must read very carefully, Standing Orders Nos. 101 and 101 A, and comply therewith. I think it would be a very good practice if every Minister presenting a Bill, that has been considered by a Departmental Committee, would give the privilege of seconding the Bill to the Chairman of the Departmental Committee. This is because the Chairman of the Committee will have looked at the Bill very well, together with the other hon. Members, and he will be speaking on behalf of the Committee, when presenting the report. So, this is what we intend to do. As we try to find a new course, let us all make it possible for us to function. I am appealing to the House to look at the new procedures, and rectify them where we think there is a bottleneck.

(Several hon. Members stood up in their places)

Are we having a contest between the Chair and hon. Members? I am very receptive of the ideas, but as I have said, I have already made a ruling that the Bills are before the House. This is because in my view, the inactivity or the inaction of a Departmental Committee should never hold a Bill or Parliament to inactivity. The basic work of Parliament is to legislate. But, nevertheless, let us hear what hon. Orengo has to say.

Mr. Orengo: Thank you very much, Mr. Speaker, Sir. I am concerned that if we make a false start, it may impact on what may happen in future.

(Mr. Masya consults with the Speaker)

Mr. Speaker, Sir, the Clerk is consulting with you. I do not know whether you are listening to me because the Clerk, in his usual fashion, is misleading you.

Mr. Speaker: I am listening to you!

Mr. Orengo: But I am normally worried when Mr. Masya is around the Speaker.

Mr. Speaker: Order!

Mr. Orengo: I am sorry and I withdraw that! I think this would really be a false start if we elect to proceed by saying that the Committee messed up and, therefore, we should proceed without the report. I think that would be a false start. First, if you allow the Chairman of that particular Committee to second this Bill, when he is the one who was supposed to have reported to us, so that we can deliberate on this Bill with some recommendations or impact from what they discussed, it is trying to absolve the Chairman of that particular Committee on a very important responsibility, which he should have met before this Bill was placed before the House.

Mr. Speaker, Sir, I would urge you - because last week, I was in a court where Members of the Seventh Parliament were being asked about certain laws that they passed, which were now tying their hands--- We have also made a rule that there is a thing that is tying our hands, and you are trying to circumvent it. I think the best way out is to ensure that, that particular Standing Order is complied with to the letter. I think that would impact---

Mr. Speaker: Very well! I think---

Mr. Orengo: I am sorry, Mr. Speaker, Sir. I am very gentle today and I do not want to---I really plead with you, and I can read your mind today, to beg the Minister to shelve the Bill for the time being, so that we can judge for ourselves whether the committee system is working. If we have that report, we are going to debate this Bill with some information and facts, rather than going on with it the way it is.

Mr. Speaker: Can I revert to what I said? It is all very easy to see shortfalls. But it is very difficult to prescribe a way out. If hon. Members look at Standing Order No. 101A(3) part (iii), it says:

"The Departmental Committee to which a Bill is committed shall present its report to the House within seven days of such committal and, thereafter, the Bill shall be ordered to be read the Second Time on such a day as the designated Minister shall appoint".

First of all, when it says that the Chairman shall present a report to the House, it does not say in what form the presentation will take place; whether by laying the report on the Table, or whether by bringing it as a way of debate, which would make the other Bills to come totally irrelevant. If we begin talking about the report of the committee without hearing what the Chairman has to say, it is like putting the cart before the horse. So, these things must somehow be harmonized. If you look again at Standing Order No.101A(3), it is so silent. It says:

"The Departmental Committee shall make a report to the House within seven days."

Nothing else below that tells us what happens if they fail to make a report. I have a secret weapon in

Standing Order No.1 and it says: "If the rules are silent, Mr. Speaker shall decide" and being cognisant of the fact that the rules are silent as to what happens when a Departmental Committee has not made a report within the stipulated time, Mr. Speaker now decides that the Bill shall continue, but shall ask the Chairman of that Departmental Committee to second that Bill, if he is so minded, and if he is not so minded, the Chair will give him the earliest opportunity to one, appraise the House on their proceedings; and two, if he has any report ready, to lay it on the Table of the House. But we must also be hon. Members, and realistic on what is happening generally within the House and the country. I think we have just entered the new financial year after closing the last financial year. I know that last week, it was impossible to get money anywhere in any Government department, because this House ordered that all the monies that were left in the last financial year be returned by 30th June, and that until 26th June, when the House approved half of the Appropriations for the year beginning 1st July, there was no money. So, maybe, even the Chairman has a problem with that report, but he will tell us. But for now, the rules are silent and, therefore, if the committee fails to make a report within the stipulated time, that should never hold the House at ransom. Proceed, Mr. Minister.

The Minister for Transport and Communications (Mr. ole Ntimama): Thank you very much, Mr. Speaker, Sir, for making that ruling. First of all, I do not know what the Chairman of the relevant Departmental Committee is going to say, but for the information of the House, I attended two sessions of the Departmental Committee, and each of them took more than one hour. We deliberated on the Bill and we did agree on the way the Bill should actually go. So, I thank you for that ruling because I, as the Minister responsible for presenting this Bill in Parliament, think I have done my duty by attending the committee and---

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

The Minister for Transport and Communications (Mr. ole Ntimama): Usitusumbue Bwana!

Mr. Anyona: Mr. Speaker, Sir, siwasumbui wahe. Wabunge. I do not know why the Minister is getting angry. He has done his part, but it is the Committee of the House that has not done its part. This is a very grave matter, and we are very concerned that the committees should take off on the right foot. The Minister has just started telling us that he had, in fact, met with the Committee, which means there is a report somewhere. I do understand that where the House is totally paralysed, Mr. Speaker must rescue the House. In this particular case, there is a report somewhere. Even now the Chairman can be given the opportunity to present the report before the Minister moves the Bill. If that is not possible---

Mr. Speaker: Order! Mr. Anyona, I know you love the rules of the House, but the only thing you do not love about the House is to respect a decision already made by the Chair. I have already made a ruling. I think the only way you can overturn that ruling is by bringing a Motion, under the relevant Standing Order, to reverse the ruling of the Chair. I have already done that and it will not help the House, if we keep on see-sawing. That is the only reason Mr. Speaker makes a decision on behalf of the House. It may not be relevant, but I have to stand by the decision I have made. I have already done it and I think, it is in the interest of the House that you too must respect the rules of the game! Proceed, Mr. Minister.

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

Mr. Speaker: Order! Order!

(Several Members stood up in their places)

Hon. Members: On a point of information, Mr. Speaker, Sir. We are Committee Members.

Mr. Speaker: Order! Order! I will give Committee Members the earliest opportunity.

The Minister for Transport and Communications (Mr. ole Ntimama): Thank you very much, Mr. Speaker, Sir, for your ruling. As I said, I have met the Committee twice and the other important thing is that, if the Committee has failed in any way to present their report, I do not think they can hold the Minister hostage from presenting the Bill. I have---

Mr. Michuki: On a point of order, Mr. Speaker, Sir. I am not raising a point of order to challenge the Minister, but I have been perturbed by the allegations that some Departmental Committees have failed even to form a quorum. I am in one of the committees; Finance and Planning, and I think there are administrative hiccups in this Parliament. There are certain impediments---

Mr. Speaker: Why did you not raise that issue at that stage? We are now on the Bill.

Mr. Michuki: I know we are on the Bill, Mr. Speaker, Sir---

Mr. Speaker: Order! Order, Mr. Michuki! I gave hon. Members a chance at an earlier stage, we are now on the Bill itself. I am also informed by some Members of this relevant committee, that, indeed, they had met and that they were ready with the report - I am sure Mr. Mbela will say the same - but they did not just know how to

report. Now, I have told them how to do it and I am not telling them alone, but all the Departmental Committees. In fact, I must come back to this House, after having studied carefully the provisions of Standing Order No.101A(3), and also practices elsewhere, to guide this House as to how the Departmental Committees can access to the Floor of the House and present a report, and what form that report should take.

As you can see, it is not something I can stand here and just tell you off-head; it is something that we need to study. I have asked any hon. Member who has good views on how we can polish and make our committee system work, including the modern form of reporting, to put it in a form of memorandum to Mr. Speaker, and Mr. Speaker will look at it and take into account the sentiments expressed before he reports back to the House. It is the duty of all of us to make this House work and together we shall chart a new course for our committee system.

Very well! Proceed, Mr. Minister.

Mr. Orengo: On a point of Order, Mr. Speaker, Sir. There is already a provision in the Standing Orders. Standing Order No.151(1) is the one which establishes Departmental Committees. It is on page 59 of the Standing Orders booklet and it states as follows:-

"There shall be select committees to be designated Departmental Committees which shall be nominated by the House Business Committee at the commencement of every Parliament".

So, Departmental Committees are select committees. How do they report?

Standing Order No.162 states:-

"The report of a select committee shall be signed by the Chairman on behalf of the committee".

Standing Order No.162(2) states:-

"A report of a select committee, together with the minutes of the proceedings of the committee, and with such note or record of any evidence by the committee as the committee may deem fit, shall be laid on the Table of the House by the Chairman of the select committee or by some other member authorized by the committee in that behalf".

So, there is already a procedure for reporting.

Mr. Speaker: Actually you are wrong, Mr. Orengo. You are absolutely wrong.

Mr. Orengo: How wrong am I?

Mr. Speaker: Mr. Orengo, sit down! I will tell you why you are wrong. There is a difference between Departmental Committees and Select Committees. It does not pay for hon. Members from the Benches to try and impose upon Mr. Speaker their opinions on the rules or procedures of this House. I do not agree with you. We shall continue now.

(Mr. Orengo stood up in his place)

Mr. Speaker: Order! Order! Please give me a memoranda if you want. Proceed, Mr. Minister!

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

Mr. Speaker: Order! Order, Mr. Orengo! Why do you think you can supersede every other Member in this House including the Chair? I will not tolerate that, Mr. Orengo! You must respect the Chair. Proceed, Mr. Minister!

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

Mr. Speaker: Your point of order is overruled.

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Speaker, Sir, I have just said very, very clearly---

(Mr. Orengo stood up in his place)

Mr. Speaker: Order! Mr. Orengo, I have invited your view. That is your view and your view does not bind the Speaker.

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

Mr. Speaker: Order! Order! Standing Order No.162 which you referred to---

Mr. Orengo: I referred to Standing Order No.151.

Mr. Speaker: Standing Order No.162 is what you referred to. I do not understand this kind of behaviour. You understand the rules that when Mr. Speaker is on his feet, you will keep quiet. There is a feeling that you think that the Chair is actually subordinate to you. Now, give the Chair and the House respect. If you want to be respected, thou shall respect. Now, Standing Order No.162 that you referred to states as follows:-

"(1)The report of a select committee shall be signed by the Chairman on behalf of the

Committee. Provided that if the Chairman is absent or is not readily available the committee shall nominate another member to sign the report on behalf of the committee.

"(2) A report of a select committee, together with the minutes of the proceedings of the committee, and with such note or record of any evidence by the committee as the committee may deem fit, shall be laid on the Table of the House by the Chairman of the select committee or by some other member authorized by the committee on that behalf".

You have also referred to Standing Order No.151.

Mr. Orengo: Read it!

Mr. Speaker: Order! You cannot just order me around! Standing Order No.151 (1) states as follows:-

"There shall be select committees to be designated Departmental Committees which shall be nominated by the House Business Committee at the commencement of every Parliament.

(2) Unless the House otherwise directs, the Departmental Committees shall be as set out in the Schedule.

(3) Each Departmental Committee shall comprise a Chairman and not more than ten members.

(4) The function of the Departmental Committees shall be---"

Mr. Orengo: On a point of order, Mr. Speaker, Sir. Standing Order No.162 talks about select committees. Standing Order No.151 states that Departmental Committees are select committees. That is the only point that I wanted to bring out. So, Departmental Committees are select committees.

Mr. Speaker: Order! Order! Mr. Orengo, you are entitled to your interpretation because if you look also at the marginal notes, and I do not think we are going to make this place a court, because I also understand that when you are being trained as a lawyer there are rules called rules of construction of documents on how you interpret documents--- What assists you is the language and, among others, the marginal notes.

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

Mr. Speaker: Mr. Orengo, I think I am getting a little upset with you. Can we now make the Speaker the Speaker and a Member a Member? Now, I would like to invite hon. Members, including the hon. Member for Ugenya and any other hon. Member interested, to please come forward and assist this House and the Speaker in finding an easy way in which the Committees can report; what mode the report will take; and the way it will be debated. This is your House and I am available at your service. The easier the procedure the better for me. So, please can we now proceed? I invite all of you to please come and make a memorandum and see me. Proceed, Mr. ole Ntimama!

The Minister for Transport and Communications (Mr. ole Ntimama): Thank you very much, Mr. Speaker, Sir. I can see even in front of me there are some hon. Members who are Members of the Departmental Committees. I hope in the course of time they will be able to get time to explain to the House what really happened. They should also state whether we discussed and scrutinised the Bill properly or not. I am beginning to become suspicious. I think the Opposition is blocking the passage of this Bill in the House because some hon. Members want the IMF not to give funds to this country. In fact, it was one of the conditionalities put by the IMF.

Mr. Raila: On a point of order, Mr. Speaker, Sir. The Members of the Opposition are very attentive and there can be no suggestion that the Members of the Opposition are trying to block this Bill. Is the Minister in order to state in this House that Members of the Opposition are trying to block this Bill so that the IMF does not give this country funds?

Mr. Speaker: Order! In all honesty, my reading of the mood of the Members and even the Members who have been standing and my own admission, is that just of our common concern about getting our way forward. That is to get the procedure right and make the House function. I do not think there is any ill-will on either the Government side or the Opposition side. I think as hon. Members have noticed, I have invited all hon. Members who have suggestions as to how we can smoothen the way in which we can do our reporting, to come forward. I can also further say and ask Members who have suggestions on how to improve the whole working of the committee system to come forward and help us. This is because it is a new system. That is where the whole world is going towards the committee system and we should join the world. We should not be left behind by the world. Hon. ole Ntimama, you will be left behind if you laugh when Mr. Speaker is addressing the House. So, let the world not leave us stagnating. Let us try to improve what we already have. We made a bold move during the Seventh Parliament to introduce this legislation. It is up to the Eight Parliament to refine and make it work. This is what I saw to be the Members interest and this is where I expect the House to help me. I am all prepared to work with Members who want the system to work. Proceed, Mr. ole Ntimama.

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Speaker, Sir, I was only

being a bit suspicious, but I am not really serious about the whole thing. Now, Mr. Speaker, Sir---

Dr. Ochuodho: Mr. Speaker, Sir, as Members of the Committee, we are still a bit saddened. We would want it to go on record that the Committee was ready to report within the stipulated time, but we do agree with you that Standing Order 101, as it stands now, does not exactly say how we should have reported.

Mr. Speaker: But Mr. Ochuodho, I thought I had already said that on your behalf. Thank you for repeating. Proceed Mr. Minister.

The Minister for Transport and Communications (Mr. ole Ntimama): Thank you very much, Mr. Speaker, Sir. I hope we will now move together and debate the Bill to give Members the opportunity to give their own contributions on how the Kenya Posts and Telecommunications Corporation is going to be liberalised. The objective of the Bill as shown very clearly, is to liberalise the communication services provided by the Kenya Posts and Telecommunications Corporation (KPTC).

The Bill is going to establish three entities. The Corporation is going to be split as stipulated in the Bill. One entity is going to be the Communications Commission of Kenya and, as we go down in the Bill, I will be able to explain the functions of the Commission. The other entity is the Telecommunications Company of Kenya, which is going to be known as Telkom Kenya. The third entity from the separation will be the Postal Authority of Kenya.

Mr. Speaker, Sir, this Bill replaces and repeals the Kenya Posts and Telecommunications Act, Cap.411 Laws of Kenya. As I have seen, and it probably can be witnessed by most hon. Members, this Bill has been very anxiously awaited by organisations, the donor community, the local and international investors. But I want to admit that we were unable to pass this Bill through the Seventh Parliament.

First of all, this Bill was published during the dying days of the Seventh Parliament and we were competing with the Power Bill and luckily, the Power Bill passed through this House and the Communications Bill was delayed.

The reasons why the Kenya Communications Bill was delayed is especially, as I have said, that hon. Members were engrossed in the electioneering mood and most of them were in their own constituencies. Indeed, it will be remembered that lack of quorum became the order of the day and it was very difficult to transact any business during those dying days of the Seventh Parliament. This Bill then, was not put through this House, but we are very lucky---

Mr. Anyona: On a point of order, Mr. Speaker, Sir. We are trying to bend over backwards to see if we can transact serious business before this House. But is it in order for the Minister to claim that the reason why this Bill did not come to this House and did not go through was because of lack of quorum? Mr. Speaker, Sir, you notice that on the last day during the amendment of the Constitution, there was no question of lack of quorum. If there are policy matters that delayed this Bill, that is alright, but this Bill never came before this House. So, is he in order?

Mr. Speaker: Which quorum?

Mr. Anyona: Mr. Speaker, Sir, you were consulting with the hon. Imanyara. The Minister is trying to explain why this Bill did not go through the Seventh Parliament. He gave two reasons: One, Members were engrossed with the electioneering process and two, there was no quorum in the House to pass the Bill. Yet, I remember I was here and the Bill never came to this House. It came for First Reading and it never went beyond that, for reasons which we related to be policy and other more urgent matters.

Mr. Speaker: Well, just to finish this issue, or to complete this issue, that was another Parliament and once dissolved, the matters of that Parliament ended there. We are now in a new Parliament with totally new things. So, could we now talk about the Bill before this House?

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Speaker, Sir, I do not want this to pass because I did not say anything. But, personally, although we are not going to refer to the Seventh Parliament, I know very well that several times this House was afflicted by lack of quorum and I consider that point of order by the hon. Anyona to be thoroughly frivolous and, please, let me continue with what I want to say.

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

Mr. Speaker: What is happening? What is it, Mr. Anyona?

Mr. Anyona: Mr. Speaker, I have tremendous respect for hon. Ole Ntimama and he knows it, long before he came to this Parliament, when he was the Chairman of the County Council of Narok. My point of order is not frivolous. I was just trying to point out what I thought was the correct fact. Now, is he in order to determine that my point of order is frivolous?

Mr. Speaker: Order! Order! Can we now leave all the preliminaries and let us come to the substance of the Bill? Just the substance of the Bill and no further preliminaries. Mr. Minister will you now go to the meat?

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Speaker, Sir, I was just saying that we were not able to pass this Bill through the Seventh Parliament for many reasons. But now, it is not because there was any other reason at all. In fact, as I have said, some organisations and the media were actually anxious to see that we put this Bill through Parliament. Three months ago, even the *East African* came out with an article to say they did not think the Government had the political will to bring this Bill to Parliament, which is untrue. What I am saying is that there was no hidden agenda, hypocrisy or any cynicism. The bottomline is that we have the political will, we are bringing this Bill to this House to make sure that it is thoroughly debated by hon. Members and, hopefully, we will accept it, so that this liberalisation process that we are looking for, especially to split the KPTC into three entities, will be able to operate and help the people of Kenya in the liberalisation process and help the economic development of this country.

Mr. Speaker, Sir, hon. Members will remember that as early as February 1996, His Excellency the President launched what we call the Kenya Policy Framework Paper. That Paper was to show, very clearly, the policy on how we are going to liberalise the major sectors of the economy of this country, so that we can help the economy grow at probably six per cent annually. Following the Kenya Policy Framework Paper, the Minister for Transport and Communications also put out another policy Paper which explains very clearly how the communications sector was going to be liberalised for the benefit of the people of this country.

Mr. Speaker, Sir, you remember very well that there was another Paper, which also indicated how we will be industrialised before the year 2020. All those policy papers were combined. They had only one major objective: To liberalise and reform all major sectors of the economy and move forward in the reform process. In fact, those policy papers became a vehicle, and provided the momentum for us to push forward and accelerate the liberalisation process, as we are doing now, through the policy of free market oriented economy. This is actually what we are doing now. We have brought this Bill to this House, because we believe that, the liberalisation and privatisation these organisations will help this country to start developing, and join global community in the reform process which, they think, will make their countries and this country grow economically.

Mr. Speaker, Sir, as will be seen from the Bill and the Memorandum, the major objective of this Bill is liberalisation. This liberalisation has benefits. If we liberalise or reform the telecommunications sector and other sectors, then these reforms will be stimulants to economic growth. They will definitely improve the socio-economic and political development of this country. The Government has since, even before the Policy Framework Paper, recognised the fact that privatising the telecommunications sector is vital to the country's economic development, productivity and competitiveness.

Mr. Speaker, Sir, the fundamental structural reforms which will be initiated by the liberalisation of this sector will bring in new technology and dynamic market forces which will interact and promote industrialisation of this country. The liberalisation process and reforms started in earnest, during the collapse of the Soviet Union and Communism. It was then that most of the governments of the world realised that they were not going to hold on to public companies or corporations---

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I did hear the Minister talk of the "death" of communism. But I thought that communism is very much alive in China and Cuba.

The Minister for Transport and Communications (Mr. Ntimama): Mr. Speaker, Sir, I talked of the collapse of the economic system of the Soviet Union. Indeed, the Soviet Union as an entity, then collapsed. The hon. Member cannot deny that. I do not want to pursue that issue of communism because I might cause problems here. The thing is that, I do not mind hon. Anyona interjecting with good points of order, but if he wants to tease me, then I am not prepared to hear that kind of a thing at all. I am saying that since the collapse of the Soviet Union, most of the governments of the world have realised that they cannot hold on to public corporations, most of which were not making any money at all. They were collapsing and were not assisting the economies of those countries. It was virtually the first clear light to all nations of the world that, we must privatise and reform in earnest. In fact, if you had a hard look at the liberalisation process, you would see that it had a great impact on economies of the countries of the world. I am told the two most important things today are liberalisation and globalisation. We are now getting into the process of liberalisation and globalisation.

Mr. Speaker, Sir, I am sure that the process of liberalising the telecommunications sector will give our people business opportunities in the rural and urban areas, so that they can probably make profits and so forth. Once this sector is liberalised, as I hear from the countries which have already liberalised this sector, it will generate wealth and create jobs. Most of the countries that have liberalised this sector in Africa, Asia and Latin America have seen the fruits of liberalisation. Liberalisations has been a major factor in raising economic growth rates in those countries.

Privatisation, especially of the telecommunications sector, will be a tool in education, information and communication to our people. If we do it well, without any cynicism or hypocrisy, and we all come together and

make it a success--- I hope that some of you, hon. Members, will give us ideas on what we are going to do. If those ideas are reasonable, we will definitely accept and incorporate them into the whole process of liberalisation. We also believe that, this liberalisation will improve the lifestyle of our people.

The other objective of this Bill, as indicated in the Memorandum, is that we must attract investors. All the countries of the world, including the richest countries, like the United States and Japan, are still looking for outside capital to be able to develop their economy. We do need investors and capital to be injected into our economy. We believe that, investors and their capital will encourage high growth rate of the economy.

Mr. Speaker, Sir, it is also important to note that all investors are very sensitive and shy; they would like to put their money in a friendly environment where there is stability, and where they think their investment will be secure. It is one thing to attract an investor and another thing to keep him. It has to be realised that we have to be very careful because they will try to find out about interest rates, levels of inflation and the security situation in the country. I can assure you that the Government, and hopefully, our counterparts in the Opposition, will work together to try and create a friendly environment to enable investors to come in and invest without fear at all.

Mr. Speaker, Sir, currently, we have the problem of raising taxes. But if we liberalise our economy properly, as the specialists have said, we will, probably, be able to raise revenue without raising taxes. I think that is the most important thing because, apart from the required capital that the investors will bring into the country, they will also bring in the latest technology, expertise and management experiences to our companies and industries. The other important thing is that, the investors will want to know whether they will be able to repatriate the profits they will make. We are very particular about the issue of fostering genuine partnership in this business, so that we can enhance management skills through free and open markets. I can say here without any doubt, that those of you who will participate fully in the business opportunities of the telecommunications sector in this country, will find that it is a very lucrative business. Indeed, we will encourage local investors to invest in this sector as we liberalise it. It can easily be said that privatisation and foreign investment evolve simultaneously.

Mr. Speaker, Speaker, Sir, as I have said, the objective of this Bill is to split the present Kenya Posts and Telecommunications Corporation into three entities. One of the entities will be the Communications Commission of Kenya (CCK). The other entity will be a company to be known as Telecoms Kenya Ltd. The third entity will be the Postal Corporation of Kenya. Of the three entities, the Communication Commission of Kenya is the most important. Part Two of this Bill establishes the Communications Commission of Kenya. This Commission will be a regulatory body. It will regulate, co-ordinate and arbitrate in all telecommunication operations in the country. It will be a corporate body which will be capable of suing and being sued. It will have its headquarters in Nairobi. Apart from regulating and arbitrating in telecommunications operations, the Commission will be the licensing authority for all operators, entrepreneurs and service providers in the sector. It will licence telecommunications corporations and radio communications. In fact, I think, it will be responsible for licensing frequencies as I am sure, the Minister for Information and Broadcasting will still be licensing all radio and television networks. The Postal Corporation of Kenya will also be a body which will license everybody who will venture into the business, including hon. Members and any other mwananchi, as we liberalise the sector.

Mr. Speaker, Sir, I will probably continue to repeat this one, because every entity has got certain special functions to perform. Apart from, as I have said, all the other functions, the most important function for everyone of these entities is to promote and foster competition. In all businesses, especially when we liberalise the sector, you have got to support and foster competition. Otherwise, we will be accused of trying to maintain and promote monopoly when we are, really, trying to de-monopolise.

The other very important thing that the Commission will do is that, it will try to harmonise and bring all tariffs to one level and target. Be it for postal or telecommunications services, or the Telecom Kenya Ltd itself. The Communications Commission of Kenya will be able to harmonise all the tariffs in the sector. This is because it is important for the tariffs to be harmonised and charges to be brought to reasonable levels. This way, we will be protecting the customer, the consumer and the purchaser. This is the responsibility of this Commission. All this will, of course, be achieved with the assistance of the Government. It is also this Commission that will ensure that, all service providers and operators will keep all their operations at very high international standards. In order to maintain the required high standards, the equipment and technology to be used must be of very high standards.

Mr. Speaker, Sir, the other very important role of the Communications Commission of Kenya is that, it will ensure that the rural people are also served. I will, later on, say something briefly about universal access to telecommunications. Our people must have access to telecommunications facilities. But the most important thing here, is to make sure that the services provided to the rural communities will be efficient, affordable and of good quality.

Mr. Speaker, Sir, as we privatise, the most important thing is to connect telephones. This Commission is going to make sure that all the operators have a duty and an obligation to move all over the country and connect

telephones and other services that will be required. The Commission is also obligated when licensing people, to impose certain conditions on the licences. The conditions will be those, that will make sure that all the operators go everywhere in this country without any discrimination at all, to serve all the people and extend the inter-connectivity to everybody.

Mr. Speaker, Sir, this Commission is a very important entity in the privatisation and reform of the telecommunications sector. Members of the Commission and the Commission itself, will have to be responsible, credible, fair and transparent when it comes to issuing licences. If they become unfair and use the policy of privilege and patronage, then they will have completely killed the whole spirit of privatisation. By so doing, they will frustrate all the operators in the sector. So, this is a very important Commission and it is one that we think will be responsible to make a success or failure of the whole of the privatisation process as we move on. This Commission will be composed of the following: A Director-General who will be responsible for the day-to-day administration of the Commission. Although this is a very important person, he will have no voting rights in the Commission. The other members will be, the Permanent Secretaries in the Ministries of Transport and Communications, Information and Broadcasting, Finance and the Office of the President, who will probably be dealing with matters of security. The law allows for five other members to be appointed from the private sector.

Mr. Anyona: The Bill or the Law?

The Minister for Transport and Communications (Mr. Ntimama): The law? We have not enacted and so, it is still a Bill! Thank you very much for that correction.

There will be other five members to be appointed in this Commission. One of the members will probably be from the legal profession. There will be a lot of business to be transacted and we need a lawyer in the Commission. The other members will probably come from the Kenya Association of Manufacturers, the Kenya National Chamber of Commerce and Industry, the Association of Kenya Engineers, and we will probably appoint an engineer who has a bias in telecommunications. The other member will be a prominent personality who is supposed to represent the rural community, probably a farmer or a person who understands the problems of the rural people and can represent them in that Commission. Those will be the members of the Commission.

Mr. Speaker, Sir, we now come to the second entity after the separation; the Telecoms Kenya Limited. This one is going to be a company which will be incorporated in the Companies Act and it will be a company on its own. It will have a Board of Directors, capable of suing and being sued and so forth. The Telecoms Kenya Limited will take over, all the services that are now being provided by Kenya Posts and Telecommunications Corporation all over the country. The equity distribution of the company, the managers, the Board and probably, the Government advisors and consultants will have two options. One option is that, Telecoms Kenya Limited will own 70 per cent of the shares and 30 per cent of the shares will be floated in the Nairobi Stock Exchange for the people of this country. The other option is that as businessmen know, Kenya Posts and Telecommunications Corporation has definitely, some financial liability and has borrowed money either from outside or from within this country. This second option will be that Telecoms Kenya Limited will invite a strategic investor who will be required to inject in capital to strengthen the capitalization of the capital base of Telecoms Kenya Limited. It will probably be able to help in off-setting the loans and other liabilities from Telecoms Kenya Limited. This company will probably own about 26 per cent of the shares and 20 per cent of the shares will go into floatation. Telecoms Kenya Limited will still retain a majority of the shares, which is about 54 per cent. This is the second option. Some of us and some of the experts whom we have talked to prefer the second option, because we believe that the injection of capital for strengthening Telecoms Kenya Limited, will help and enable it to take off immediately and to be able to grapple with the problems of communications in the country without having to face a lot of financial difficulties.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, this Company will also have obligations. It will have to perform certain functions to satisfy the market. One of them is to make sure that, Telecoms Kenya Limited addresses itself to satisfying customers' demands of connecting telephones. The other function that Telecoms Kenya Limited is obligated to do, is to protect the interests of all customers and consumers. In fact, these things have to be repeated as functions for all the three entities. Each one of them is also supposed to protect the customers, purchasers and all other operators in the sector. Telecoms Kenya Limited must foster the spirit of competition, to ensure that the provision of telecommunications services is market-driven. Some of the experienced businessmen know that, you

allow the market to drive the forces of business by encouraging private investors and ensuring high international standards.

For the benefit of Members, Telecoms Kenya Limited will have some high profile privileges. One of them is that, it will be responsible exclusively, for the process of cross-switching. It will also be responsible for connectivity, locally and internationally. It will also have the exclusive privilege of being in connectivity of the gateway outside this country. This is important for many reasons. Telecoms Kenya Limited will be an experienced and incumbent operator. For our own security, we need this connectivity to be done by Telecoms Kenya Limited, to ensure that our gateway and international connectivity is done safely. I want to make this other point very clear, so that there is no confusion later. Telecoms Kenya Limited will have the exclusive right to operate only in the city of Nairobi. All other urban centres, whether big or small, will be open to other private operators. This is in order to give Telecoms Kenya Limited a little protection, so that it will be able to take off and do a lucrative business which is definitely in the city of Nairobi, to avoid there being a problem of finance and probably, its heading off to collapse. Telecoms Kenya Limited will have a lot of challenges that it must address, if it is to survive the multi-operator competition. One of the challenges is that, Telecoms Kenya Limited must now abandon that monopoly culture of starting to believe that, they are on their own, and that they are a monopoly. When this Bill becomes an Act---

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. My understanding is that, we are discussing the Communications Bill. As a member of the Communications Committee, our understanding is that some of the issues the hon. Minister has talked about, would appear in subsidiary legislation. Could he confirm to the House whether he is talking about the Communications Bill or the Subsidiary legislation?

The Temporary Deputy Speaker (Mr. Imanyara): Order, Dr. Ochuodho, I think that is not a valid point of order. The Minister is giving a policy; what he is stating amounts to a Government Statement.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. This confusion is inevitable, having taken the route that we took. The purpose of referring a Bill to a Committee of the House is that, the policy of the Government and what Parliament considers to be the overriding interest of the country, are harmonised so that when they come before the House-----

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Anyona. As much as I agree with you, the Chair has made a ruling on that issue, so I will not allow it to be revisited. Please proceed, Mr. Ntimama.

The Minister for Transport and Communications (Mr. Ntimama): Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me because it is my responsibility--

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. This cannot be done at the convenience of any one person. All I am saying is that the hon. Ochuodho is right because, when the Communications Committee met, they came to a certain consensus on these matters. So, when the Minister moves on one side---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Anyona, the Chair makes a ruling whether or not a Member is right. You may think that he is right, but I have made the ruling and you must abide by that ruling. The Chair has already clarified the issue as a Committee. Let us not go back to that.

The Minister for Transport and Communications (Mr. Ntimama): Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me. It is my responsibility to explain how this Bill is going to affect the people of this country when we privatise. Hon. Anyona should read the Bill properly. Some of the Members probably need a proper explanation, so that they can know what is happening. I hope you will allow me to go on, because all the things I am saying are contained in the Bill. The only difference is that, we are expounding this Bill and making it possible to be understood by ordinary people. I was present in the Committee for two sessions and I hope that the hon. Members who were there will not only tell the House what we decided, but will go and tell their constituents what this Bill is all about. I do not want to be muzzled. I want to take time to explain these issues so that everybody understands. We must learn to be reasonable and fair in these matters because when people do some things just because they want to annoy, it is very bad indeed. I said that, Telecoms Kenya Limited will have certain challenges. One of them is to adopt a corporate culture, to understand that they are going to run a company and that they are in an multi-operator environment. Telecoms Kenya Limited has got the obligation to adopt a discipline of private ownership, so that they know that they are running a private company.

Mr. Temporary Deputy Speaker, Sir, as we liberalise our telecommunications services, competition is going to be intensified and I am only trying to help Telecoms Kenya Limited to brace themselves for the competition, in order to give the purchaser the opportunity to choose. Good, reasonable and efficient services will survive. But when you do poor and shoddy work, it will fall by the wayside and this is why we want to encourage and foster competition in the sector, so that those who will not perform well will disappear.

Mr. Temporary Deputy Speaker, Sir, the other most important thing is that, Telecoms Kenya Ltd; in particular, must stick to the free market oriented economy. It must be market driven. The Company will also definitely be required to employ highly talented people who are committed and who have got the drive to make profits and make sure that the Company survives. This is because if the productivity and the profitability is not enhanced, then most of the companies will go down.

Mr. Deputy Speaker, Sir, let me now come to part Four of the Bill, which talks about radio communication. The assignment of all radio and television licences will be done by the Communications Commission of Kenya (CCK). Hopefully, the other licences should also be issued by the Ministry of Information and Broadcasting. The licences will have conditions and limitations. It is important to say here that, as you will see in the Bill, licences will be given by the Commission to researchers and to certain other people, maybe be free of charge, so that they can be able to do research in the radio and television telecommunications area.

Part IV of the Bill also establishes the Postal Corporation of Kenya. Briefly, this one is going to be known as "Postac". This is in part IV of the Bill. This one is going to be established as a parastatal and it will also be capable of suing and being sued. It will have a Board of directors and it will also be one of the groups to be licensed.

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. As much as I would not like to take the Minister's time, I think he should confine himself to the Kenya Communications Bill, which is Bill No.7. This is because he is touching on Bill No.8, the Postal Corporation Bill.

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, as you will see in this Bill, the Communications Commission of Kenya will also be licensing all operations of the Postal Corporation of Kenya. So, this is why, if you read the Bill properly, we have--- In fact, it is one of the entities that have been split, and we have to talk about it because the Communications Commission of Kenya is going to license all the operations of the Postal Corporation of Kenya in the towns and even spread of the services of the Corporation.

(Mr. Ndicho interjected)

I hope you will be able to speak on Tuesday. Please give me time.

Mr. Temporary Deputy Speaker, Sir, please give me protection.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ndicho, give him his time!

The Minister for Transport and Communications (Mr. ole Ntimama): Thank you, very much indeed. I hope my friend hon. Ndicho does join---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, concentrate on the Bill.

Mr. Ndicho: On point of order, Mr. Temporary Deputy Speaker, Sir. What is this that the Minister is saying, I do not know?

The Temporary Deputy Speaker (Mr. Imanyara): What did he say?

Mr. Ndicho: He said that I do not know. What do I not know? I know a lot of things!

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I said, I hope you do not join the people who are, particularly, coming out here to destabilise me.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to insinuate that there are hon. Members who are operating outside the spirit of this House and destabilising him, apart from fulfilling a constitutional role, particularly, on this side, of getting him on his feet?

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I am not going to respond to that one. So, I have said very clearly that, the postal services in Kenya are going to be licensed by the Communications Commission of Kenya. It is also supposed to expand the services to the rural areas and it will help our local people to be able to join that sector, which we all consider to be very lucrative. The other thing which is very important and which is going to be liberalised, is the courier service. Right now, all these courier services, DHL and the rest have not been operating under a licensing authority. We think that they are important. So, all these courier services are going to come under the licensing regime which is the Communication Commission of Kenya.

Mr. Gitonga: On a point of order, Mr. Temporary Deputy Speaker, Sir. Does this courier business service come under the Communications Bill, or under the Postal Corporation Bill?

The Minister for Transport and Communications (Mr. ole Ntimama): It definitely comes under the Postal Corporation Bill, but the licensing is going to be done under the Communications Bill and hon. Ndicho, who is next to you, has read this Bill so well. We have sat down for hours talking about it, and it is because the

Communications Commission of Kenya is the sole authority which will license the courier services. This is why we are mentioning it here.

Mr. Temporary Deputy Speaker, Sir, the other thing is that, the Postal Corporation of Kenya will have the right to manage, exclusively, all the letters that weigh 350 grams and below. The other things will be considered as parcels which will be licensed under the courier services. It will also have the sole responsibility of managing and operating letter boxes for security reasons. So, those are the two exclusive rights of the Postal Corporation of Kenya, but here again, they will be licensed. The Postal Corporation of Kenya is also supposed bring in a lot of technology.

Mr. Temporary Deputy Speaker, Sir, part V of the Bill deals with the licensing procedure, which, of course, deals with applications, the conditions of the licence to be granted, the duration *et cetera*. Here is the most important part of this Bill, and I hope the hon. Members, especially those who looked at the Bill, will be a little patient because some of these issues are very important indeed. Hopefully, you will have time on Tuesday and maybe on Wednesday and Thursday, to continue debating this Bill and especially, the hon. Members who have been Members of the Committee, I am sure the House and the Speaker, will let you debate some of these issues.

Mr. Temporary Deputy Speaker, Sir, in the Bill, the National Communications Secretariat will be established. This Secretariat is going to be-- For many reasons, the Government is going to be responsible, and it is going to make sure that, all the operations be they postal, communications, or the Telephone services, are running well and they are following a consistent national policy of this country.

Mr. Temporary Deputy Speaker, Sir, the secretariat should provide an overview of all the operations and be the supreme Government policy making organ which will ensure that things are running well. For example, it should ensure that we follow the policy of a free market economy. It will be responsible for making sure that some training for our people is provided, so that we do not have to import technicians to run our telecommunication services. In fact, it will be responsible for building up a pool of local experts who are going to operate in the whole sector, and this is the Communication Commission of Kenya (CCK). This secretariat, being a supreme policy making organ of the Government, is going to make sure that it operates side by side with the CCK. It will be responsible for giving consultancy services and support to the whole of the communication sector. It will also make sure that new technologies are adopted so that we do not use out-dated technologies.

Mr. Temporary Deputy Speaker, Sir, this secretariat will define an elaborate target and instrument for provision of universal services, which I am going to talk about right now. It should also define frequency allocation which will be implemented by the CCK. By defining frequencies, I mean that it is important to guard the spectrum for security reasons. Although the secretariat will not be directly allocating or assigning frequencies, it will make sure that some of the frequencies are in the hands of our security forces, like the military, the police and others. This will ensure that those frequencies are properly guarded. In addition, this will make sure that we neither interfere with our neighbouring countries' frequencies nor do they interfere with ours. This secretariat will help in harmonising the frequencies.

In the miscellaneous part of the Bill, the only important thing that I want to stress here is Section 102, which establishes the Appeal Tribunal. This Section--

Hon. Members: It is a clause!

The Minister for Transport and Communications (Mr. Ntimama): When does it become a section?

Hon. Members: When it becomes a law.

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I am sorry, I have no right to communicate with these hon. Members. I am not in a bad mood. I should have communicated with you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): You are putting yourself into a lot of trouble.

The Minister for Transport and Communications (Mr. Ntimama): Thank you very much, and you are a lawyer. Well, Clause 102, establishes the Appeal Tribunal. I have said before that the CCK's work is to regulate, direct and arbitrate. But it can only arbitrate in small affairs like differences over small areas of operation in communication. But there could be some big differences between operators, and sometimes between the operators and the huge organisations like Telecoms Kenya Limited. You can expect probably Telecoms Kenya to use their strength to suppress these other small operators. This is why this Tribunal is being created; to make sure that it will give all the people the rights and protection from being exploited.

There is another important factor which I felt I should talk about and that is universal access. This is a policy and it is in this Bill, that all the operators must make sure that the rural people have got access to communication. This has not been the case today, not only in Kenya but even in our neighbouring countries. The operators have been working under monopoly organisations and they have been trying to centralise themselves in

the main urban centres where there is work and money to be made. We are going to make sure that the CCK imposes conditions on the licensing of all the operators to move into the rural areas. This is because 85 per cent of our people live in the rural areas and we have got to serve them.

Mr. Temporary Deputy Speaker, Sir, probably as you move in this liberalisation process, it is envisaged that in every market centre for example, there will be a tele-centre. Under one roof, there is going to be a telephone, a fax machine, computers and internet and probably typing and photocopying services offered. Under this roof, our people will benefit from the telecommunication system. It is the policy of the Government to make sure that a telephone line is within a walking distance for every citizen of this country. Everybody will be able to obtain telephone services by simply walking a little bit outside his/her house. We still have time to do a lot of things. These tele-centres are going to be helpful and I hope that some of you - we have got businessmen around - will encourage them to open up and run these tele-centres in the market places. It will even be easy for all of us, Members of Parliament. Fares are very high these days and with this facility, one need not visit you but can just pick up a telephone, when the tariffs have been harmonised, and call you. He can also send a fax and probably eliminate problems of people coming to crowd at the gates. People will be able to communicate with you and will have access to the tools of communication. For example, the internet is spreading very fast even in the rural areas of Maasailand. The internet is a tool of information, communication and education, like the e-mail. I am told that you can sell and buy commodities through the internet. In fact, the women in Kitui, for example, can advertise their *ciondos* in America, Canada and Japan and sell them through the internet. We are now starting a Maasai Women Group Project where these women can advertise their beads through the internet. This will help the Maasai women groups to advertise their bead work and sell their products in America and Japan. These are revolutionary things that are coming, and it is important that we have them in our telephone centres.

Mr. Temporary Deputy Speaker, Sir, I want to talk briefly about the development that has taken place in the field of communications and confidence building which is going on in the East African Co-operation (EAC) and the Common Market for East Africa and Southern Africa (COMESA) regions. I was very lucky to be in the entourage of his Excellency the President, Daniel arap Moi, when he visited Tanzania, Uganda and, recently, Kinshasa, in the Democratic Republic of Congo. The President has laid down a very strong foundation. He has removed suspicion among the people of these countries, and especially their leaders. We have established means of improving telephone communication in this region.

I also want to thank my friend, hon. Biwott, who is the Minister for East African and Regional Co-operation because he has done a lot of ground work and made it possible for the President and his entourage to visit these countries. A lot of tribute really goes to him. Most of the hon. Members in this House do not know what he has been doing as a Minister for East African and Regional Co-operation.

Some member countries of the COMESA are connected to other African countries through European capitals, such as Brussels and Paris. These are some of the obstacles that we are trying to remove. The Minister for East African and Regional Co-operation and the COMESA countries will harmonise the relationship between this country and them. We are lucky because the East African Co-operation has no problem of telephone connection. But francophone countries have problems of telephone connection, because some of them are too loyal to their former colonial masters. They can only get connected to us through Brussels or Paris.

Mr. Temporary Deputy Speaker, Sir, the telecommunications revolution has surpassed the industrial revolution of the 19th century. This is because the industrial revolution only affected Europe and America. It also went on slowly. However, the telecommunications revolution is going on so fast. It is moving at a supersonic speed, and is affecting everybody. Whether you want to be part of it or not, the telecommunication revolution will affect all of us. We must be prepared to join the global information society. It will be wrong for us to be left behind. This country has been leading in commerce and industry in the East African region. And it will, of course, lead in the telecommunications sector, when the sector is liberalised. Our friends in Uganda and Tanzania are a few months ahead of us in connection with cellular telephones. We hope that we will be able to license another cellular operator. This is because the current cellular operators will probably fall under the Kenya Telecommunications Limited. We must inject the spirit of competition in the cellular telephones business. Right now, it is very cheap to own a cellular telephone in Tanzania and Uganda. I have been told by some of my friends in the relevant committee that the cellular telephones are only serving the elite and the rich in this country, while ordinary people are forgotten. Indeed, I think we will make sure that cellular telephones are affordable to everybody in this country. Even the charges for this facility will be harmonised in the three East African countries, so that--

Mr. Ndicho: On a point of information, Mr. Temporary Deputy Speaker, Sir. I want to inform my friend, hon. Ntimama, that, unlike in Kenya, cellular telephones are available to cattle rustlers, hawkers, *jua kali* people, matatu operators and the *mamas* who sell *omena* fish in Tanzania and Uganda. We welcome the idea of

cellular telephones being made available to everybody in this country. Today, it is only those people with money who enjoy this facility.

The Minister for Transport and Communications (Mr. Ntimama): Thank you, hon. Ndicho. When we license another extra operator to compete with the existing ones, the charges on this facility will come down. The Communication Commission of Kenya (CCK) will have the responsibility of harmonising the tariffs in the three East African Countries.

Mr. Temporary Deputy Speaker, Sir, we have to move very fast because we have a lot of disparities in comparison with South Africa and Egypt. The number of South Africans and Egyptians who are connected to telephones is bigger than ours. We need to move fast so that we can catch up with these people. Another example of disparity appears when one looks at the Cities of New York and Tokyo. They have more telephones than the whole of the African continent. We must be prepared to travel on the "information super highway". This is the highway that everybody is travelling on today. You must be a willing traveller on it, otherwise you will be pushed off the highway.

In the telecommunications sector distance and time become irrelevant.

When we went to South Africa, we met a young man who was employed by a company called, Radium. He was such a tall man, even taller than me. He gave us a lecture on his company, called, Radium. He said that this company is putting satellites in low and high orbit space. That they are going to put about 65 of them by the end of the year, and one of them is going to be directly above Nairobi, so that when you use your terrestrial or mobile telephone, those satellites are going to serve every square-inch of the earth, including the blue waters. So, all you will do is to punch your telephone and you will be able to talk to anybody on the other side of the earth, any minute or second. So, this revolution is really going to be marvellous and we have to be part of it.

Mr. Temporary Deputy Speaker, Sir, I think this is very important information to every hon. Member; we have an international organization called, International Telecommunications Union (ITU). This is an international organization which promotes and supports all the international activities all over the world. I would like to inform hon. Members that we have a Kenyan running for the Secretary-General's post, by the name, Dr. Henry Chassia, from Western Province, and, that even His Excellency, President Daniel arap Moi is supporting his candidature. This is because, we think, if Dr. Chassia becomes the General-Secretary of the International Telecommunications Union, we are going to benefit a lot. In fact, we are now told that the International Telecommunications Union is going to sponsor and support a school of excellence in Kenya and Dakar, Senegal. These two schools are going to produce top-class technicians who are going to operate in the telecommunications sector in our country. Definitely, Dr. Henry Chassia will be able to help us on this issue. The election of the General Secretary is going to take place in Indianapolis, America, in October. My Ministry is going to send a very strong delegation to make sure that we campaign for Dr. Chassia, although we are very confident, that he is going to win the elections.

Mr. Temporary Deputy Speaker, Sir, I would also like to inform hon. Members, that we have been campaigning for the last six months. When we went to South Africa, accompanied by the Managing Director of the Kenya Telecommunications Corporation, Mr. Jan Mutahi, who I would really like to thank, they hosted a big party in honour of Dr. Chassia. We called all the diplomats, operators and many other people. I even signed many letters, probably up to a 1,000, in English, Spanish and French, just to beseech all the diplomats to vote for Dr. Chassia, during the elections. But, we are sure that he is going to be elected as General-Secretary of ITU.

Lastly, Mr. Temporary Deputy Speaker, Sir, I would like to say something on human rights. It is true that the right for information is a basic human right. The right to communicate is a basic human right. So, I hope through this Bill, we shall be able to know some of these facts.

Thank you very much. I beg to move.

Mr. Mbela: Thank you Mr. Speaker, Sir, for the chance to second this Bill. Maybe, before saying much, I would like to state that, my committee has never cancelled a meeting on account of lack of quorum. In fact, on the contrary, there have been meetings which have been attended fully by all the committee Members. We have had a total of eight meetings, the last one having been held this morning. We took it as a responsibility on behalf of this House, to consult as widely as possible.

Today, we are making history in our Parliament, in that, for the first time, a departmental committee is making its report to the House, after the amendments of the Standing Orders, and the requirement that Bills be referred to departmental committees after the First Reading.

Mr. Temporary Deputy Speaker, Sir, as you are aware, some of the functions of the departmental committee are established under Standing Order No.151, which are:

First, to study and review all legislation after First Reading, subject to exemptions under Standing Order No.101(a)IV.

Secondly, to investigate and inquire into all matters relating to the assigned ministries and departments,

as they may deem necessary, and as may be referred to them by the House or a Minister.

Lastly, to make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

Mr. Temporary Deputy Speaker, Sir, I therefore, on behalf of the Members of the departmental committee, on energy, communication and public works, and pursuant to the provisions of Standing Order No.101(3), like to take this opportunity to present to the House the report and proposed amendments to the Kenya Communications Bill, 1998. These proposed amendments which are 22 in all, have been discussed and agreed upon by the committee and the Minister for Transport and Communications, together with his technical officers who are present in the House.

Mr. Temporary Deputy Speaker, Sir, the Kenya Telecommunications Bill was referred to the committee on 9th June, 1998 upon a Motion moved by the Minister, pursuant to provisions of Standing Order No.101(1). The Committee commenced its deliberations on the Bill on 16th June, 1998, and as I said, held eight sittings. The Minister for Transport and Communications, accompanied by his Permanent Secretary and the Managing Director of Kenya Posts and Telecommunications, among other technical officers, attended three sittings of the committee and gave an overview on the Bill. The committee also invited some stakeholders, namely: The Institute of Economic Affairs, the International Telecommunications User Group, Econews Africa and The East African Internet Association, who gave their comments on the Bill, and let the committee decide on what to recommend.

Mr. Temporary Deputy Speaker, Sir, though Standing Order No.101(a)I, provides that a departmental committee to which a Bill is committed should present its report to the House within seven days, my committee found it difficult to comply with the Standing Order, due to the size and the complexity of the Bill and the technical issues that were involved. We also found it necessary, to involve, as I said, other stakeholders at the final meeting which was held this morning.

Finally, the proposed amendments, after being forwarded to the Ministry, will be indicated in the Order Paper before the Bill is committed to the Committee of the Whole House, during the Third Reading. Formally, I would like to lay on the Table of the House a copy of the report.

(Mr. Mbela laid the document on the Table)

If the hon. Members can look at the various clauses, they will see our recommendations. Clause 51 should be amended by inserting the word "stimulate" after the word "licence", appearing on the second line. We feel that it is more positive for the CCK to be able to stimulate the industry, and create employment in the process of doing so. Then, Clause 6(i)B should be amended by deleting the word "President" and inserting the word "Minister, in consultation with the Board" in place thereof. The purpose is that in Kenya today, when we are managing our affairs, there are a lot of individuals who have become so difficult, that they are in effect institutions. They make it very difficult for delivery of services to our people. We feel that there are very few cases where we require the President to appoint an individual to a particular position. We feel that the Managing Director, or the Director-General should be appointed by the Minister. The President will appoint only the Chairman. This is because the Chairman will be coordinating a total of four different Ministries.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. I thought that when an hon. Member moves a Motion or a Bill, the seconder endorses what has been moved by the Mover. Now, from what I am hearing, the seconder is giving different stories. I know I have talked to him because there are 22 proposed amendments to the Bill by the Committee. But because of the procedure that we followed, we now have a conflict between the Mover and the Seconder. This Committee is a Committee of the House and the Minister is moving the Bill as a Minister of the Government. But because the two of them have met, we wanted one position. Can we be helped? I was going to propose that if the Chairman of the Committee was able to table the report, which he apparently has, if we invoke the provisions of our Standing Orders, the debate can then start, and we shall be talking one language. Already, Members of the Committee are feeling very uncomfortable.

The Temporary Deputy Speaker (Mr. Imanyara): I am not quite sure whether I understand your point of order, hon. Anyona. What are you suggesting?

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, since we are in the middle of this thing, we cannot try to swing backwards. I was going to propose that instead of having a conflict now between the Mover and the Seconder, in terms of what is in the original Bill, and in terms of what the Committee has discussed, if the Chairman of the Committee presented the report of the Committee, which has the input of the Minister, we will start straightaway with what the Minister has said with regards to the Bill. If we stop there or adjourn the debate at that point, that is when the question has been proposed, then we can now come back and discuss the two without any conflicts.

The Temporary Deputy Speaker (Mr. Imanyara): I have not proposed the question. So, please let us allow the hon. Member to make his contribution.

The Minister for Transport and Communications (Mr. ole Ntimama): On a point of order, Mr. Temporary Deputy Speaker, Sir. I just want to make it very clear that the Chairman of the Committee is not offering differing views on this Motion. In fact, he is trying---

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Ntimama! Let us allow hon. Mbela to contribute.

Mr. Mbela: Thank you! I would like to tell the House that, what I am proposing are issues that we have sat, discussed and agreed upon completely, between Committee Members, the Ministry and technical officers who attended the Committee meetings. In fact, I will lay this document on amendments on the Table. What I am saying might be taken formally as notice of the intention to table the amendments. The amendments only need to go through the Attorney-General's Chambers to be given the language they need, so that by the time we come to the third reading, they will be incorporated as the amendments to the Bill. In fact, this is the same Bill that the Minister spoke about.

We also propose that Clause 6(i)G be amended to provide that three of the five persons to be appointed by the Minister should be in consultation with the industry, so that the Commission is well informed about the functions that it will perform.

Mr. Raila: On a point of order, Mr. Temporary Deputy Speaker, Sir. You will agree with me that what the Seconder is reading is not available to hon. Members in the House. Can we get an assurance that we are going to get copies of what he is reading, for us to make meaningful contributions?

The Temporary Deputy Speaker (Mr. Imanyara): I believe he has tabled that report.

Mr. Mbela: I have tabled the report and I leave the Clerk to facilitate the copying of the document. Clause 6(i)F should be amended by inserting the word "broadcasting", after the word "information". Clause 11(i) should be amended by deleting the word "Board" appearing in the second line, and inserting the word "Commission" in place thereof. It was a bit confusing. Then, Clause 21(i) should be amended by deleting the words "in security in each trustee's made from the time being, invest first funds" appearing in the third and fourth lines,---

Mr. Munyao: On a point of order, Mr. Temporary Deputy Speaker, Sir. I will be the last to argue with the Chair over any ruling. However, we definitely need your guidance. Today, this House will go on record as having put the cart before the horse. The Minister spoke very eloquently on all those points and it is very true that the Seconder is not putting those amendments. How are we going to revise our minds, this being the first time to go through this Bill? Could I be in order to seek your guidance as to whether, even at this juncture, the house could adjourn for us to put this Bill in the right perspective?

The Temporary Deputy Speaker (Mr. Imanyara): It would be premature because I have not even proposed the question. You know the Standing Orders. Please do not take advantage of the situation. Let hon. Mbela finish first and then you will have an obligation on whether to put any question or move any Motion. Proceed, hon. Mbela.

Mr. Mbela: What I am proposing is going to be seconded by Engineer Karue Muriuki, who I believe will be speaking in his capacity---

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the fact of the matter is that the Mover and the Seconder are definitely conflicting. I do not see the reason why we should be moving an amendment at this stage. We should be discussing about seconding the Bill. If the hon. Member is actually seconding the Bill, he should stop at seconding the Bill, and leave the other details for a later stage. I think that is the only way forward. Otherwise, we are getting a bit mixed-up, if the Seconder is moving amendments which are not in the Bill itself.

Mr. Mbela: Mr. Temporary Deputy Speaker, Sir, I have already finished seconding the Bill, but what I am saying now is in line with the ruling made by Mr. Speaker---

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. Since the seconder has admitted that he has finished seconding the Bill, it is time for the Chair to propose the Question, because if he continues to make any further contributions, he will be misleading the House.

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Two wrongs do not make a right. Initially what was agreed between the Ministry and the Committee was that these recommendations should have been placed on the Order Paper. In the event that, that has not happened would I be in order to ask another hon. Member to second the Bill, because the Chairman is seconding and at the same time suggesting amendments?

Mr. Raila: On a point of order, Mr. Temporary Deputy Speaker, Sir. That would go against the procedures of this House. If I am right, Mr. Mbela is in the process of seconding the Bill moved by the Minister, and in doing so, he is very much out of order to propose amendments to this same Bill that he is seconding. I think the procedure would be that Mr. Mbela seconds the Bill, the Question is proposed and then we begin to discuss the Bill under review.

Hon. Members: But he has already seconded!

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! It is for the Chair to put the Question, and the Chair will put the Question when it is satisfied that the seconder has begged to second. Proceed, Mr. Mbela.

Mr. Mbela: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to continue seconding this Bill. In fact, what I am saying is not in conflict with what the Minister has said. I said that we had several sessions together when we agreed on these amendments. I am merely articulating the recommendations of the Committee.

We recommended that Clause 24 (1) be amended by:-

(a) deleting the word "issued" and inserting the word "granted" in place thereof.

(b) By deleting the word "part" and inserting the word "Act" in place thereof.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. We would like to let him finish, but first of all, amendments are done only in the Committee Stage. They are not done during the Second Reading. We may propose that there should be amendments in the Second Reading, but the actual amendments come in the Committee Stage. Secondly, hon. Mbela is saying what the Committee decided to have these amendments. That really is the report of the Committee. In that case then the correct procedure would be that what he is saying is then debated together with the Bill in the actual Second Reading of the Bill. But the position now is that we have put the cart before the horse. To simplify it without creating any more conflicts, because we are not interested in conflicts, we wanted the seconder to tell us that they have held meetings and agreed on certain changes in the original Bill that was moved by the Minister; and that when the Second Reading starts, those amendments will be taken into account. The Chair would then be able to propose the Question, and then we would start the debate based on what the Minister has presented here and what the seconder is presenting. But this way, we are just getting into more and more conflicts for no reason at all.

The Temporary Deputy Speaker (Mr. Imanyara): Order! I think, we are probably misinterpreting what is going on here. The seconder has clearly indicated that those are his intentions to bring amendments. He is not moving any amendments now, but he is seconding the Bill, and we must allow him to finish. Then I will put the Question and after that you can raise any matter that you would like to raise. Right now, Mr. Mbela will be given the chance to finish his contribution.

Mr. Mbela: Thank you, Mr. Temporary Deputy Speaker, Sir. The Committee recommended that Clause 27(1) be amended by inserting the words "Minister in consultation with" after the word "The" appearing in the first line. We further recommended that Clause 27(2)(b) be amended by deleting the word "secrecy" and inserting the word "privacy" in place thereof. This is in relation to the regulations that the Minister will be making to guide the CCK in doing its job.

The Committee further recommended that Clause 30 be amended by inserting the words "with intent to injure" after the word "system" appearing in the fourth line. It also recommended that Clause 39(1) be amended by inserting the words "Minister in consultation with the" after the word "The" appearing in the first line. It also went further to recommend that the Sub-title, "offenses and penalties" be inserted before Clause 44.

The Committee recommended that Clause 48(1) be amended by inserting the words "or bags" after the word "boxes." It was also recommended that Clause 52(1)(c) be deleted. We resolved that Clause 54(2) be amended by deleting the word "he" appearing in the third line and inserting the word "licensee."

Mr. Munyao: On a point of order, Mr. Temporary Deputy Speaker, Sir. I sincerely respect the Chair and the ruling of the Chair, but as the seconder continues to second the Bill, he is only telling us that they recommended for the "deletion" and insertion" of particular words. I think the Chair heard the seconder saying that he had finished seconding the Bill, and that he was going to move into other issues. Again, you will notice that those recommendations have not been circulated to the hon. Members who are supposed to have the honour of studying the recommendations being presented by the Chairman, who has a wide experience in communications having served in the post office for several years.

Mr. Temporary Deputy Speaker, Sir, since the Minister started moving this Bill, he has brought a lot of confusion to this House, something that has never happened before. We agree that this is the first time we are applying the amended Standing Orders, but it is evident that the Chair requires a lot of consultation. You can even

see that the Clerk has to keep on running to and fro to advise the Chair. Hon. Members have noticed that. Let us not open ourselves more than that because we have already opened ourselves too much. In view of that, would I be in order to ask the Chair to adjourn the House now to allow hon. Members and the Chair to make further consultation on this issue?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Munyao, you are out of order. But I do sympathise with the points you are making. Mr. Mbela, please, we are not making specific amendments today. Could you second in general outlines to allow other Members to contribute?

(Applause)

Mr. Mbela: Thank you, Mr. Temporary Deputy Speaker, Sir. Hon. Members will be supplied with copies of the report. Since I have tabled the report and the details are contained there, I take this opportunity to formally second the Bill.

Thank you.

(Question proposed)

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a very important business of the House and the nation. We would like to end this state of confusion, remove the "cobwebs" and start dealing with the matter in a very serious and systematic way. In view of the procedural difficulties we have had; in view of the fact that the Minister has moved the Bill in a very eloquent manner, which is what I always expect of him except that they had also agreed on some amendments which he was not able to speak on at that stage; and in view of the fact hon. Mbela, whom I have a lot of respect for - he brought me up in school and he was my prefect - has presented some amendments to the Bill which we have not even seen, would it not be in order for this House to restore harmony? I am told the people in Washington are watching to see if we are going to pass this Bill. I think that is the business of Kenyans. We should pass this Bill if it is good for us and nobody should look over our heads to have it passed.

Mr. Temporary Deputy Speaker, Sir, would I be in order to propose that in accordance with the provisions of Standing Order No.21, that the debate be now adjourned? I would like to explain briefly why I am moving the Motion. I am moving that Motion simply because there has been a lot of mixed feelings about what this Bill and the procedure are all about. I do not believe that there has been any difficulty. I do not think that there are any Members on this side who do not support the liberalisation of the telecommunication services. I do not believe that the Government has been reluctant to do that if there have been allegations of that kind either by the Press or by other people. They may have their own reasons. I do not believe that and I do not believe that this Parliament is reluctant to do that. We will, of course, go through the Bill in order to ensure that our people and the country get the best benefits out of this Bill.

Mr. Temporary Deputy Speaker, Sir, before we continue debate, it is 10 minutes to 6.00 p.m. and we have another 40 minutes--- To continue with this debate in this atmosphere, for me it would not be right because we do want to address what the original Bill provided and what the committee has proposed as amendments. We have not had the chance, as I said, to look at those amendments. Quite frankly, I think many Members have even been able to read the Bill itself. We have a weekend coming and this is a very convenient time for the House to adjourn this debate so that we can come back next week and deal with the Bill. The Minister can tell us which day is convenient. In fact, the Standing Orders require that he tells us whether it is Tuesday, Wednesday or Thursday. We will then come back fully prepared and deal with this business so that we can send one clear signal out there that we do not have any differences between that side and this side. We are dealing with this matter as one Parliament and as one nation. I wish I could have someone to second that proposal.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Anyona, I have great sympathy with your kind of opinion. I fear that what is being sought is a review of the ruling by the Speaker earlier on this afternoon. I am satisfied that the Official Responder of the Opposition parties is prepared and does not see that there is no time. In the exercise of my discretion under Standing Order 21 (3), I decline to put the Question and I ask Eng. Muriuki to respond.

Eng. Muriuki: Thank you, Mr. Temporary Deputy Speaker, Sir. I do hope that the confusion that we have had---

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. I request the Chair in its full right to exercise discretion, but clearly the discretion under Standing Order 21 (3) is not obviously saying that it

should happen. It states as follows:-

"If Mr. Speaker shall be of the opinion that any such dilatory Motion is an abuse of the proceedings of the House, he may forthwith put the Question thereon or he may decline to propose it."

The Temporary Deputy Speaker (Mr. Imanyara): That is what I have done.

Mr. Anyona: I understand this.

Eng. Muriuki: Mr. Temporary Deputy Speaker, Sir, despite that interruption and also, perhaps, the confusion which has been there because there have been both old and new timers who do not seem quite sure of what to do, I wish to start off by saying my name for the purpose of those whom we have not communicated or interacted with like the hon. Minister there. My name is Eng. Karue Muriuki, the Member for Ol Kalou in Nyandarua District, otherwise, the shadow Minister for Transport and Communications. I do have some few comments to make.

I will start off by complimenting the Minister for Transport and Communications first of all for a very good presentation of the Bill. I would like to reassure our colleagues in the Opposition that the Bill has been referred to the Departmental Committee of which I am a member. I would also like to reassure my colleagues in the Opposition that the Minister has not only found time to be with us in the Departmental Committee but he has also found it necessary to come with his whole team of professionals, who have been very, very useful in many ways in the deliberations of the committee. There has been quite a number of technical and otherwise legal clarifications which the committee has sought from the technical experts from the Ministry and also from the Kenya Posts and Telecommunications Corporation, which I must say, although we may not have agreed on every issue, we have concurred on most of the items.

Mr. Temporary Deputy Speaker, Sir, I would also wish to report that there was a report which was tabled by our Chairman which has not been circulated and, therefore, it is correct to say that most Members would have not known what was being discussed.

The Temporary Deputy Speaker (Mr. Imanyara): I assure you that, that report is going to be made available to each and every Member of the House.

Eng. Muriuki: Thank you, Mr. Temporary Deputy Speaker, Sir. I will not refer to that particular report and certainly not the details of it, but what I would like to say is that besides the committee having input from both the Ministry of Transport and Communications and Kenya Posts and Telecommunications, we have also had several initiatives outside Parliament and outside these two bodies which have on their own had seminars, workshops and so on. Two of them have had the opportunity to present a written report on what they are recommending. I am not saying that we have agreed on everything that we have said, but certainly there have been quite a number of positive contributions by some of these external initiatives.

Mr. Temporary Deputy Speaker, Sir, we are also expected to have a response from the general public who are obviously the major users of the services that we are talking about and the public certainly does have a major interest in the Kenya Communications Bill. To give an example, I am given to understand that the number of letters which are posted in one year range between 500 and 600 million letters per day which works out to about 1.5 million letters per day which means obviously that the public has a major interest in the Kenya Communications Bill. However, we have not had any response that I am aware of from the general public and I would take that to mean that it is because there is no organised way that the public is going to bring their comments other than, perhaps, through Members of Parliament or through one of those private initiatives.

Mr. Temporary Deputy Speaker, Sir, at this stage, I would wish to comment that most of those private initiatives have been from groups and individuals who are in one way or another connected to the internet and related services like E-mail and so on. There has been a lot more comments and responses from those groups than other groups. For example, we do not have any response from the people who are interested in the radio and television as far as I know. So, I would wish to ask the Members that when they contribute, as we go on, to please remember that there are a lot of comments from the members of the public which have not reached us. Therefore, some of the comments which I am making which are of a general nature and observations, originate from the clarifications of the technical department of the Government and also from those other initiatives.

Mr. Temporary Deputy Speaker, Sir, to start with, I would like to speak a little on the objectives of this Bill, when it becomes an Act of Parliament. First of all, we are saying the major objective is to licence and regulate, and the Bill clearly indicates what is being regulated and what is being licensed. It is clearly designated into three sections, the first one being telecommunications which means telephone and related services; the second one being the radio and other related services like television, and the third one is the postal services. I would wish to start by saying that, I think a common regulatory body for these services is long overdue.

Having said that, I would like to make a comment which has reached us, on the objective of licensing and regulating. The question which has come into most people's minds immediately, is to ask who has been regulating and licensing until now, before the Bill comes into effect? Of importance, we note that one of the immediate effects of the Bill passing is the break-up of the Kenya Posts and Telecommunications Corporation (KP&TC). There is a question which is reaching us. Why break up the corporation? We are now talking about creating three bodies: Communications Commission of Kenya, which is a regulatory authority, the Telecommunications Kenya Ltd., which we understand is going to be a player in the industry like several other players. We also have the Postal Corporation of Kenya, which is going to be a player like several other players.

Mr. Temporary Deputy Speaker, Sir, there is a question as to whether, as a nation, there is anything we are gaining as a result of splitting KP&TC. The telephone services which we are having are reasonably okay; we still get our letters and so, on that question, I will invite the Minister to kindly address that issue in his response. That question has been raised in several quarters and also here. Similarly, KP&TC is a very large institution which has assets and of course, liabilities and the question as to who is going to own, for example, the new General Post Office's new high-rise building and so on, is lingering in people's minds and it did feature in our committee as well, without specific answers. There is a provision in the Bill, however, of how the assets will be shared among the three new organisations. But that provision is not specific and I think, even in the committee, we did request that there be a clarification and details as to how those assets will be shared. If we are splitting the KP&TC, perhaps just to follow what other countries are doing, we feel this is not enough reason and a bit more justification is needed.

Mr. Temporary Deputy Speaker, Sir, one of the other objectives of this Bill is to liberalise the industry. We all agree that liberalising the industry or any other industry has a lot of advantages, both commercial and otherwise, but there are some fears that once you liberalise, certain problems are going to arise within the society. One of them is that, we are given to understand the post offices today, which are numbering more than one thousand, about half of them are actually running at a loss. They are being supported by the others. In fact, what we were given to understand is that, at the moment, KP&TC has two arms which are providing the services, that is the Telecommunications Services and the Postal Services. If what has been presented to us is correct and I have done a bit of research to show it is actually correct, it would appear that the Telecommunications Department is, in fact, subsidising the Postal Services Department.

In fact, if you allow me, I will quote the just published accounts reports of the KP&TC. If I refer to the 1994/95 Report as an example, we had the postal services receiving Kshs1.49 billion against expenditures of Kshs2.35 billion. This means that in that particular year, the postal services incurred liabilities to the tune of Kshs855 million. In the same year, the telecommunications section had income to the tune of Kshs15.7 billion against expenditures of Kshs13.7 billion, which gave it net profit of Kshs2 billion. When you get the profit by the telecommunications section of Kshs2 billion and the deficit of Kshs855 million, the net effect was that the whole corporation had a net profit of Kshs1.2 billion. The interest here is not the figures, but once it is split, we are being told that we shall have Telecommunications Kenya Ltd, which if these figures are anything to go by, will end up declaring a very healthy profit and perhaps a dividend to the Government at the end of the year. At the same time, the Postal Corporation of Kenya will end up with very serious deficits. In fact, if the figures quoted are correct, the Kshs855 million deficit of 1994/95 has grown to the tune of about Kshs4 billion by 1997/98.

This therefore, means that we shall have one very healthy Telecommunications Kenya Ltd and one limping new child called Postal Corporation of Kenya, which is only going to come back to Parliament to get kshs4 billion from the Consolidated Fund. So, there is a strong view, that the corporation stays as it is and provides the services as they are, so that one arm can complement the other and be able to proceed. At the moment, we are already having problems with facilities and services which are supposed to be financed from the Consolidated Fund and if we add another one by quoting a corporation which is already working very well, there are fears that we may not achieve very much. I would wish again, to urge the Minister to address this definite fear among ourselves and Kenyans in general, in his response. Coupled with the same fear, we are talking about modernising the industry and when you modernise and liberalise, other fears come into play. It was intimated in the Bill that, we would solicit the support of what we are calling strategic partners. I have no quarrel with having strategic partners, but I think, after 35 years of Independence, it is about time we evaluated whether we do require those strategic partners and if we do, I am not saying that we do not need them---

(Loud Consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order! I believe the shadow Minister for Transport and Communications does require some hearing. So, will you please consult in lower tones so that he can be

heard?

Eng. Muriuki: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I do hope they listened to the last issue which is the major issue both here and outside. The next issue which is along the same line, is that we are going to end up with deficits--- There is another problem here. We are saying that we want strategic partners and we have no quarrel with that. But we would wish to define more clearly, why we require the strategic partners, when we have the team from the Ministry of Transport and Communications and the team from KP&TC.

The impression I got is that we have got very highly qualified people. We may require a little bit of chipping in for management and perhaps a bit of capital, but not getting a whole strategic partner to come and own a bit of our facilities and part of Kenya, in the name of helping us and after ten or so years, we have no way of shaking off that strategic partner.

Mr. Temporary Deputy Speaker, Sir, I would again wish to ask the Minister to review that position and, perhaps, come up with some details, so that we do know clearly why we are looking for a strategic partner and what we want to achieve. Allow me to give an example of a few strategic partners whom we have in this country.

For example, after privatising Kenya Airways we ended up with a strategic partner - I have no quarrel with the strategic partner because we may be getting good management or profit which we did not have before - but if you look at the shares of Kenya Airways before privatisation, you will see that they were being valued at Kshs12 per share. Right now, they have depreciated to the tune of Kshs7 per share. We are talking about 50 per cent loss in value per share. I am not sure whether it is the strategic partner who has reduced the value of Kenya Airways's shares from Kshs12 to Kshs7 per share. All that I am saying is that we need to review our position, as a nation, so that when I talk to my constituents and other Kenyans, I am able to convince them that we did require this kind of partnership. My proposal would be: Let us get the new technology and solve some of our basic problems which we have in this industry.

One of those problems is that we do have a few telephone lines in rural areas. Although they are not enough, there is a serious problem of theft of cables. Perhaps, one of the issues in which this technology might help us is to provide telephone services in rural areas without having to use a cable. Again this theft has been caused by liberalisation. When all cables and telephone lines used to belong to the KPTC thieves had no purpose or use for them. With liberalisation, theft of telephone cables has gone out of control. Let us get technology that will help us to use wireless telephones or other types, so that we can have telephone services in rural and urban areas.

Mr. Temporary Deputy Speaker, Sir, another objective, which goes hand in hand with liberalisation, is privatisation. Once you privatise a few problems do arise. Most ordinary wananchi do not participate in the privatisation process simply because they do not have financial ability to buy shares in corporations and so on. If we privatise our corporations, and then they are sold to foreigners, then Kenyans may not have a chance to participate in the privatisation.

The other problem which will occur in liberalisation is affordability. I raised the issue of the KPTC having been split into a Postal Corporation of Kenya which may run at a loss, and the Telecommunications Kenya Limited which is making a profit. Now that there will be two separate entities, letters that cost Kshs10 to post - for the sake of our argument that corporation will not be able to get enough funding from the Consolidated Fund and will be expected to run on its own - then postage charges will rise. So, let us watch what we are doing when splitting this Corporation in the name of liberalisation.

Mr. Temporary Deputy Speaker, Sir, I would like to raise one or two issues which were raised by the Minister when he was moving this Bill. One of them is that we are anxiously waiting for investments by foreigners. This notion that Kenyans do not have capital to invest is not good. My question is: Do we really require that extra capital from foreigners when we are quite happy with the management of Kenya Posts and Telecommunications Corporation?

I would also like to comment on one issue mentioned by the hon. Minister on comparison between telephone lines in Tokyo and Africa. Perhaps, the problem is not whether we have more telephone lines in Tokyo than in Africa. The economy of Tokyo, as a city, is bigger than the economy of Africa as a whole. As a fact, having more telephone lines in Tokyo is quite in order because it is expected.

Mr. Temporary Deputy Speaker, Sir, having made those general points, I would like now to touch on one or two points in the Bill itself. I am not proposing any amendment, but making comments of a general nature. We have the Commission composed of four Permanent Secretaries and five members appointed by the Minister in addition to the Chairman and the Chief Executive. The relevant committee has, more or less, concurred that a good number of those members should not just be appointed from the industry, there should be consultations within the industry. I would like the Minister to consider this suggestion when looking at the amendments.

There is also fear from certain quarters in industry of possible and undue monopoly when we liberalise

this industry and make Telecom Kenya Limited one of the key players. It will also have extra duties, and there is fear in certain quarters that it may have undue advantage or monopoly over other players. One of its advantages is that it will be close to the authorities. There is fear that allocation of frequencies will be completely impartial. Again, this is not something we are going into details of, but I will leave it to the Minister and his team to look at.

The issue of telephone numbers has also been raised. There may be some undue advantage in allocation of telephone numbers. The KPTC is better suited to handle this system than a new comer. There are a lot of comments from the industry in connection to licensing procedures. We all do accept that the power to issue licences will be vested in the CCK. At the moment, we do not have the format the application forms will take, and we would like to know it.

We have been told that there will be subsidiary legislation before the main Bill is in operation. The request, therefore, by the committee is that the subsidiary legislation should be availed to the committee before it is tabled in this House, so that we have a chance of scrutinising it. At the same time, there has been a request to the committee by certain players in the industry to be shown the drafts of the subsidiary legislation, and a copy of the form in which the application for a licence will be made.

The Bill does not also touch on the time within which an applicant is expected to get an answer. We have said that, that should be contained in the subsidiary legislation. This is an area of specific interest by quite a number of players in this industry.

Also, there was a comment that the subsidiary legislation will stipulate this. The players will also want to have it provided for in the legislation that they will get some reasons for rejection of particular applications. Of course, if an application is approved, a licence will be issued without any problem. The players would wish to have a provision requiring that they be informed why their applications have been rejected, so that they can have a chance to correct the errors that may cause their applications to be rejected. There is also fear among some players that there could be withholding of certain provisions due to the privileged positions of certain players.

I can see one of the Ministers is standing. I do not know whether he is on a point of order---

The Minister for Information and Broadcasting (Mr. J. Nyagah): Your time is over!

Eng. Muriuki: If you have only two minutes, I would like to tell you that I have three more pages. If you allow me to continue---

The Temporary Deputy Speaker (Mr. Imanyara): Eng. Muriuki, your time is up!

Eng. Muriuki: Mr. Temporary Deputy Speaker, Sir, with those many remarks, I wish to reluctantly, support.

The Minister for Information and Broadcasting (Mr. J. Nyagah): Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Motion. I would like to, first of all, thank the Minister for Transport and Communications and his team that is here with us for a job well done. I would also, like to thank the Departmental Committee for having put in a lot time and effort---

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to seek your guidance on this one. I thought we are debating this Bill under the provisions of Standing Order No.81(1)(a), sub-paragraphs (i), (ii) and (iii), which states as follows:-

"(i) The Leader of Government Business or the designated Minister when Moving and Replying, no time limit;

(ii) The Leader of the Official Opposition Party, when submitting the official position, no time limited; and,

(iii) Every other member, when speaking on the Bill, a maximum of thirty (30) minutes."

Mr. Temporary Deputy Speaker, Sir, my understanding is that the Member on the Floor was responding on behalf of the Official Opposition, in which case there should be no time limit. This is the confusion I have been talking about the whole day.

An hon. Member: You are right, Mr. Anyona.

(Loud consultations)

Eng. Muriuki: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Hon. Members, Mr. Anyona's reading of the Standing Orders is obviously correct. Eng. Muriuki was responding on behalf of the Official Opposition and, therefore, has no time limit. I apologise for that. Eng. Muriuki, it is up to you to decide. If you wish to continue, the Floor is yours.

Eng. Muriuki: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I would like to extend my

compliments to Mr. Anyona.

The point I was trying to raise when I was interrupted is that there is, also, fear that some people may be cleared to venture into the business because they have undue advantage over other applicants. There is no specific provision for preventing monopoly. Somebody may be allocated a frequency and then sell it to some other advantaged people. Therefore, I urge the Minister to look into this issue and give us an answer. There is also one clause which provides that the Commission may revoke a licence without giving reasons. This clause could be abused and, therefore, should be reviewed with a view to ensuring that there will be no monopoly in the industry once it is liberalised.

Mr. Temporary Deputy Speaker, Sir, I would also like to raise another technical issue. Part IV of the Bill refers to radio communication. There is a feeling that radio, technically, includes television, but the majority of Kenyans may not know this. Therefore, I suggest that a clause should be included in the Bill to make it clear that radio communication also includes television. There is also a provision that the Minister may invoke certain clauses in case of an emergency. There is a feeling that the emergency in this case ought to be defined so that it can only refer to public emergency to be declared by the Head of State. There is another clause which gives the Commission power to acquire land for the purposes of installation of telecommunication facilities. It is felt that the provision should be left only for public utility. Right now the clause is general and some private companies may use this clause to apply for allocation of public or private land, possibly, to facilitate their private commercial interests.

There is also the issue of tenure of office for members of both the Commission and the Tribunal. Many hon. Members who commented on this issue expressed the feelings that the term of office for these people should be without interruption; that is, if, for, example, they are supposed to serve for three years, they should serve for this period of time without being interrupted. The Minister should not have powers to terminate one's appointment before the expiry of this time, for both the Commissioners and members of the Tribunal.

Mr. Temporary Deputy Speaker, Sir, my last point is that we have been made to understand that in other countries--- Although we do not have to ape other countries, you do not, ordinarily, license a company which is providing radio services to provide television services as well. This is an issue which the House should look into and decide, so that the Minister can also make the necessary provisions to ensure that we do not become captives of a company that provides several related services from the same office at the same time.

Finally, telephone services in the rural areas at the moment are completely kaput. We should honour our promise to provide telephone services to the rural areas; we must avoid a repeat of the case whereby we promise people in the rural areas services like roads and others and end up not doing so. A postal officer will, perhaps, imagine that a trunk call from Ol-Kalou to Nairobi costs only Kshs20 since this is what a caller deposits in a coin box. But it costs a caller from a corner of my constituency nearly Kshs200 to make such a call to Nairobi. This is because he pays matatu fare and incurs other costs to travel to where telephone booths are available. I would like to request the Minister to ensure that there is a provision for availing telephone facilities to all corners of the country, whether the sector is being privatised or not. Kenyans' fear is that once the sector is privatised, everything will become commercialised and investors will start telling us that they cannot provide services to certain parts of the country because it is not commercially viable. I would wish that the Kenya Posts and Telecommunications Corporation remains as it is so that it can continue to provide telephone services to all corners of the country, the distance from Nairobi notwithstanding.

With those few words, I support.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Hon. Members, it is now Zero hour, the time allocated for hon. Members to make personal statements. Let me clarify that any hon. Member wishing to take advantage of this time must, through their party Whips, notify the Speaker before 1 p.m. in writing, of their intention to make personal statements. I now call upon Mr. Mwiraria to make a personal statement.

PERSONAL STATEMENTS

GOVERNMENT POLICY ON RE-POSSESSION OF SETTLEMENT SCHEMES

Mr. Mwiraria: Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Lands and Settlement regarding Government policy on repossession of settlement schemes.

In Timau, many farms have been re-possessed recently even though the owners have been living there and cultivating the land. They have built houses and have been repaying their loans. I will give just one example of the late M'Magiri M'Anampiu who owned plot No.219 in Girimiti which was sold on 11th March, 1998 and the

title deed was issued out on the same day to a Mr. M'Rutere M'Ngutharia. I will give you the particulars, Mr. Minister. This same person sold the land two weeks later. The tragedy is that the widow of this man had, during the previous four years, paid over Kshs6,000 as loan repayment. So, she had covered more than the amount of money which she owed but she had not paid most of the interest.

The position is: The land has been given to somebody, he has sold it and when the buyer went to verify what he had purchased, he found land with somebody living on it, properly tilled with crops on it and he told her: "I am sorry, I have bought this land but since you are living on it, I am willing to give it to you if you pay me Kshs400,000."

Surely, what can the Government do to stop this kind of improper allocation?

The Minister for Lands and Settlement (Mr. Ngala): Mr. Temporary Deputy Speaker, Sir, I have taken note of the personal statement made by the hon. Member. I will carry out investigations and reply to it next week on Thursday.

DEFACEMENT OF CASTLE BILLBOARDS
BY KENYA BREWERIES STAFF

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I seek leave to make the following statement pursuant to Standing Order No.28. I am directing this issue to the Minister for Industrial Development.

Last week, staff from Kenya Breweries Limited toured many parts of Central Kenya, and during that tour they were smearing billboards bearing Castle Breweries advertisements with used oil. They also went to bars in Thika, the Blue Post Hotel and others, as well as bars here in Nairobi removing advertisements of Castle Breweries products and tearing them off. This is because one senior man from Kenya Breweries Limited, a Mr. Peter Wanjama, was going round that area, investigating the competition that Castle Breweries poses against the Kenya Breweries Limited. This is very bad because this company will provide 6,000 jobs when it opens next month. This plant in Thika will employ Kenyans in addition to bringing in money in form of taxes to the Government.

I am also told that the competition between Castle Breweries and Kenya Breweries Limited will assume a very dangerous dimension. I am told that Kenya Breweries Limited will buy products from Castle Breweries, poison them and have Kenyans die so that they may discard Castle Breweries products. If they do not succeed in that, Kenya Breweries Limited is planning to bomb the plant in Thika to make sure that the monopoly of producing beer is left to them in this country. This is being done by Guinness Kenya Limited which is now taking over Kenya Breweries Limited. So, I am asking the Minister to issue a statement with regard to this issue. He should also assure the House that this Castle Plant in Thika will be protected because it will provide employment to Kenyans. Thank you.

The Assistant Minister for Agriculture (Mr. Karauri): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member---

Hon. Members: There is no time!

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order!

The Assistant Minister for Agriculture (Mr. Karauri): Mr. Temporary Deputy Speaker, Sir, there is always time for a point of order. The hon. Member has alleged that, if what Kenya Breweries Limited did does not work, they are going to bomb the---

The Temporary Deputy Speaker (Mr. Imanyara): I am sorry, Mr. Karauri. But you should not anticipate the Minister's response. He is on his feet, to respond to hon. Ndicho.

The Minister for Industrial Development (Mr. Masakhalia): Thank you, Mr. Temporary Deputy Speaker, Sir. The statement made by the hon. Member for Juja is a very serious one. My observations at this juncture, can only be preliminary. The matter he has raised needs investigations with a view to establishing the truth, the correct situation, the correct path, and prescribing solutions to whatever problems that may be there. I intend, therefore, to come back to this House on Thursday and make a Ministerial Statement on those allegations.

At this juncture, I want to say that it is the Government policy to maintain an enabling environment for investment and efficient management of small, medium and large scale enterprises, both local and foreign, as old as Kenya Breweries Limited and new ones such as Castle. This policy is designed to make it possible to address the kind of problems that we have, like poverty alleviation and employment generation. The Chair has already referred to certain figures about the benefit of the Castle Plant that is almost going into production. The Government also maintains the policy of protecting enterprises that are already established and also the new ones. We expect businessmen to maintain the highest business and moral ethics in carrying out their businesses.

The assertions by the hon. Member for Juja that a group of people, or someone in KBL, is not maintaining high business ethics is a matter we are going to investigate and, as I have said, the Government will take appropriate corrective measures, if the allegations are proven to be factual and correct.

Mr. Temporary Deputy Speaker, Sir, as I said, I will come out with a full statement next Thursday.

MODE OF PAYMENTS TO NAIROBI
CITY COUNCIL

Mr. N. Nyagah: Mr. Temporary Deputy Speaker, Sir, I rise under Standing Order No.20A(1) in connection with a Press release that was given by the Town Clerk of the Nairobi City Council regarding the payment of rates, and everything that the Council will collect in excess of Kshs1,000. She said that this should be done in form of bankers' cheques, company cheques, or in money orders.

Mr. Temporary Deputy Speaker, Sir, I would like to urge the Minister to have this decision reversed, because it will create major constraints to an already impoverished society, particularly the schools. Let us imagine the kind of problems they are going to go through queuing in the banks. It will cost money to purchase those bankers cheques which cost Kshs200. Therefore, I would like to urge the Minister to kindly look into this issue, so that this decision is reversed, and Nairobi residents are able to pay for their services in the manner in which they have paid in the past. That is, either in cash or their personal cheques.

The Minister for Local Authorities (Prof. Onger): Mr. Temporary Deputy Speaker, Sir, this notice is very short, explicit and clear. One of the major concerns of the Members of Parliament and the public has been that most of the funds that are supposed to reach City Hall have, in one way or the other, been hijacked through some means, and therefore, have not reached the kitty of the City Council. One of the major decisions we have had to make and put in place, because paying in cash is one sure way of tempting the person who has been paid to misappropriate those funds, was to introduce some other instruments of payment. I think, these are acceptable instruments of payments in the form of company cheques, corporation cheques, bankers cheques and money orders. However, those customers who wish to pay in cash to the City Council, are not barred by this announcement from doing so, as long as that money is paid to the cash points in City Hall and not through individuals who are going around collecting cash.

MOCK EXAMINATIONS IN MAKUENI

Mr. Munyao: Thank you very much, Mr. Temporary Deputy Speaker, Sir. Through you, I would like to seek a Ministerial Statement from the Minister for Education and Human Resources on an issue which is seriously disturbing parents of Kalawa Division, and for that matter, the entire Makueni District.

Mr. Temporary Deputy Speaker, Sir, while we accept that students in Makueni and Machakos districts have been performing well in the KCPE and the KCSE examinations, there have been excessive mock examinations. Pupils from Standards One to Six are required to sit mock examinations like those in Standards Seven and Eight. They are supposed to pay money for these mock examinations which have mushroomed all over. It appears that this is a syndicate. Pupils in that area are sent home on a daily basis to get money for these mock examinations and purchase of unnecessary trophies. We do not mind trophies being awarded, but the practice should be regulated. In any case, in every district, there is a district education board which sits with Members of Parliament to regulate collection of funds.

Mr. Temporary Deputy Speaker, Sir, if this issue is left unchecked it will disturb parents, because this collection of money is not regulated. We are asking the Minister for Education and Human Resources to try and help parents of Makueni to stamp out this practise. Parents should be left to pay for what has been passed by district education boards. We have no problem with mock examinations, because they improve performance. In fact, we congratulate teachers in that area for producing good results. But too much of anything, at times, is not very good.

The Assistant Minister for Education and Human Resource Development (Mr. Awori): Mr. Temporary Deputy Speaker, Sir, the statement by the hon. Member is very serious and I have no reason at all to doubt what he has stated. The Ministry views very seriously any illegal collection of money by any official from the Ministry in through teachers. All of us would like our children to be coached and to excel in their examinations. But as the hon. Member has stated, the only local regulatory body is the District Education Board (DEB), and anything that has not passed through the DEB is illegal.

I want to give an undertaking to this House that a circular and a directive will go out, not only to Makueni District, but to all the other districts, to restrain teachers from forcing parents to pay money weekly or

monthly, for the purchase of examinations.
Thank you.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): With that, hon. Members, we interrupt the business of the House. The House stands adjourned until Tuesday, the 14th of July, 1988, at 2.30 p.m.

The House rose at 6.45 p.m.