

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 10th September, 1997

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Mr. Achola: Mr. Speaker, Sir, before I ask the Question, I would like to make a correction on it. It is not M/s Rapugi but M/s Rapugi.

Question No. 254

PAYMENT TO RAPUGI BUILDING CONTRACTORS

Mr. Achola asked the Vice-President and Minister for Planning and National Development when M/s Rapugi Building Contractors will be paid in full for the work they completed at Obera Secondary School vide Contract No. 1HOM/94/1.

The Assistant Minister, Office of the Vice-President and Ministry of Planning and National Development (Dr. Misoi): Mr. Speaker, Sir, I beg to reply.

I wish to advise the hon. Member that my Ministry has already paid a sum of Kshs199,222.30 to M/s Rapugi Building Contractors for the work they undertook to complete a dormitory block at Obera Secondary School as per Contract No.1HOM/94/1.

Appropriate action is also being taken to ensure that the remaining balance of money due to them is paid as soon as possible.

Mr. Achola: Mr. Speaker, Sir, I thank the Assistant Minister for that part of his answer. But my Question was: When will the contractor be paid in full? We know that he had already received the amount the Assistant Minister has mentioned. So, could he tell us when the balance will be paid, and what appropriate action he has taken to ensure that, that payment is made?

Dr. Misoi: Mr. Speaker, Sir, the balance of Kshs40,637.70 is still pending. My Ministry is consulting with the Treasury with a view to being given that money to clear the balance. May I explain that this payment could not be made at the timenn because the agreement between the Government and the donor lapsed. Therefore, the whole responsibility was left to the Government to undertake.

Mr. Nthenge: Mr. Speaker, Sir, can the Assistant Minister tell us why the understanding broke down?

Dr. Misoi: Mr. Speaker, Sir, hon. Nthenge knows quite well that most projects funded under the Rural Development Programme at the time were donor funded. Because of some action which took place earlier on, it affected the implementation of all the projects under that title.

Mr. Achola: Mr. Speaker, Sir, I think the Assistant Minister is really trying to avoid the issue. Can he deny or confirm the fact that this money is still outstanding because certain officers in his Ministry are asking for "kitu kidogo" before they can release the balance? In any case, the contract was completed way back in 1995. I do not understand how the Ministry can have two successive Budgets and still fail to pay only Kshs40,000. Can he confirm that the reason why this money has not been released is because his officers are asking for "kitu kidogo?"

Dr. Misoi: Mr. Speaker, Sir, my Ministry does not condone "TKK" or "chai". The fact is that, in terms of budgetary provisions, which are approved by this House, no single cent can be paid without the approval of this House. Therefore, that is why my Ministry is consulting with the Treasury. As soon as the money is made available, we will definitely clear the outstanding amount.

Mr. Nthenge: On a point of order, Mr. Speaker, Sir. The Assistant Minister has not touched on the question asked by the hon. Member. The hon. Member has said that the money has not been released because the officials of his Ministry are asking for "kitu kidogo". What is the Assistant Minister doing about that?

Dr. Misoi: Mr. Speaker, Sir, I deny that the officials in my Ministry are asking for "kitu kidogo". If the hon. Member knows any particular officer who has asked for bribes, I would challenge him to bring him forward, and we will take the necessary action.

Question No. 422

DISCIPLINARY ACTION AGAINST
HOSPITAL MANAGEMENT

Mr. Ndicho asked the Minister for Health:-

- (a) what disciplinary action he will take against the Management of Thika District Hospital who, through sheer negligence, caused the deaths of Masters Paul Kariuki Macharia, 14, of Gatwanyaga, John Njoroge Gakuru, 17, of Thika and three other patients; and,
- (b) whether the Ministry will compensate the families of the deceased.

The Minister for Health (Gen. Mulinge): Mr. Speaker, Sir, I beg to reply.

(a) My Ministry has not taken any disciplinary action against the management of Thika District Hospital. They did not neglect their duties in the course of the treatment of Masters Paul Kariuki Macharia and John Njoroge Gakuru. The three other patients have not been identified.

Master Paul Kariuki was admitted in the hospital on 26th January, 1997, with a diagnosis of malaria. He was started on chloroquin and aspirin. The following day, he was noted not to have responded to the treatment, and was commenced on intravenous quinine, which is the treatment for severe malaria. He, however, collapsed and died. The clinical cause of death was severe malaria.

Master John Njoroge was admitted in the hospital on 22nd December, 1996, with a diagnosis of inguinal hernia. The following day, an attempt to reduce the hernia under sedation was not possible, and the patient was scheduled for operation under general anaesthesia. Investigations were requested, including blood transfusion. Unfortunately, the results of the investigations had not been obtained during the day, to facilitate the operation. Also, the doctor on call had emergency cases in the maternity theatre. The patient collapsed and died on the night of 31st December, 1996, at 2.00 a.m., while still awaiting operation. The clinical cause of the death was strangulated inguinal hernia, with electrolyte imbalance.

(b) Since the deaths of the patients were not caused through sheer negligence, my Ministry is not considering compensating the families of the deceased.

Mr. Ndicho: Mr. Speaker, Sir, it is very sad to hear the Minister answering this Question in this manner. I have always complained about this kind of thing. The person who gave the Minister the answer to this Question is the same person who caused the deaths of these children as well as three other people at Thika District Hospital. They have given the Minister a misleading answer which eventually makes the Government lose credibility. Mr. Paul Kariuki Macharia, who was suffering from cerebral malaria, had problems with the nurses. At one time he kicked one of the nurses who in turn injected him with a certain substance which eventually caused his death. His father was told to go home on that day and come back the following day to check on the condition of his son. Unfortunately, when the father came back the following day, he was told to look for the body at the mortuary. I am giving the Minister some background information---

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): On a point of order, Mr. Speaker, Sir. Hon. Ndicho has made a very serious allegation, that a certain nurse in Thika District Hospital injected some substance into the body of this boy which caused his death. Can he prove this because it is a wild allegation?

Mr. Speaker: Mr. Ndicho, you are bringing a Question in disguise for giving your own stories. This is Question Time. So, ask questions and do not tell your version of the story.

Mr. Ndicho: Mr. Speaker, Sir, this is a situation where five people have died due to negligence---

Mr. Speaker: Order! Order, Mr. Ndicho! You are giving your own opinion. To the best of my knowledge, you have no medical expertise. So, can you put your question?

Mr. Ndicho: Mr. Speaker, Sir, I have no medical background and neither does the Minister. He has received this information from the same doctor who caused the deaths of these two children. What action is the Minister going to take in as far as the deaths of these two children and the other three people whom he has said have not been identified are concerned?

Mr. Speaker: Mr. Ndicho, I intend to move on to the next Question. You have taken five minutes talking to yourself.

Gen. Mulinge: Mr. Speaker, Sir, I have given the information that is contained in the file held by the

doctors in the hospital. If hon. Ndicho has more information, then he can bring it forward. That is the farthest we can go. The best we can do is to find the cause of the deaths of these two patients. I have given the information that I have from the officers who investigated the case to establish the cause of the deaths of these students.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, my question is in connection with Mr. Njoroge, but before that we have the boy who was suffering from cerebral malaria. Can the Minister confirm or deny the allegation that a nurse injected the boy with a substance which caused his death? The doctor should have been there to prescribe the dose. Did the nurse inject the boy on the doctor's instructions or what happened?

Gen. Mulinge: Mr. Speaker, Sir, I deny that allegation. I have already explained how the patients were treated. It is stated nowhere in my answer that the patients were injected.

Mr. Ndicho: Mr. Speaker, Sir, I am at a loss. The Minister has asked me to give him any information that I may be having and I am going to lay on the Table a document containing an article on the death of another school boy at Thika Hospital.

Mr. Speaker: Are those newspapers?

Mr. Ndicho: An authoritative source from Thika that reported this matter clearly. I am doing this because the Minister has refused--

Mr. Speaker: Mr. Ndicho, I am sorry, just ask your question.

Mr. Ndicho: If the Chair has rejected this document, may I ask the Minister to close down that hospital because people no longer go there because of fear of dying mysteriously?

Gen. Mulinge: Mr. Speaker, Sir, I have no reason to close down the hospital.

Question No.531

ELECTRICITY SUPPLY TO MARKET CENTRES

Mr. Mathenge asked the Minister for Energy:-

(a) whether he is aware that provision of electricity at market centres and other rural-urban areas could stimulate Jua Kali activities and create employment for the increasing number of school leavers;

(b) whether he is further aware that the constant power cuts and rationing have a detrimental effect on hotel, restaurant operators and several industries; and,

(c) if the answers to "a" and "b" above are in the affirmative, what plans does he have to ensure that constant and steady provision of electricity is made available to all parts of the country, particularly the rural market centres.

Mr. Speaker: Is the Minister for Energy in? If he is not in, the Question is stood over for the moment. Mr. Mungai's Question!

Question No.635

REPAIR OF KAMBITI-MARANJAU BRIDGE

Mr. R.K. Mungai asked the Minister for Public Works and Housing:-

(a) whether he is aware that Kambiti/Maranjau bridge was recently washed away making the road to Maranjau Prison and its environs impassable; and,

(b) if the answer to "a" above is in the affirmative, what measures the Ministry is taking to rectify the situation, which is affecting the lives of the residents and the Government institution.

The Assistant Minister for Public Works and Housing (Col. Kiluta): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that a vented drift on Kambiti-Maranjau-Igikiro section of road E533 was recently washed away.

(b) The Ministry will do the necessary site investigations and design the proposed box culvert to facilitate consideration of its financing next financial year. The proposed vented drift is provisionally expected to cost approximately Kshs2 million which is not available this Financial Year. In the meantime, the local residents may use an alternative route which is 3.5 Kilometres long and branches off at about 1.1 Kilometre beyond Kambiti on the main Sagana-Makutano Road A2.

Mr. R.K. Mungai: Mr. Speaker, Sir, we are talking of six children and six adults being unable to obtain treatment within a radius of one kilometre. Now they have to walk ten kilometres. We are also talking of school

children who cannot go to school and they have to walk for three-and-half kilometres. Instead of waiting for the next Financial Year, can the Assistant Minister consider getting some money to alleviate the problems of the residents of this area?

Col. Kiluta: Mr. Speaker, Sir, the hon. Member who is my neighbour, knows that I know the area very well, as much as he does. The only extra distance that is to be covered because of lack of that drift, is only 1.1 kilometres and not 10 kilometres. Secondly, if we are to do a good job on that bridge, we have to do some design work, costing and budgeting. This happened after the Budget had been made and so, we did not have the money to do it. I would like to promise him that it will be a priority once the design work and costing is done in the next financial year.

Mr. Speaker: Very well, next Question!

Question No.136

CONSTRUCTION OF A HEALTH CENTRE IN NJIRU

Mr. Ruhiu asked the Minister for Local Government when Njiru residents will be provided with a health centre.

The Assistant Minister for Local Government (Dr. Wameyo): Mr. Speaker, Sir, I beg to reply.

My Ministry has no short-term plans of establishing a health centre in Njiru.

Mr. Ruhiu: Mr. Speaker, Sir, I have not received the written reply to this Question and I have not heard the Assistant Minister's reply. Could he repeat?

Mr. Speaker: He said that he has no immediate plans to put up a dispensary in Njiru.

Mr. Ruhiu: Mr. Speaker, Sir, it is very sad indeed for the Assistant Minister to say that he has no plans to put up a dispensary in Njiru. The nearest health centre for the residents of Njiru is about 10 to 12 kilometres away and that is in Umoja I Estate. Could the Assistant Minister explain why he has no plans to establish a health centre in Njiru, when he knows very well that the residents of Njiru have to travel a long distance to the nearest health centre?

Dr. Wameyo: Mr. Speaker, Sir, if we receive a request through the District Development Committee, we will consider it.

Mr. Ruhiu: Mr. Speaker, Sir, may I tell the Assistant Minister that the hon. Member for that area, who is more superior to the DDC, has now made a request. Would he undertake to do that?

Dr. Wameyo: Mr. Speaker, Sir, we have not received a request. What we received was a Question.

Mr. Speaker: Next Question!

Question No.507

LOCATION OF BRICK AND TILE
MANUFACTURE PROJECTS

Mr. Munyasia asked the Minister for Land Reclamation, Regional and Water Development:-

(a) if he is aware that the Lake Basin Development Authority has been carrying out brick and tile manufacture projects in Bungoma District for several years now; and,

(b) if the answer to "a" above is in the affirmative, where these projects are located and their achievement so far.

The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Mokku): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the Lake Basin Development Authority has been carrying out brick and tile manufacturing projects in Bungoma District. I am aware that the proposed projects for the district were not implemented because the County Council of Bungoma declined to allocate the sites identified by the Lake Basin Development Authority for the purpose.

(b) However, the Lake Basin Development Authority staff from Vihiga District have been training interested brick and tile makers from Bungoma Town. Presently, over 50 people have benefitted from the project and several groups have established their own plants which produce high quality bricks for sale to the public.

Mr. Munyasia: Mr. Speaker, Sir, arising from the answer given by the Assistant Minister, could he tell us which sites had been identified by the Lake Basin Development Authority for this particular project?

Mr. Mokku: Mr. Speaker, Sir, the following sites have been identified for the brick and tiles makers: Bokoha in Darabachi, Kamukuywa, Kimilili and Bungoma Town.

Mr. Busolo: Mr. Speaker, Sir, the truth of the matter is that, those centres the Assistant Minister has read out as places where brick making is going on do not exist. Indeed, this question is similar to the question hon. Munyasia asked in the morning where the Assistant Minister did not seem to have information. I would like to request this Ministry to investigate what the Lake Basin Development Authority is doing. There are so many projects in their books which state what the Lake Basin Development Authority is doing in Bungoma and Western Province, but when you get to the ground, there is nothing. I would like to request you to go to the ground since what you have said does not exist. Are you ready to get to the ground and investigate exactly what is happening there? This just seems to be a milk cow.

Mr. Mokku: Mr. Speaker, Sir, those sentiments have been noted.

Mr. Sambu: Mr. Speaker, Sir, is the Assistant Minister aware that there is also supposed to be a brick making plant by the Lake Basin Development Authority in Kapsabet which is non-existent? It only exists in their records when they appear in the DDC's and in their annual reports.

Mr. Mokku: Mr. Speaker, Sir, as I had told hon. Munyasia, those sites which I have mentioned were the areas identified by the Lake Basin Development Authority for those projects, but the council could not allocate the sites to the management of the Lake Basin Development Authority to develop them.

Mr. Munyasia: Mr. Speaker, Sir, if it is true that Bungoma County Council declined to allocate the sites identified by the Lake Basin Development Authority, what explanation does this Assistant Minister have, that each year they have allocated an increasing amount of money to be spent on the same projects, the latest being in the 1997/98 Development Estimates, where they have increased the amount allocated from K£3,600 to K£25,000? What is the explanation for this if, indeed, it is true that Bungoma County Council declined to allocate the sites? What are you voting the money for?

Mr. Mokku: Mr. Speaker, Sir, although Bungoma County Council declined to give the sites for the project, individual groups have been identified by the staff of the Lake Basin Authority for training. They are now getting into viable projects as a result of that training.

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. I explained to this Assistant Minister that the Ministry is voting more money for this project. This year in particular, they have increased it from K£3,600 to K£25,000. What is the explanation for this, if they have not been allocated those sites? Why is the Ministry voting more money for it?

Mr. Mokku: Mr. Speaker, Sir, I have told the hon. Member that although the sites were not given to the Lake Basin Development Authority, the money voted by the Ministry for that purpose is being used to train some groups.

Mr. Speaker: Next Question!

Question No.572

ALLOCATION OF LAND TO SALT FACTORIES

Mr. Ndzai asked the Minister for Lands and Settlement:-

(a) how much land each of the salt works factories in Magarini Division, Malindi District has been allocated; and,

(b) if he could table a sketch map indicating the boundaries of each salt work factory in Magarini Division.

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

(a) The salt works factories in Magarini Division of Malindi District and the land allocated to each are as follows:-

- | | | |
|--------|--------------------------|-----------------------|
| (i) | Fundisha Salt Works | - 1,026.3192 hectares |
| (ii) | Ngomeni Salt Works | - 295.83 hectares |
| (iii) | Kensalt Manufacturers | - 2,263.90 hect. |
| (iv) | Malindi Salt Works | - 654 hectares |
| (v) | Crystaline Salt Limited | - 2,034.40 hect. |
| (vi) | K and K Traders Limited- | 500 hectares |
| (vii) | Alsharam Limited- | 1,000 hectares |
| (viii) | Arshaval Salt Works | - 44 hectares |
| (viii) | Kurawal Salt Works | - 595.20 hectares |

(b) The sketch map showing the nine salt works factories in Magarini is hereby laid on the Table.

(Mr. Sumbeiywo laid the sketch map on the Table)

Mr. Ndzai: Mr. Speaker, Sir, when the Assistant Minister talks of before 1963 does that mean that the land increased in size or has remained of the same size?

Mr. Sumbeiywo: Mr. Speaker, Sir, its size remains the same.

Mr. Achola: Mr. Speaker, Sir, could the Assistant Minister explain to the House what criteria were used in determining the amount of land to be allocated to these salt factories?

Mr. Sumbeiywo: Mr. Speaker, Sir, the factories were allocated these plots for terms ranging from 40 to 99 years, with a resumption clause, that the land will revert to the Government automatically without compensation when operations cease. The amount of land allocated depended on the size of each salt factory.

Mr. Wamae: Mr. Speaker, Sir, could the hon. Assistant Minister assure us that wananchi who are resident in those areas were fully compensated for loss of this land? The whole area was taken over! How much compensation was paid?

Mr. Sumbeiywo: Mr. Speaker, Sir, this land was not occupied by anybody and so there was nobody to compensate.

Mr. Ndzai: Mr. Speaker, Sir, is the Assistant Minister aware that some squatters are now being evicted from the land allocated to M/s Kensalt Manufacturers, and the chairman of the committee of Kazuu Semiti Primary School has been told to demolish the school without being given an alternative plot for the school? Can the Assistant Minister confirm to this House that the school will remain where it is and the squatters will be paid compensation and given alternative plots to live on?

Mr. Sumbeiywo: Mr. Speaker, Sir, I am not aware that there is a school which will be demolished as a result of the establishment of this salt factory. If there is one, I can assure the hon. Member that it will remain where it is and will not be demolished. If there are any squatters living on the land given to M/s Kensalt Manufacturers, they will be given alternative land.

Mr. Shikuku: Bw. Spika, hapo mbeleni Waziri Msaidizi alisema kwamba hakukuwa na watu katika ardhi iliyotolewa kwa makampuni ya chumvi. Yeye anaongea sawa na watu waliosema kwamba Mlima Kenya haukuwako kabla ya kugunduliwa na Wazungu. Nimeona kutoka katika ramani aliyoweka Mezani kwamba ardhi inayohusika ni kubwa na ilikuwa na wenyewe kutoka katika makabila ya Miji Kenda. Anaweza kulihakikishia Bunge hili kwamba wenye ardhi hii, ambao sasa hawana mahali pa kuishi, watapewa ardhi na Serikali kabla Serikali yenyewe haijaondolewa mamlakani na wananchi?

Mr. Sumbeiywo: Mr. Speaker, Sir, this was Government land. People who claim to have been living on that land may have been squatters. I said earlier on that if there were squatters on the land, the Government will find alternative land to allocate to them.

Question No.627

COLLAPSE OF MATUNGULU FARMERS
CO-OPERATIVE SOCIETY

Mr. Murungi asked the Minister for Co-operative Development:-

- (a) what factors led to the collapse of Matungulu Farmers Co-operative Society in Machakos District; and,
- (b) what steps the Government is taking to protect interests of coffee farmers in the area.

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

(a) Matungulu Farmers Co-operative Society Limited in Machakos District did not collapse but was split into 10 small societies. This was as a result of the decision which was made by its members in their annual general meeting held 29.7.95 at Kalala Factory, vide Minute No. 17/AGM/3/17/95.

(b) I wish to assure hon. Murungi and the House that the Government has continued to protect the interests of coffee farmers in Matungulu by registering the 10 small societies and guiding them throughout the transition period.

Mr. Murungi: Mr. Speaker, Sir, the answer given by the Assistant Minister says that Matungulu Farmers Co-operative Society did not collapse but was split into 10 small societies in 1995. In fact, this society was not split into 10 small societies. There was total destruction of the secondary society because its management disagreed with a prominent and powerful Kamba politician who swore to destroy the society. The management was also accused of supporting the Opposition in Machakos District. Can the Assistant Minister now confirm that the real reason why Matungulu Farmers' Co-operative Society was broken up and destroyed was because of politics and not because of the wish to protect the interests of small scale farmers?

Mr. Titi: Mr. Speaker, Sir, I deny hon. Murungi's allegation because I do not have that information.

Mr. Speaker: Mr. Mathenge's Question for the second time.

Question No. 531

ELECTRICITY SUPPLY TO MARKET CENTRES

Mr. Mathenge asked the Minister for Energy:-

(a) whether he is aware that provision of electricity in market centres and other rural-urban areas could stimulate "Jua Kali" activities and create employment for the increasing number of school leavers;

(b) whether he is further aware that constant supply cuts and rationing has a detrimental effect on hotel, restaurant operators and several industries; and

(c) if the answers to (a) and (b) above are in the affirmative what plans he has to ensure that constant and steady provision of electricity is made available to all parts of the country, particularly rural market centres.

Mr. Speaker: Mr. Mathenge, since there is still nobody here from the Ministry of Energy I am afraid I will have to defer your Question to next week.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

NUMBER OF CASUALTIES IN COST VIOLENCE

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

As a result of the recent violence that has rocked certain parts of Coast Province, could the Minister give a list of names of those who have died so far in Mombasa, Kilifi, Malindi and Kwale Districts.

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

A total of 52 people have died in the violence in the Coast province as follows: Mombasa 42 people, Kilifi 2 people, Malindi nil people and Kwale 8 people. I now lay on the Table the complete list of the dead. The list includes security personnel and civilian casualties.

(Mr. Kalweo laid the list on the Table)

Mr. Obwocha: Mr. Speaker, Sir, although I have not had the advantage of studying this list, looking at it straightaway I find that it has the names: Otieno, Onyango, Wainaina, Ngure, Onyango, Obia, Lembea, Ochiwo and so on. This tells you that these clashes were aimed against upcountry people. Before I ask a second question, could the Minister tell this House the actual cause of the clashes in the Coast Province?

Mr. Kalweo: Mr. Speaker, Sir, investigations have not been completed.

Mr. Mwavumo: Asante sana, Bw. Spika. Watu zaidi ya 50 wamekufa. Kabla ya tukio hilo, watu wapatao 400 walikufa kwenyewe ule mkasa wa Mtongwe Ferry, lakini bendera ya Kenya haikuteremshwa. Tuliteremsha bendera ili kuomboleza kifo cha mtu mmoja tu, ambaye si Mkenya. Pili, Waziri anaweza kulihakikishia Bunge hili kwamba Serikali hii itawalipa fidia wale ambao wamepoteza maisha yao na mali yao?

Mr. Kalweo: Bw. Spika, kama nilivyosema, uchunguzi ungali unaendelea na Serikali itajibu.

Mr. Farah: Bw. Spika, jukumu la kwanza la Serikali ni kulinda maisha ya wananchi na mali yao. Kwa vile Serikali imeshindwa kulinda maisha ya wananchi na mali yao, ni wajibu wa Serikali sasa kulipa fidia kwa wale ambao walipoteza maisha yao na mali yao ikaporwa.

Mr. Kalweo: Mr. Speaker, Sir, I have already told the House that the Government is doing investigations---

Hon. Members: Up to now?

Mr. Kalweo: And, of course, as things move on, we will see whether we can compensate these people because they lost their properties. The Government will look into the matter and see what can be done to assist these people.

Mr. Manoti: Thank you, Mr. Speaker, Sir. Sometimes we fail to understand what the Minister tells us. He

says that the Government up to now has not completed its investigations. They know very well who killed those people and how the operation is being done. Now, could he tell us how many Kisii people were among those people who have been killed?

(Laughter)

Mr. Kalweo: Well, he can check from the list.

Mr. Wamae: Mr. Speaker, Sir, what has happened in the Coast is a very serious matter. These criminals have gone and attacked a police station and killed people. Instead of the security forces going there to make sure that they confront them and retrieve the guns they have stolen, the Government continues to appeal to them to bring back the guns. That is most unusual. What is the Government going to do to make sure that all those people hiding in the Bombo caves and other places are uprooted and punished for the crimes which they have committed, instead of being asked to come out and give up the guns?

Mr. Kawleo: Mr. Speaker, Sir, let the hon. Member be patient. The Government cannot clear and kill everybody to get few guns. The Government will use its own machinery and it would uncover all this.

Mr. Ndilinge: Mr. Speaker, Sir, it is about two months since this incident took place. This is an issue concerning human life. We are all aware that the top security officers from the Coast Province were transferred yesterday. Is the Minister trying to tell the House that, after the new officers have taken over, new investigation are going to take place? Could he tell this House how far he has gone with the investigation?

Mr. Kalweo: Mr. Speaker, Sir, if I say how far I have gone, I will lose the course.

Mr. Murungi: Thank you, Mr. Speaker, Sir. When there was this problem in Burnt Forest, the Government imposed a curfew in that area. There has been a request by KANU leaders and the Opposition from the Coast Province that a curfew be declared in this area to facilitate the investigations which the Minister is carrying out. Could the Minister tell this House whether they are imposing this curfew or not?

Mr. Kalweo: Mr. Speaker, Sir, it depends. To the extent we have gone, I think soon we are going to give a full response.

Mr. Obwocha: Mr. Speaker, Sir, having perused through the list which the Minister has provided to this House, three quarters of those names are of upcountry people. Could the Minister be kind enough to request the Government to provide assistance to the families of the deceased to transport their bodies from Coast General Hospital and Pandya Hospital because most of the families cannot afford to transport those bodies from Mombasa? Could the Government assist the relatives of the deceased to transport these bodies from the Coast Province?

Mr. Kalweo: Mr. Speaker, Sir, let them channel the request to my office and it will be considered.

Mr. Anyona: Mr. Speaker, Sir, I hope we are going to get a better answer to this Question than the previous one.

DENIAL OF HARAMBEE PERMIT

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

(a) Will the Minister explain why the Nyamira District Commissioner refused to issue a licence/ permit for an Harambee in aid of all schools in Kemera Location, Manga Division of Kitutu Masaba which was scheduled for 29th August, 1997?

(b) In view of the District Commissioner's general involvement in local politics, will the Minister transfer him from Nyamira District with immediate effect?

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

(a) The District Commissioner issued a permit on 25th August, 1997, and Mr. Matthew Ondeyo Nyaribari collected the permit on behalf of hon. Anyona.

(b) There is no evidence that the District Commissioner involved himself in either local or national politics and the issue of his transfer does not arise.

Mr. Anyona: Mr. Speaker, Sir, as usual, we knew that the answer would be of that kind. The country is going through a season of good governance and reform and, this wind is blowing; yet we have Ministers here who are resisting the wind of good governance and reform. Could the Minister confirm or deny that on Thursday, the 28th August, 1997, after the last session of Inter-Parties Parliamentary Group, at 2.30 p.m. I called Nyamira and the permit had not been issued and the meeting was to be held the next day? So, therefore, what we are being told is a matter of back-dating the permit after I had announced the cancellation on the radio. Could this Minister tell this House what

time the permit was collected from the DC's office, because I called at 2.30 p.m. and the permit had not been issued?

Mr. Kalweo: Mr. Speaker, Sir, as hon. Anyona said, he rung the District Commissioner at 2.30 p.m. on 28th August, 1997, and he informed the District Commissioner that Mr. Nyaribari would come to collect the permit.

Mr. Obwocha: Mr. Speaker, Sir, the District Commissioner, Nyamira, Mr. John Gakuo, is a very notorious civil servant. We held three major Harambees in Nyamira District as Members of Parliament; at Tombe, Ekerenyo and the last one in my constituency at Kenyenywa with all Gusii Members of Parliament and this DC decided to snub those meetings and yet he pretends to stand for development. Could the Minister move this man from the field and take him to one of his Ministries to be an Under-Secretary or something here, so that we can have development in Nyamira? Could he transfer him from Nyamira immediately?

Mr. Kalweo: Mr. Speaker, Sir, I think the DC, Nyamira, is doing a good job.

Hon. Members: Ah!

Mr. Kalweo: The meeting you accuse him of not having attended was a political meeting. But had you invited him to that meeting?

Mr. Anyona: Mr. Speaker, Sir, really, this is very serious. The Minister confirms that I called at 2.30 p.m. and there was no permit. Why would I bring a question to this House if I was told that the permit was ready and was going to be collected? When you have an obnoxious weed in your garden, you uproot it and you dig up all the roots. When Mr. Kaguthi was removed, the roots of the likes of Gakuo were left. If this Minister does not want to offend the community, which he has offended enough as it is, because we have no confidence in this DC, will you remove him and take him to your place if you want him and if he is doing a good job? If not, we are going to take action and we will remove him by force.

Mr. Speaker: Mr. Kalweo, do you have any comments?

Mr. Kalweo: No, Mr. Speaker, Sir.

Mr. Ndilinge: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to mislead the House when he knows very well that DCs work under instructions? For example, on 25th May, 1997, I had a permit for my meeting in hand and the DC, Makueni, came and snatched it from me and the meeting was called off.

Mr. Speaker: Order, Mr. Ndilinge! There is a difference between a complaint and a point of order.

Mr. Ndilinge: Mr. Speaker, Sir, I am giving an example.

Mr. Speaker: Order! You are complaining.

Mr. Manoti: Thank you, Mr. Speaker, Sir. A District Commissioner is the chairman of the DDC in his district. The DC, Nyamira, as you have heard, is not ready to work with elected Members of those areas. Since he is very unco-operative, can the Minister transfer him to an alternative place or station?

Hon. Members: Send him to Meru!

(Several hon. Members stood up on points of order)

Mr. Speaker: Order! Order! I prefer that we deal with this matter without personalising it. You may not like the DC, but the office will remain. Can you answer the question, Mr. Kalweo?

Mr. Kalweo: Mr. Speaker, Sir, every case has its own merit to deal with.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I raised the question because this is a matter that offends the whole community, but the Minister did not respond. He just sat there, grinning. As this is a serious matter, can we have an answer?

Mr. Speaker: What was the question?

Mr. Anyona: Mr. Speaker, Sir, the Minister said that the DC is doing a good job, and yet, Mr. Kaguthi was removed because this was his team. This obnoxious weed was not entirely uprooted.

Mr. Speaker: Order, Mr. Anyona! As a matter of fact, your language is offensive and also insulting. As an old hon. Member of this House, could you use acceptable language?

Mr. Anyona: Mr. Speaker, Sir, I appreciate your feelings but I was only using it figuratively, which I think is allowed. In any case, I do acknowledge it is strong language because, it was intended to reflect strong feelings, but I want to be more civil. Can we get a civil answer from this Minister? If the community does not want this DC, what right does he have to impose him on us? Anyway, he has been there for so long and he is beyond the retirement age.

(Applause)

Mr. Kalweo: Mr. Speaker, Sir, I said that every case has its own merit. Kaguthi was Kaguthi and the DC, Nyamira, is a different person. So, we cannot act because we transferred Mr. Kaguthi. Therefore, it is not possible to

transfer the Nyamira DC.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order! It is absolutely unfair for hon. Members to condemn this particular individual here without giving him a chance to defend himself. So, I will say that is enough.

Dr. Lwali-Oyondi's Question!

POSSESSION OF INSTITUTIONAL HOUSES

Dr. Lwali-Oyondi: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that two institutional houses, Blocks 10/157 and 10/158, belonging to teachers of Menengai High School have been taken over by Messrs Hyrax Enterprises Ltd., who are now threatening to evict the teachers?

(b) If the answer to "a" above is in the affirmative, what steps is the Minister taking to solve this problem?

The Assistant Minister for Education (Mrs. Ndetei): Mr. Speaker, Sir, I beg to reply.

(a) I am aware.

(b) The two plots were Government plots with institutional houses allocated to my Ministry. However, the Commissioner of Lands, legally allocated the two plots in Nakuru Municipality, Block 10/157 and 10/158 to Hyrax Enterprises Ltd. The management of Menengai High School has appealed to the Commissioner of Lands to consider and review the allocation of these plots. I do hereby affirm my Ministry's support for the Commissioner to revoke the allocations because there is no way the schools are going to be run in the 21st millennium when their plots have been allocated to private developers. Any pressure should be brought to bear on the Commissioner of Lands from any quarter in this Government to ensure that the school land is protected.

(Applause)

Dr. Lwali-Oyondi: Mr. Speaker, Sir, I wish to thank the gracious lady for that very kind answer. There is a saying that: "Give a dog a bad name and hang it." It has been said that this Commissioner of Lands is the man behind all the land grabbing. If it is true that he is the one who allocates school land--- The other day, he made a road through the playing field in the same school. Can we have this Commissioner of Lands sacked from the Government?

Mrs. Ndetei: Mr. Speaker, Sir, certainly, the work of sacking the Commissioner of Lands is not our Ministry's job. But I seriously concur with the feelings of the particular hon. Member.

Mr. Shikuku: Bw. Spika, kutokana na hilo jibu zuri ambalo tumewahi kusikia kutoka kwa mhe. Ndetei, tungeomba atueleze ni lini yeye na Wizara yake wataonyesha uzito wao ambao wameonyesha katika Bunge hili, ili wananchi waambiwe ya kwamba mambo haya yamefutuliwa mbali, ili wafurahi? Wanajua Serikali husema tu lakini baadaye, hakuna lolote litakalofanyika.

Mrs. Ndetei: Mr. Speaker, Sir, unless hon. Shikuku was not attentive, I have just said that it is not our work to sack the Commissioner of Lands. But we support the complaints the people are raising.

Mr. Munyasia: Mr. Speaker, Sir, the Assistant Minister says that the houses and the land had been allocated to the Ministry of Education. Then she says that the Commissioner of Lands re-allocated those houses legally. I suppose the Commissioner of Lands was dispossessing the Ministry of Education. Did the Ministry of Education give the okay for the Commissioner of Lands to repossess those houses?

Mrs. Ndetei: Mr. Speaker, Sir, unfortunately, when this property belonged to the Ministry of Education, we were never issued with title deeds to the same property. So, legally, we do not have the mandate to demand this land back to the Ministry, but we can only put pressure through the local committee of the school to have the land given back to the school.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. I hope that the Assistant Minister follows the directives of the Government. Is she in order now to say that in the first instance, the Ministry did not own this land, when the President himself has given a directive that all school land should be issued with title deeds? After these pieces of land have been grabbed, they are sold to the Asians because they are rich. Is she in order to express ignorance that she does not know that schools should be issued with title deeds?

Mr. Speaker: Mr. Ndicho, I think you are out of order.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, I think I am getting a little bit confused because the Ministry of Education is part of the Government and I am yet to see a Government having a title deed. Could the Assistant Minister elaborate on what she has said?

Mrs. Ndetei: Mr. Speaker, Sir, according to the information that I have on the Question Paper, the Ministry never held title deeds over these properties, but the Commissioner of Lands went ahead and allocated the land to a private developer without making reference back to the Ministry.

Mr. Shikuku: Mr. Speaker, Sir, I may speak in English to enable the gracious lady to understand me. The Government owns this land and the Ministry of Education is part of that Government. Could she take it upon herself to make sure that this very Government of which she is a part---

Mrs. Ndetei: You can speak in any language!

Mr. Shikuku: Mr. Speaker, Sir, she is not even listening.

Mrs. Ndetei: We are listening.

Mr. Shikuku: Mr. Speaker, Sir, could this Government use its collective responsibility to tell one of its departments to ensure that this land is returned back to the school which is a part of the Government?

Mrs. Ndetei: Mr. Speaker, Sir, we are talking one and the same language and I do not think that there is a difference of opinion.

CONTROL OF FISHING IN PROHIBITED ZONES

Mr. Badawy: Mr. Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following Question by Private Notice.

(a) What action is the Minister taking to alleviate the suffering of Mr. Kahale Kombo and his seven boat crew, whose four fishing nets were destroyed by a fishing trawler belonging to Messrs ALSECOP Petroleum Limited on 30th May, 1997, since the matter has been reported to the Fisheries Officer, Malindi?

(b) Could the Minister give an assurance that such frequent incidents caused by trawlers doing illegal fishing in the prohibited zones along Malindi and Ungwana bays shall be curbed by imposing stiff penalties, and preferably by cancelling the culprits' fishing licences?

(c) What urgent steps is the Minister taking to introduce legislative measures to compel owners of the stray trawlers to compensate local fishermen, when their boats and equipment are destroyed in the course of their fishing within the authorized zone?

The Assistant Minister for Tourism and Wildlife (Mr. Singaru): Mr. Speaker, Sir, I beg to reply.

(a) Mr. Kahale Kombo's nets were not destroyed by a fishing trawler belonging to Messrs ALSECOP Petroleum Limited as alleged. The nets which were destroyed, however, belonged to Mr. Sudi Timami.

(b) In accordance with regulations 43 of the subsidiary legislation LN34/91 of the Fisheries Act, a fine not exceeding Kshs20,000 or imprisonment not exceeding two years or both are imposed on any trawler found operating in a prohibited zone.

(c) A legislative modality to compel owners of stray trawlers to compensate local fishermen when their fishing equipment are accidentally destroyed while fishing in the authorised zones will soon be formulated and introduced as a subsidiary legislation in the Fisheries Act.

Mr. Badawy: Mr. Speaker, Sir, I am glad the Assistant Minister has admitted that nets were destroyed by that trawler belonging to the company that I have mentioned. Mr. Kahali Kombo is the legal representative of Mr. Sudi Timami and that is how he earns his living. Now, having admitted that the nets were destroyed, what compensation has been given to Mr. Sudi Timami or to Mr. Kahale on behalf of the owner of the boat in accordance with that legal provision that the Assistant Minister has just cited?

Mr. Sing'aru: Mr. Speaker, Sir, the Ministry official, however, through administration intervention managed to prevail upon Messrs. ALSECOP Petroleum Limited to compensate the fishermen for the destroyed nets. An amount of Kshs25,000 was agreed upon although Mr. Kahale, who was acting on behalf of Mr. Timami, demanded Kshs50,000 of which he was unable to justify, but the Kshs25,000 still stands and he can be paid that money any time and any day.

Mr. Mumba: Mr. Speaker, Sir, it is clear from the answer that the Assistant Minister has given that, in fact, the Ministry has no policy to protect local fishermen from rich foreign fishermen. One net costs about Kshs18,000 and hon. Badawy is telling us here that four nets were destroyed. Obviously Kshs25,000 is nothing when looked at against the cost of one net. Can the Ministry undertake to get the foreign fishermen or Messrs ALSECOP Petroleum Limited or whatever, to compensate fully the fishermen for the nets destroyed and the loss of fishing time? The Ministry must act to protect its own citizens!

Mr. Singaru: Mr. Speaker, Sir, according to the Fisheries Act, we are allowed to pay a fine not exceeding Kshs20,000.

Mr. Badawy: Mr. Speaker, Sir, that answer is very vague. Hon. Mumba has just explained that one net costs Kshs18,000 and on what basis is the Fisheries Department calculating the compensation?

Mr. Singaru: Mr. Speaker, Sir, I think we are going by the Fisheries Act and what is contained in the Act is what the Ministry is sticking to.

Mr. Speaker: I think we should leave the issue there because I think both of you are talking two different languages without knowing it. There is a difference between a fine and compensation and you are not communicating. So, next order.

BILLS

Second Readings

THE CO-OPERATIVE SOCIETIES BILL

(The Minister for Co-operative Development on 27.8.97)

(Resumption of Debate interrupted on 9.9.97)

Mr. P.N. Ndwiga: Thank you, Mr. Speaker, Sir. Today, I wish to say very few things on this Bill and I wish to start off by asking the Ministry of Co-operative Development to take measures to contain the provincial administration from interfering with the Co-operative movement. It is so painful when you find DOs and DCs who know very little about co-operative societies summoning members to discuss coffee. Most of these administrators use the co-operative movement for political purposes and it is painful. I think it is sincerely unacceptable. The District Co-operative officers are used by the DCs to summon meetings of societies so that DCs can propagate KANU propaganda to farmers.

Mr. Speaker, Sir, I would also like to remind the Ministry about what various contributors said yesterday, that the biggest problem facing the co-operative movement is lack of infrastructure. There are, for example, no roads in the countryside. Farmers are paying cess, but they do not have good roads. We want the Ministry of Co-operative Development to liaise with the Ministry of Finance because there is a public fund of Kshs5.2 billion which has been stashed in a bank here in Nairobi since 1992. We have said before that if the Government cannot marshal the 20 per cent matching fund, we, co-operators, would be able to raise that fund through our cess. So, we would want to urge the Ministry of Co-operative Development to liaise with the Ministry of Finance so that this fund is properly used in maintaining roads and also in constructing new roads.

Mr. Speaker, Sir, in 1992 most co-operative societies lost their vehicles through carjackings. This year again, we have noticed that every other day, four-wheel drive vehicles are disappearing here in Nairobi, upcountry and virtually everywhere in this country. I know that you own one and it is also in danger. These car-jackers are looking for four-wheel drive vehicles.

Mr. Speaker: Mr. Ndwiga, are they co-operators?

Mr. P.N. Ndwiga: Mr. Speaker, Sir, most of the co-operative societies own Pajeros and they are disappearing with the car-jackers.

Mr. Speaker, Sir, you will notice that, and we do not think it is a coincidence, that every election year, four-wheel drive vehicles, especially those belonging to co-operatives, disappear. The argument is that these are the same vehicles that end up with KANU fellows who are campaigning upcountry. Otherwise, where does KANU get free vehicles to dish out to fellows who are contesting? We want this Government to investigate itself because it knows who is taking these vehicles. We know the beneficiaries of those vehicles and some of them are in here.

Mr. Speaker: Will you come to the Bill now?

Mr. P.N. Ndwiga: Mr. Speaker, Sir, on Part XIII of the Bill, paragraph 2 which deals with the surcharge; to date, we have not heard of fellows or committee members who have been surcharged for misappropriation of funds.

Mr. Speaker, Sir, we want the Ministry to go further and seek legislation, so that fellows who misappropriate society funds are not merely asked to repay the money, but they should be jailed for ten years. Do you know whose money this is? For fellows who misappropriated society money, money that belongs to the poorest of the poor, really, there should be a legislation that deals with them. Merely repayment of the money is not enough punishment. I think we should move further.

Mr. Speaker, Sir, Clause 73(4) talks of convening of a general meeting. This is another area where committee's chairmen and secretaries refuse to summon meetings when they know that they have misappropriated money and members are going to have them either removed or punished. Paragraph four says:-

"Any secretary, chairman or any other officer of co-operative society who fails to call a general meeting of the society as directed by the Registrar under subsection (3) shall be guilty of an offence under this Act and shall be liable to a fine not exceeding Kshs2,000.00."

Mr. Speaker, Sir, this is most ridiculous! What is a fine of Kshs2,000.00 when a fellow has misappropriated Kshs200,000.00? Honestly, I propose that it should be increased, not just Kshs2,000.00, but to Kshs20,000.00. This will make the fellows take their jobs more seriously. Surely, Kshs2,000.00 is ridiculous! We know those fellows. They go in there when they are of my size, but after staying there for two years, they are the size of the Minister for Co-operative Development, and we know what is happening.

Mr. Speaker, Sir, the other area I was hoping that this Bill would address itself to is the relationship of the societies and the union. There is one section here which talks of the establishment of a tribunal. I want to commend the drafters of this Bill on the introduction of tribunals to settle disputes instead of going to DOs and chiefs. In areas where the Provincial Administration has been involved in the settlement of disputes in co-operative societies, they have ended up disbanding the society and forming commissions instead. There is no known commission in this country which has ever served the interests of the farmer; it is always the interests of the administrator.

Mr. Speaker, Sir, on the marketing of produce which is also touched briefly by this Bill, I wish to ask the Ministry of Co-operative Development to liaise with the Ministry of Agriculture, Livestock Development and Marketing, because this is one area which is just about to "kill" the co-operative movement. In the coffee industry, farmers have their own factories, lorries, process their coffee and transport it to millers. When the coffee gets to millers, farmers pay them for milling. The coffee is then taken to Coffee Board for auctioning and Coffee Board takes 6 per cent. Six per cent is a lot of money. It is too much.

Mr. Speaker, Sir, Coffee Board of Kenya is one institution that has outlived its usefulness. Farmers are not stupid enough to plant coffee and tend it, and the only thing they cannot do is sell it. There is no known person who can do all that work and not sell. We want total liberalisation of this sector. We want the Ministry of Co-operative Development to seek legislation for total liberalisation of the coffee and tea sectors.

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

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Muchilwa): Mr. Speaker, Sir, thank you for giving me the opportunity to support this Bill.

Mr. Speaker, Sir, the co-operative movement in this country has done a lot in uplifting the standards of living of Kenyans. In fact, approximately 60 per cent of Kenyans earn their living either directly or indirectly from the co-operative movement.

Mr. Speaker, Sir, until recently, our neighbours were laughing at Kenyans, particularly Kenyans of African origin, saying that although the Kenyan economy was booming, the natives had no stake in it. They were particularly pointing at investments in the City. They were saying although you see all these buildings, they are owned by foreigners or people who are just "naturalised" Kenyans.

Mr. Speaker, Sir, it is the co-operative movement that has changed all that. When you come from the airport, the first two tall beautiful buildings that you see at the junction of Haile Selassie Avenue and Uhuru Highway, that is the Harambee Plaza and Afya House, are owned by indigenous Kenyans.

These very small people who came together through the co-operative movement and showed that through the co-operative effort something can be done to uplift the standards of living of Kenyans and also to make them participate fully in the economy of their own country. After that, the rest has been said. There are plenty that came up, Posta SACCO and the whole street, as was said by one Member, has a lot of buildings that came out of the co-operative movement.

Mr. Speaker, Sir, it is the same movement which, for the first time, enabled money to filter down to the grassroots where wananchi live. Until SACCO societies came, the average Kenyan worker had his money in the savings account, but he could not borrow that much because he did not have security. So, the people who were using that money were the traders and they could use their securities because the average workers were nowhere to borrow the money. Their money was being used by other people. In the case of inflation, like now, that money would buy goods, hoard them and then make the same people who generated the money to suffer. But with the coming of the SACCO societies, just through guaranteeing each other, these members have been able to borrow without offering any collateral security and through that, they have been able to do so many things. They have built houses not only in towns, but also in the rural areas. They have also bought cattle for zero grazing. They have been able to do Jua Kali work and so on.

Mr. Speaker, Sir, that particular effort of the co-operative movement needs to be seriously looked into and

strengthened in order to strengthen the economy of this country. There is a saying in my language that "whoever encourages you to build, must help you to get the grass with which to thatch". The Government in this country is encouraging reduction of poverty. It is encouraging Kenyans to venture into economic activities. If we are serious, as a Government, we must encourage the co-operative movement and do it practically. This Government borrows huge loans which disappear. I would like to suggest that the Government should seriously consider borrowing money at concessionary rates and lending that money to the Co-operative Bank of Kenya which services co-operatives and the co-operative movement, to enable that bank to lend for longer periods to the borrowers.

For example, the SACCOs have got salaried members. There is no way that money can disappear and, if well managed, it will go a long way in helping the Government achieve its objectives. Money in the co-operatives never gets lost like in banks. These days, banks--- I discovered this recently when I was raising money for women groups in my area; I raised some money for women groups, and those that deposited Kshs6,000 and Kshs7,000 in savings accounts, went back thinking they had money in those accounts, only to find there was no money. This is because after a certain limit, banks keep deducting even from the savings account instead of adding interest until that deposit which was put there disappears. So, when these women were going to withdraw thinking they had money, because not all of them are well educated, they found that their accounts had been closed. In a co-operative society, that does not happen; instead the savings attract some interest from time to time. So, I would like to urge the Ministry concerned to seriously consider strengthening the Co-operative Bank, to enable it to lend the SACCO societies and other societies so that they can lend for longer periods.

If the Co-operative Bank is guaranteed by the Government, it can access big funds from elsewhere and instead of the current interest which is now above 30 per cent; if they borrow money and lend it to the Co-operative Bank at 8 per cent, and the Co-operative Banks lends it out to its customers at 12 per cent or so, the Co-operative Bank can help these co-operative societies to lend money to members. That will go a long way in helping in the generation of various activities that will help the economy of this country.

Mr. Speaker, Sir, I am glad that the Co-operative Act has been looked at in terms of following the loanee instead of the guarantor. We have had a lot of problems where, and I remember a case where a person was driving a Mercedes Benz and somebody else had guaranteed him a loan, and that fellow was having deductions made on his salary because he was a guarantor, while the loanee was laughing. I was the vice-chairman of that society, Harambee SACCO, but we could not follow the loanee. We were told to follow the guarantor. Those sort of snags which have been hindering the running of co-operative societies should be removed.

Mr. Speaker, Sir, there is need for insurance of loans. A lot of people are dying and some co-operative societies prefer to have their own insurance schemes. There was a co-operative insurance company which, again, was offering terms that were not right. I think the Commissioner and his team should come into this area, since the interest rate has been freed because previously, we had this situation where they were allowed to charge only one per cent per month interest which amounted to about seven per cent per a year at the time when banks and other financial institutions were charging 30 per cent. With the freeing of interest rates, the co-operative societies should be guided so that there is insurance to ensure that money which is borrowed by members is not lost.

Mr. Speaker, Sir I am not in favour of the abolition of the post of the Commissioner. I am in favour of retaining the post, but reviewing and redefining his powers because, at the moment, he has too much power and sometimes that power can be misused. For example, I do not see why the Commissioner should, from nowhere, go into a huge co-operative society and appoint his own manager to run it. There should be a way of doing it. Just one person waking up overnight and saying, "I do not like so-and-so; I do not think this society is running well", and then imposing somebody there. Where such a thing happens, since the Commissioner is an agent of the Government, if that society or organisation loses members' money, then those aggrieved members should be able to claim and be reimbursed their lost money because that money is lost through somebody they did not appoint. It is wrong. If the Commissioner has to do that, then there should be a procedure that is beneficial, particularly to the members.

I do recognise the fact that members in most co-operative societies are spread out; they are not in one place. Therefore, they can be exploited. It is in this connection that I do feel that there is need for the post of the Commissioner and his officers to try and oversee, as in the same role as the Governor of Central Bank of Kenya, things, so that if there is a group of the central management committee that wants to exploit these members who are scattered all over the Republic, it is not allowed to do so.

Mr. Speaker, Sir, although these societies have got some supervisory committees, they should have their roles properly spelt out, so that both internal and external auditors do not come under the general managers. They should come under the supervisory committees, so that they know what is happening in the societies. There should be a provision that the audit report should go to the supervisory committees, the management, and also to the Commissioner for Co-operatives. If a society reaches a stage where the situation is so bad, the Commissioner of Co-operatives should find a way of intervening in order to advise the co-operators to hold an annual general meeting in order to solve

their problems. I think the Commissioner's role should also include training, so that the people charged with running the co-operatives know what to do.

Mr. Speaker, Sir, the other area on which I would like to make some recommendation on, is the qualifications of the people who are going to run the co-operatives. Some of the co-operatives in this country have become so big that they are handling billions, for example, the coffee unions of this country and the big SACCO societies like the Harambee Co-operative Society which has over Kshs2 billion in assets. Just imagine a subordinate staff who signs using a thumb print, out-talking everybody else. They are very good campaigners because they see that money as money to be eaten. Such people are so many in a co-operative society because in any organisation, the lower strata has got more numbers than the upper strata. Just imagine such people working their way into those offices. What happens to the money? There is need to have a minimum standard for people to be elected to central management committees of co-operative societies. We do not want a situation like the one we have seen in City Hall, where billions of our taxes are being managed by people who do not know what is happening, and the only thing they know is how to eat it. If we do it that way, we will not succeed. So, there is a need to look at that one so that, while we are reviewing the supervisory aspects of these things, the standard of the person who can manage them should be sufficient, just like in this august House where we have a minimum standard. They should be people who understand finance, particularly in the bigger societies.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, the farmers' co-operative societies have also contributed immensely to the economy of this country and they are still contributing. In spite of their hefty contributions, practically they are hardly helped. If anything, the management systems in the co-operative movement and the office of the Commissioner for Co-operatives have been such that, they have been discouraged. One does not need to go far. There is a good example of the Kenya Farmers Association. I am a farmer and I cannot get fertilizer, jembes or the knives which I used to get. There are no loans in the Agricultural Finance Corporation and many co-operators are supposed to get money from there. The livestock farmers have suffered as a result of the closure of the Kenya Meat Commission. Farmers grow maize in this country and yet, they have nowhere to sell it. How are we helping them? If we want to help co-operatives, we have got to come out and help them practically. Maize farmers should sell their produce to the National Cereals and Produce Board (NCPB). We should put a qualified manager to run the NCPB and put the controls, so that he can run it without interferences. Such a person can be made to be liable for any errors of omission or commission in the organization. That way, things will not go wrong and we will have buffer stock for the country.

Mr. Temporary Deputy Speaker, Sir, I feel very sad sometimes when I hear some Members in this august House shouting at the top of their voices that we abolish that organisation, and when there is famine, they will come back crying about it. There is no country which can do without the buffer stocks of food. Which country in the world can do that? If we are going to talk only about buffer stocks of food and we are not providing the money under the pretext that the money which was there was eaten, then that is not good enough. We have got to solve the problem because it cannot just go away. We can only solve it by providing the money to the NCPB and instruct them to operate commercially, but not to the extent of breaking everybody else. When we do this, we will control the contraband maize that comes to the country or if it comes, the duty should not be evaded. That way, co-operatives in that sector will grow, and the AFC, the GMR and all those with proper management should be able to come up. The horticultural sector is coming up at a break-neck-speed. Kenya is among the giants now in the horticultural field. Inputs are high. We have got to do the right things at the right time. That is where co-operatives should come in and help because they also benefit. If the co-operative movement is not strengthened, only the big ones will benefit from that. Is that what we want as a country? The people of Bunyore would like to grow some flowers or French beans. If they come together, they will prosper. But that is only possible if they are enabled to do so through financing and, of course, helped through the guidance from the Ministry of Co-operative Development. So, I would suggest and urge the Government to seriously come forward and help the co-operative movement, for example, the AFC, NCPB, KMC and many others.

Mr. Temporary Deputy Speaker, Sir, on the sugar sector, there are many co-operatives and I belong to some of them. I am a member of Mumias Outgrowers Co-operative Society. There are problems in that area. The problems in the sugar sector are well known. The Government should come forward and make sure that the whole sector of the economy does not sink or wiped out just by a few individuals. A lot of water has passed under the bridge

but it is very important to take note of this because there is farming in that area. People who were cutting sugar cane in the sugar plantations are not doing so today because sugar mills are not grinding any sugarcane. These people are now looking for AK47 rifles to use in robbing people. We can do away with that by enabling our people to work. These people can weed those farms. The owners of those shambas can sell their sugar and pay school fees. So, the co-operative movement should be helped. Those in the sugar co-operatives need to be helped to buy tractors. At the moment, the person making money in the sugar belt is the transporter, and not the one growing the sugar cane. The sugar cane stays for 36-48 months until it is burnt, when the whole thing is just cellulose. When it is burnt, the whole stalk burns up because it is dry. Meanwhile, the interest is piling on the inputs that the company gave to the farmer. We have to help that farmer.

Mr. Temporary Deputy Speaker, Sir, shares in those companies will be sold. The ones on whom the industry depends must have their fingers in the pie. It is very important that they be enabled to buy these shares. This is because if those co-operatives are not enabled to do so, it will be very bad. The same can be said of roads in such places. The co-operative societies should be linked with the Kenya Sugar Authority, so that it can be re-constituted to include co-operatives and individual farmers for that matter. In this way, they can be the ones who determine how their roads can be done. At the moment, there is a sugar cess levied from the farmers, but they are getting nothing.

Finally, there is a conflict of interests which should be addressed both by the Ministry of Agriculture, Livestock Development and Marketing and the Ministry of Co-operative Development. In a liberalised economy, we have the farmer on the one hand with his cane, while the price is set by the factory and yet the factory is profit-oriented.

What I would like to say is that the authorities should come in to determine who will set the prices of cane in the liberalised economy, given the fact that if the company is allowed to do that alone, it will squeeze the farmer until it finishes him. It will squeeze the last ounce of blood from him.

With those few remarks, I beg to support.

Mr. Mathenge: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to the Co-operative Societies Bill.

First of all, I would like to say that the Government's aim to democratise, professionalise and relax its control over the co-operative movement is good. In the last five years, many co-operative societies have not been doing very well, mainly due to lack of high-level management. As a result, many co-operative societies, especially those ones dealing with coffee, are disintegrating. There is a clamour for factory societies to be left on their own, away from the unions. This has resulted from poor management by the unions, and by the personnel of the societies.

If the Government wants to help the co-operative movement to run smoothly, it must, first of all, try to train or help to train managers of these co-operative societies. Again, at the middle level, the accountants and the personnel managers must also be well selected and trained people. Otherwise, if we leave them to run as they have been doing before, we will not be making very much headway in the field of competition, when the industry will be liberalised. We must realise that most co-operators are not very literate people. They depend on the guidance of educated people, particularly in the management of finances. We must look at the most economic methods of producing coffee, sugar cane, cotton and other crops. This is because the societies are in need of technical officers to train or teach them on how to produce the best they can, for their societies. These officers, particularly Government officers, should not appear to be the managers of co-operative societies. They should understand that members of co-operative societies are the owners of their produce. What the Government officers should do is to advise on how better crops can be obtained.

QUORUM

Dr. Oburu: On a point of order, Mr. Temporary Deputy Speaker, Sir. We appear not to be having a quorum.

An hon. Member: But he has just come in!

The Temporary Deputy Speaker (Mr. Ndotto): No! Dr. Oburu has been sitting here for the whole afternoon. We have no quorum. Can you ring the Division Bell.

(The Division Bell was rung)

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

Mr. Mathenge: Mr. Temporary Deputy Speaker, Sir, if the co-operative societies are constantly run on commercial basis, they are likely to hasten the industrialization of this country thus creating employment for very many school leavers and helping in the distribution of wealth evenly in this country. But the Government does not seem to

realise that there is a great potential in the co-operative movement. Industries could be developed---

Mr. Sankori: On a point of order, Mr. Temporary Deputy Speaker, Sir. Now that we have dealt so much with the Co-operative Societies Bill, I beg to move that the Mover be called upon to reply.

The Temporary Deputy Speaker (Mr. Ndotto): Order! If that is the wish of the House, I will put the question.

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

The Minister for Co-operative Development (Mr. Munyi): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to comment on this very important Bill. I wish to respond to what hon. Members have said. I would like to assure the hon. Members who contributed on the Bill that I will seriously consider all the points they raised. Almost all the hon. Members who spoke supported this important Bill.

I would like to say that in areas like Nyanza where there are sugar cane farmers, there have been problems there, but we promise to deal with them. In areas like Central Province, various issues concerning coffee and tea industries have been raised. All these issues will be taken seriously. I would like to assure the people of Turkana and West Pokot that we shall do everything possible to ensure that there are co-operative societies there. They have so far formed SACCOs dealing with gold and other natural resources. I would like to tell the Members from West Pokot and Turkana that the Government will do everything possible to ensure that they benefit from these natural resources. There was a time when I visited Mauritius and found that people there deal in gold and diamond, some of which they import from Botswana. We should give the opportunity of exploiting the natural resources to the local people. We are aware of the fact that people from Turkana and West Pokot prospect for and get gold. That will help them a lot. As a Ministry, we shall do everything possible to see to it that their interests are protected. Therefore, I would like to assure them that there will be no problem in as far as dealing in gold and other forms of gemstones is concerned.

The other problem which was put forward by the hon. Members from Nyanza and Western Provinces is that of poor management of the co-operative societies. I would like to advise the Members of Parliament to tell their people to elect people who are sincere. They should elect people who are trusted and not those who are only interested in misappropriating the contributors' funds. We are not going to tolerate this kind of thing. This is what we have seen happening. Some people use whatever means they have at their disposal to get to top positions only to run down the co-operatives societies. This kind of thing should stop. It is up to the Members of Parliament to advise their constituents to elect trustworthy people. This is the problem that we have been having all over the country. The same problem can be seen in Harambee SACCO and Posta SACCO. There are so many SACCOs which have proved to be very successful at the beginning only to be mismanaged in the end. That should be taken very seriously.

Mr. Temporary Deputy Speaker, Sir, if we do that, there is nothing more important in modern Kenya than the co-operative movement. Those who contributed compared our co-operative movement with similar movements in other countries like Italy, Sweden, Denmark, Finland, India and Israel that have done very well. They have succeeded because they have been trustworthy and they know how to take care of whatever is given to them. This is what we should emulate. We should not take away whatever belongs to our own societies.

Mr. Temporary Deputy Speaker, Sir, I have an example of a Tea SACCO in one district where a few people sat down and divided among themselves Kshs18 million belonging to the SACCO without the knowledge of the tea farmers. When we discovered what was happening, we sent a team to investigate them and carry out fresh elections in which they were removed. They used their positions in the SACCO to use that money. But now, I have directed that since the officials who shared that money did not give any security, they offer their parcels of land as security, in order to recover the money they loaned themselves at the expense of the tea growers in that area. Their land should be attached, if they fail to pay the money. Imagine an ordinary man taking away Kshs18 million belonging to the tea growers. That is very bad and it should not be repeated.

Mr. Temporary Deputy Speaker, Sir, all the views expressed by the Members will be taken very seriously. For example, in many districts there is no use having a union when there is a co-operative society. We are going to look into this matter and in areas where the unions have outlived their usefulness, we will abolish them and replace them with co-operative societies. Even hon. Mathenge, who is seated on the opposite side is of that opinion. During his contribution, he requested the Ministry to do that. That is what we shall do.

Mr. Temporary Deputy Speaker, Sir, some hon. Members suggested amendments to various sections of the Bill. These have been noted and we shall make the amendments in various areas. Since there is another mini Bill which will be brought to the House, I would like to thank all the hon. Members who have contributed and given support to this Bill.

With those remarks, I beg to move.

(Question put and agreed to)

Mr. Temporary Deputy Speaker (Mr. Ndoto): Next Order!

Second Reading

THE ELECTRIC POWER BILL

The Minister for Energy (Mr. M'Mukindia): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Electric Power Bill be now read a Second Time.

Mr. Temporary Deputy Speaker, Sir, the introduction of the Electric Power Bill, 1997 to the National Assembly is consistent with the Government's commitment as articulated in the 1996/98 policy framework paper to undertake major reforms in the energy sector in order to, among other things enable the private sector which the Government recognises as the engine of economic growth to participate in the generation and supply of electricity in the country on a commercial basis. The private sector participation in generation of electricity will provide additional resources both human and financial, to meet the growing needs of electricity in the country.

Mr. Temporary Deputy Speaker, Sir, before I address specific issues contained in the Electric Power Bill of 1997, allow me to highlight the reforms which hitherto have been undertaken to enhance the productivity of resources dedicated to the generation, transmission and distribution of electricity in the national economy. These reforms have included: The down-sizing of the personnel establishment of the Kenya Power and Lighting Company in order to free-up some financial resources for use in operations and maintenance of the electric power system. This has enabled Kenya Power and Lighting Company to reduce the customer employee ratio from 30 to one to about 50 to one which is a major success. This process is continuing.

Mr. Temporary Deputy Speaker, Sir, the reforms also include contracting out non-core activities as well as some of the core activities such as the construction of power distribution lines. The reason for this is to ensure that we use our resources properly. In other words, for example, if we are given money by the Exchequer to carry out some rural electrification projects, it at times becomes difficult to spend that money quickly enough because we have to depend on the personnel of the company. We have now moved from that to a situation where we can actually contract out these services, so that we can put to better use the resources that are available to us. This should speed up the rate of implementation of projects in future.

Mr. Temporary Deputy Speaker, Sir, the other major reform that has been taken is the separation of the power sub-sector into two companies, one for generation and the other for transmission and distribution. The Kenya Power Company will now be in charge of power generation and the Kenya Power and Lighting Company will be in charge of transmission and distribution of electricity to consumers. This has already been accomplished as may have been noticed from the Press already by hon. Members.

Mr. Temporary Deputy Speaker, Sir, the other reform is the adjustment of electricity tariffs to provide adequate funds to the companies for system operations and maintenance, debt service and to generate reasonable profit for investment in the supply of electricity at a pace consistent with the national demand. It is important that once the companies have been separated, they must operate efficiently and profitably. The tariffs surcharged must reflect the need to give them adequate returns and also accumulate some funds for further investments. For that reason, electricity tariffs must be consistent with the costs and the objectives of profitable institutions.

Mr. Temporary Deputy Speaker, Sir, finally, the liberalisation of the generation segment of the industry has been carried out so as to expand the development resource base by allowing the private sector participation in the development of power projects and in the building, owning and operating arrangements. In other words, we are now in a situation where the private sector can actually set up power generation plant, enter into agreement with a transmission and distribution company like the Kenya Power and Lighting Company (KPLC), and buy power from a generation company. This means that the Kenya Power Company, which is publicly-owned, is not the only power generator in the country at the moment and will not be the only one in the future. This is because we have opened up the market so that other operators can come in and enter into contractual agreements with the KPLC as a transmitter and distributor and then buy power from them and sell it to wananchi and other consumers. This is in line with what we had agreed with the World Bank way back in 1996, and I want to assure hon. Members that, as far as we are concerned, we are on track in following our agreement with the World Bank. In fact, the introduction of this Bill into this august House attests to the fact that we are, indeed, on track as far as reforms are concerned. Furthermore, in terms of principle, it is our belief that the energy sector ought to be reformed. But the reforms must be done in such a consistent way and within such a framework that there should be no disruption of power supplies and no losses

incurred. In fact, wananchi should not notice that something is happening. If we are sure that we are doing it right then wananchi should not even know that this is happening. We have carried out these reforms and I am glad to say that they have been very smooth. I want to thank the management and staff of both the KPLC and the Ministry of Energy for the work they have done so far.

The Electric Power Bill 1997 is organised in five principal sections. Part One deals primarily with interpretations of various terms used throughout the Bill. Those interpretations are fairly straightforward. Part Two of the Bill deals with procedures and provisions for issuing and revoking licences for generation, supply, transmission and distribution of electricity. I will go into details later. Part Three deals with the issues relating to the supply of electricity. Part Four deals with establishment of an "Electricity Regulatory Board", which will be autonomous. This part also gives functions of the Board and the manner in which it will have to conduct its business. Finally, Part Five deals with miscellaneous issues which include, among others, the establishment of a rural electrification fund. Attached to the Bill is also a schedule which defines the various activities of the Electricity Regulatory Board.

To go into details, let us look at Part Two, which deals with licensing. As I said, this part deals with licensing issues relating to, among other things, the restrictions on supply and use of electricity, the procedure for submission of applications for licences, revocation and alteration of licences, the duration of each type of licence and the transfer of a licence. In other words, it is possible for one licensee to transfer his licence to another licensee. The highlights of this part include Clause 9, which requires that all applications for licences be processed within 180 days, and that in the first instance such application be submitted to the Electricity Regulatory Board for consideration and recommendation to the Minister for issuance of a licence. Factors that the Board has to look at and take into consideration in recommending the grant of a licence to the Minister are contained in Clause 9(3). They include, among others, one, the need to protect the environment and conserve our natural resources. Secondly, the Board has to consider the technical and financial capability of the applicant to render the service for which the licence is requested. Thirdly, the ability of the applicant to operate in a manner designed to protect the health and safety of the users of the service and other members of the public who are to be affected by its operation must be considered.

Mr. Temporary Deputy Speaker, Sir, electricity is a very vital form of energy, but also a very dangerous type of energy. Therefore, its usage has effects not only on the environment but also on the safety of the personnel using it, equipment and so on. Therefore, the person requesting a licence must be evaluated properly by the Board to ensure that he meets certain minimum requirements in terms of the need to protect the environment and conserve our natural resources. That means that, if he is requesting to use geothermal energy, which is a natural resource, we must define clearly how much of that resource he can take. If, for example, he requests to generate hydro-power, using water, which is another natural resource, we must be absolutely sure that, that resource will be used properly and conserved. Its management must be proper.

Again, where geothermal power generation is concerned, we must make sure that any emissions from a geothermal station do not destroy the environment in the area concerned. We also do not want to give a licence to a person or a body of persons, whether corporate or not, who may not have the technical capability to handle the job. Nor should we give it to a person who does not have the financial capability to carry out the requirements of the licence. Again, that must be evaluated, so that before we give a licence the Board must be satisfied that the corporate body or group of persons have the necessary technical and financial capability to carry out the requirements of the licence. Again, the ability of the applicant to operate in a manner that does not endanger the health and safety of the users of electricity must be considered, irrespective of whether the danger is within the plant he wants to construct or outside it. In other words, we will be concerned about danger to the applicant's own employees and wananchi in general. His operations must be safe not only to his own employees and equipment he is using but also to other people, equipment and the animals, which is a natural resource in this country, in the area. So, those aspects must be looked at very carefully.

In order to ensure that investors are given adequate time to amortise their capital and make reasonable returns on their investments clause 12 has provided for a minimum period for each type of licence. For example, a generation licence will be valid for a minimum period of 15 years. A transmission and distribution licence will be valid for a minimum period of 30 years. The loan repayment period has a major bearing on what charges investors in generation plants will levy on, first of all, the transmission and distribution company and then to wananchi or consumers.

Mr. Temporary Deputy Speaker, Sir, if we make a licence valid for only five years, that person who is investing \$60 million or more will require to recover all his capital within that five years or within ten years. Therefore, the reason why we have given 15 years as a minimum period, is because that gives us a reasonable period of time within which the investor can amortise his capital and make reasonable returns without charging an extremely high tariff on the consumers. Also we, of course, take into account the fact that such equipment has a life span of about 15 to 20 years. So, there is a balance. The life span of the equipment will be about 15 to 20 years and at the same time, during that period, he should have recovered his capital and made a good return on investment.

Mr. Temporary Deputy Speaker, Sir, the Electrical Regulatory Board will have to work, out in detail now, exactly how to cost power and that will be done once the board is set, to ensure that it takes account of all the factors that add up to whatever tariff that is charged finally to the consumer. Therefore, each of those elements or factors that go into the costing of the power will be analyzed properly and there will be a price formula that will be reviewed from time to time. Transmission and distribution lines have a longer life time and we think that a licence of 30 years is reasonable.

Mr. Temporary Deputy Speaker, Sir, the other thing which the investors will be interested to know is whether licences, once issued, could be terminated without giving them a hearing. Clause 17 of the Bill deals with procedures and provision for the revocation of a licence. This section provides for the Electricity Regulatory Board to carry out the necessary investigations and make recommendations to the Minister for revocation of a licence. Furthermore, Clause 17(4) also provides for an appeal to the High Court by any aggrieved licensee. In other words, if the licensee is not satisfied with the decision of the Minister in terms of cancelling his licence, he is free to appeal to the High Court against the Minister's decision.

Mr. Temporary Deputy Speaker, Sir, part II deals with the issue of licensing. The major underlying philosophy as far as licensing is concerned is that, it should be fair and open. There are certain conditions that whoever is going to be licensed has to fulfil before he is given a licence. There is a proper method for revocation of a licence in the event that the licensee does not fulfil the conditions that were initially put on the licence and if he is not satisfied with whatever decision has been made, he is quite free to go and seek justice at the High Court. For that matter, that has been the underlying reason and also, of course, we want to make it fairly easy. It will be removed from direct Government control except for the actual licensing itself, but most of the work will be done by the regulatory body. It has also been done with the intention to encourage investors to apply for licensing and to invest in power generation, transmission and distribution.

Mr. Temporary Deputy Speaker, Sir, Part III of the Bill deals with the supply of electric power. This part principally deals with the issues which relate to generation, supply, transmission and distribution of electricity; its operations and maintenance procedures to be followed by operators; inspection of suppliers and consumer premises by electrical inspectors appointed by the Electricity Regulatory Board and with fines to be imposed on those violating the relevant provisions of the Bill. This part of the Act, essentially, is a very technical one which deals with the technicalities of how power may be supplied between producers, transmitters, and distributors of power and so on. So, this is a fairly technical part of the Bill and it is set to ensure that high and safe standards are maintained in the supply of electric power.

Some of the issues contained in the various clauses under this part of the Bill, include Clause 62 which, among other things, requires the Board to approve electricity tariff adjustment applications by a public electricity supplier; after taking into consideration the ability of the licensee to maintain its financial integrity, attract capital; operate efficiently and fully compensate investors for the risks assumed. In other words, one of the major duties of the Electricity Regulatory Board will be to approve any tariff adjustment which may be applied for by a public electricity supplier after taking into consideration all the things I have mentioned above. The reason for this is that, we have wanted to remove direct Government control again as far as setting of tariffs is concerned to a regulatory body. That would be seen to be fair to licensees rather than the Government itself being the one to approve tariffs. I will have something to say about that later on, because as you know, the tariffs charged have a major implication on the whole economy of the country. Therefore, the onus of the Electricity Regulatory Board is huge as far setting of tariffs is concerned. It can have major inflationary pressure on the economy as a whole and it may also cause political problems in some cases. Although the Minister has no direct control over the tariff, he will be in charge of setting the policy which will be able to set ceilings, in terms of percentages, that can be allowed by the Board directly without having to resort to the Minister.

Mr. Temporary Deputy Speaker, Sir, the problem that we faced is that while it is very useful to create autonomous bodies, one of the key questions that we have been grappling with in the Ministry is how you make those so-called autonomous bodies accountable to the public. In other words, we want to have a body that we say is autonomous and, therefore, they start acting in any way they want without being accountable to the public. We have wrestled with this question for a long time, but we believe we will be able to ensure that at no time will the Electricity Regulation Board overcharge Kenyans for electricity or approve crazy tariffs because we will control them at the policy level. For example, once the pricing structure has been worked out and a formula agreed on, then any tariff adjustment has to be supported by a change in one of those factors. For example, if it is inflation, then we would look at it and say, "Okay, inflation was 4 per cent; maybe, we require a tariff adjustment of 2 per cent because not everything has increased in price although inflation has gone up." If it is because of something else, for example, capital, then we will look at it again. In other words, this has to be looked into very carefully so that we do not reach a situation where the Board may act against the interests of the country merely because it is autonomous. It has to work

within a policy framework, that takes account of all the most important issues affecting the country.

Mr. Temporary Deputy Speaker, Sir, the Electricity Regulatory Board is also authorised under Clause 62(5) to suspend what we call a filed electricity schedule or tariff increase for up to five months. In other words, the Board, if satisfied, may hold back the adjustments of tariffs for a period of up to five months if it feels that it is justified to do so. That again gives some leeway as to how best to handle a particular situation in our country.

Clause 108(1) provides for the delegation of powers vested in the Minister, except the powers of licensing to the Electricity Regulatory Board. For example, the Minister may delegate the powers confined to him under Clauses 35, 41 and 43 to the Board.

Mr. Temporary Deputy Speaker, Sir, Clause 115 gives authority to the Electricity Regulatory Board to make rules to regulate the generation, transmission, distribution, supply and use of electrical energy, which hitherto have been made by the Minister. In other words, the supervisory role in the whole of the electricity sub-sector has now more or less moved from the Minister, as contained in the existing Act, to the Electricity Regulatory Board. Therefore, the Board may make rules and regulations to ensure proper rules and ways of generation, transmission and use of electrical energy. This clause also empowers them to carry out inspections, licenses inspectors and so on. Therefore, Part III and Part IV of the Bill covers the supply of electric power. The Electricity Regulatory Board now is covered under part four. Clause 119 provides for the establishment of an autonomous board to be called "The Electricity Regulatory Board." The functions of the Board are properly defined under Clause 121. The most important jobs, as I mentioned earlier, are setting, reviewing and adjusting electricity tariffs for all persons who transmit or distribute electrical energy for sale. Secondly, they have to enforce environmental and safety regulations in the power sub-sector. Thirdly, the Board has to ensure that there is genuine competition in the power sub-section, where this is expected.

Clause 122(1) provides for the funding of the Board through a levy imposed on electricity sales. This funding arrangement is meant to make the Board independent of the Exchequer for its financial needs and also enhance its autonomous nature.

As I mentioned earlier on, there is a schedule which is attached to the Bill and forms part of this Bill. It contains the procedure for the appointment of the Chairman of the Board, members, and the secretariat. The Board Members, very briefly, shall be persons with a university degree or its equivalent, and with not less than 15 years' practical experience. They also ought to be lawyers, accountants, financial experts or engineers. They should be people with relevant experience in the energy and industry sector.

Part two of the schedule deals with the reasons for terminating the services of any member of the Board, including the Chairman. This is very restricted. In other words, again to enhance the autonomous nature of the Board, it has to be very clear why any member of the Board, once appointed, can have his services terminated. Those reasons are very clear and they include issues like the inability to perform the functions of his office by virtue of mental or physical infirmity or conviction for a criminal offence involving dishonesty, fraud and so on. In other words, there are very limited and specific areas or reasons as to why any Board member, including the Chairman, can be removed or sacked from his position once appointed.

Clause 3 deals with the remuneration of the Board and its secretariat. It requires that the Board members and staff be paid salaries and allowances at rates which are comparable to those paid to other public institutions performing similar regulatory functions.

Part V of the Bill deals with various miscellaneous issues. One of the most important of these is the provision for a levy of up to 5 per cent on electricity sales to generate revenue to support rural electrification programmes, and to also provide electricity in other areas considered uneconomic by public electricity suppliers. The revenue which will be derived from this levy will be put in a fund which is established under Clause 130.

The issue of rural electrification expanding is one that hon. Members spent unproportionately many hours debating in this House and asking questions about. On several occasions, the Ministry has been asked what it is doing to ensure that we actually provide electricity to rural areas. The problem has been funding. Therefore, we have taken an opportunity in this instance to provide for a levy up to 5 per cent on electricity sales to generate revenue to support rural electrification programmes. Hon. Members may know that most of our rural electrification programmes were being funded by donors until about 1991/92. When the donor funds stopped flowing in 1992 for all manner of reasons, that programme has slowed down to more or less a trickle to the extent that a lot of hon. Members in this House are very frustrated by having some of the projects which had been started in 1991/92 being suspended for lack of funds. Virtually all the questions that I answer in this House relate to rural electrification. This provision for a levy is part of our answer. We are not saying it is enough, and indeed, we are working with the donor community to see whether they can also give us loans and donations to enhance this fund so as to be able to spread rural electrification further and faster to all parts of our country.

Mr. Temporary Deputy Speaker, Sir, the other item that is contained in the Bill which I think is important for

hon. Members as they have complained about it in the past, is that if today, a consumer requests for supply of electricity, he is normally requested to pay the cost of that supply. Nevertheless, after he has paid whatever amount of money, other consumers now take advantage of that to tap on to that supply line. That original consumer is not compensated for what he had paid initially. This Bill provides that any consumer who puts his money and invests in electricity supply lines or transformers or whatever will be compensated by any other consumer who now comes later and taps on to that. That should also increase now the willingness of those of us who are able to invest in distribution facilities to various villages because you know that you will recover your money in future as long as other people tap electricity from that line. So, that has been a major complaint by many consumers, but now we have rectified that through this Bill.

Mr. Temporary Deputy Speaker, Sir, the other item of importance to note, as far as the Bill is concerned, is that there are certain domestic resources such as geothermal which have not been vested in Government until now. We have to sort of redefine what are natural resources. Again, we took advantage of this Bill to redefine in so far as the energy sector is concerned, what are natural resources. As far as we are concerned, geothermal is a natural resource. Wind is a natural resource. Water is a natural resource and, therefore, the Government will be able to not only regulate its usage, but also possibly to charge for its usage and this is important. If you look at the dams, how do you compensate people, for example, in the upper Tana region for providing a proper catchment zone for the water of Tana River? How do you compensate them? It is not good enough to talk to them. They have to see a benefit for doing that work, and the only way that they can see the benefit for doing that work is to charge the Kenya Power Company now some fee which will go, maybe, to Tana River Development Authority which, in turn, is to benefit the people who conserve that environment.

Mr. Temporary Deputy Speaker, Sir, if you go to the Naivasha area, Ol Karia, to be precise, you will see what is a geothermal resource means. It is a natural resource. The Government has to charge certain fees to ensure that not only the environment can be conserved, but that we can even explore for more sources of geothermal power and so on to license further or additional producers of electricity and so on, and this is a natural resource. Wind is a natural resource and people are competing for it since you can actually generate electricity from wind. We have a wind generator at Ngong Hills and another one at Marsabit, and if a private person who wants to make money by generating power wants to make use of our wind at Ngong Hills, then that is fine, but he has to pay for it. It is a natural resource. If you want to go to Marsabit and Wajir, it is the same thing. There are various areas where we have sufficient amounts of wind power to generate electricity. That is a natural resource. So, this Bill is providing that all the domestic resources that are not vested in Government through other Acts are now vested in the Government through this Bill which is a major move to ensure proper control of the usage of our natural resources for power generation.

Mr. Temporary Deputy Speaker, Sir, once this Bill is enacted, it will have the effect of repealing the existing Electric Power Act as well as the Electrical Supply Lines Act. In other words, we have consolidated those two bills in one Bill, and I apologise to hon. Members because it is a very big Bill. It is highly technical because we are dealing with a very highly technical subject, but I urge hon. Members to look at it and feel free and suggest any ways that we can improve on it and improve on the management of the electric power sub-sector in this country for now and for the future.

Mr. Temporary Deputy Speaker, Sir, there is another item that I think I need to mention here and that is also one of the duties of the Electricity Regulatory Board. One of its duties is that it will have the power to approve all power purchase agreements. What is a power purchase agreement? It is an agreement between a producer of power such as Kenya Power Company now and its distributor and transmitter of power such as KPLC now just to give the existing examples. So, in fact, there will have to be now a formal agreement between the Kenya Power Company although it is a Government parastatal, and the Kenya Power and Lighting Company although it is largely a Government parastatal in that they must have agreements on what we call power purchase and those power purchase agreements must be approved by the Board. Why?

The reason is that whatever transfer costs and price of electricity from a generator to a transmitter and distributor, it will have the final impact of raising the tariff to the consumers and, therefore, we are very interested to know, and the regulatory board will be very interested to know that the power generation company is actually operating efficiently and it is not overcharging on its electricity sales to the transmission and distribution company. This is because, finally, that cost is going to be passed over to the consumer. Therefore, any power purchase agreement, whether from Kenya Power Company from Iberia Africa, Westmond or any new entrant into the market, will have to be approved by the regulatory Board and the Board will have to be satisfied that the charges are reasonable and that, in fact, we are not passing on, or the generation company is not passing on, its own inefficiencies in terms of costs to the consumers. Obviously, this again is going to be a very technical area since power will be generated from various natural resources. For example, at the Coast at the end of the day, charges will be different. In other words, charges on power generated from water will be different; power from wind will be different; power from geothermal

will be different and finally, perhaps, in future, charges from nuclear power will be different. For that reason, each of these must be analysed on its own to ensure that the cost passed on to the consumer is not unreasonable. It must reflect the best of those types of generation plants.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to inform hon. Members of the status of the power sub-sector at the moment. This is because I know hon. Members have seen a lot of things written in the newspapers as regards not only my Ministry, but also the power sub-sector. It is important to reassure Kenyans and hon. Members in particular, that, in fact, the power sub-sector is not only in good hands, but we are back to what I call 'being on track'. Hon. Members will know that we have been delayed for about six years in our plant investment programme to the extent that Kipevu Station, Ol Karia and Sondu-Miriu were delayed in implementation, but I want to assure Kenyans that this is now on track and things are moving forward as agreed between us and various donors, including the World Bank.

Mr. Temporary Deputy Speaker, Sir, it is noteworthy that the two stop-gap power plants; that is one in Mombasa, that is the so-called Power Barge, and the one in Nairobi South have a total capacity of about 90 megawatts and these are now operating. They are giving us about 90 megawatts. We have, therefore, an available capacity, at the moment, of about 740 megawatts. Our demand is averaging around 700-710 megawatts. Therefore, we do have some spare capacity of about 40 megawatts which will now enable us to take equipment out of service, repair it and fit it back without, hopefully, wananchi noticing that anything is going on. In other words, without any disruption of electricity supply. If there are no major mishaps in terms of transmission and distribution facilities, the generation side is now okay. We are going to see whether, in fact, the transmission and distribution side can stand up to test because, as far as generation is concerned, we have done it, we have enough. I have urged the staff of the KPLC, especially now, to look into the possibility of various weaknesses in transmission distribution, to ensure that Kenyans do not undergo any blackouts any more since we have enough generation capacity at the moment.

Mr. Temporary Deputy Speaker, Sir, I know the two stop-gap plants have caused a bit of unease in the country. I want to assure Kenyans that under the circumstances prevailing in the last year, when there were various major power blackouts in this country, the actions that were taken by the Ministry and the Government were right.

Mr. Temporary Deputy Speaker, Sir, as we speak today, our sister country, Tanzania, have just started major rationing of power. They estimate that this will cost them around US\$33 million up to US\$35 million a month. That is a cost to the economy. Our economy is much larger than that of Tanzania. We estimate that if we have to ration power, the way we did last year, or the way Tanzania is rationing at the moment, it will probably cost Kenya about US\$70 million to US\$80 million a month. That is direct economic cost. We are not talking about the frustrations that people go through because they lack power. It is very difficult even to itemise how much housewives lose in terms of food destroyed because the refrigerators are not working. It is very difficult to really count the cost of these blackouts. Therefore, in the light of this major loss of US\$70 million per month to the economy and the frustrations that go with the blackouts, I think Kenyans and hon. Members will agree with me that spending US\$70 million to set up a stop-gap plant in order to ensure that, that loss is not incurred by the economy, month in, month out, for a year or four years, is the right thing to do.

Mr. Temporary Deputy Speaker, Sir, I want to assure the hon. Members that, we are analysing all the time now the supply-demand balance of electricity in this country. If we identify a gap in the supply side, we shall not be afraid to act quickly and ensure we close that gap. Otherwise, the cost to the economy is difficult to measure and there is no reason for it anyway. The important thing, of course, is to ensure that we also get the cheapest electricity possible. We are very happy that there are many private investors who are very willing, even under the current circumstances, which have been depicted very negatively in the Press, both here and abroad, to set-up power generation plants in the country. Therefore, Kenyans can be assured that we will always continue to get the best deal possible in terms of the cost of electricity to our consumers and wananchi in this country.

Mr. Temporary Deputy Speaker, Sir, we have also to look at our own power generation plant, the existing ones, and we must ask ourselves whether we are operating as efficiently as we should. This is a major job for KPLC to improve efficiency because some of the equipment is old, but it needs to be rehabilitated so that they are competitive with the best in the world. That I can assure the hon. Members we are going to do, to ensure that we get the cheapest power possible to consumers because, we also understand the implications that it has in the whole economy. I would like to have the energy sector being the cheapest, if possible, as an input to industries, domestic consumers and so on.

Mr. Temporary Deputy Speaker, Sir, in the light of this transition from a controlled environment to one that is open and liberal in the energy sector, I requested the World Bank officials to assist us to recruit experienced experts to come to the Ministry to ensure that they handle these very difficulty issues properly. I am very surprised to see in the Press now that it is said that it is the IMF and the World Bank which are requesting for the strengthening of the Ministry. I, Personally, requested the World Bank representatives for two or three experts. It is not the World Bank which has been doing it, but it is us because we recognise the difficulties of dealing with these issues. It is not

something that is being imposed on us because we are not good or anything. I, personally, can tell hon. Members, I requested for this. Indeed, we have one expert whose terms of reference are being finalised. We are lucky to have a very good person who is a regulator in Jamaica and who was working with the World Bank and understands Africa and Kenya very well. He is going to be one of our major experts in this transition period; a gentleman by name of Mr. Hayes(?). He will be working with a local Kenyan expert, Kenyan so that he can transfer technology and knowledge to him, so that after a few years, we would not need an expert from outside to handle this area of the dependent power producer, purchased power agreement, the regulatory body and so on. We are handling that properly, in the right way and, indeed, it is us who requested for this support. It was not something that was requested by the IMF or the World Bank, as depicted in the Press, because that has the implication of saying that we do not know what we are doing.

I can assure hon. Members that we know what we are doing. We have the necessary experts and we have very highly qualified staff and they need encouragement because they did certain fantastic work to ensure that Kenya today has slight excess of capacity in terms of generation and, therefore, we are not suffering blackouts as some of our neighbouring countries. Even our sister country, Uganda, is having the same problems and we know how much water they have in the Nile, but still have shortages of power.

I believe that we have no intention now of going back to a situation where we have blackouts in this country any more. I would like to assure the hon. Members, as the Minister in charge, that if we ever identify a gap in supply or anything, I will move very quickly and wait for fire-works later, because that is my mandate. I will be failing Kenyans if I do not move quickly to ensure that we are not subjected to these problems.

Mr. Temporary Deputy Speaker, Sir, I think I have talked long enough, but I want to thank the hon. Members for listening to me and hope that the contributions that they will give to this Bill will go a long way in making Kenyans understand what we are doing. If there are any areas that we need to improve on, we are very ready to do so. As you can see, all my experts are here taking notes and listening to what hon. Members are saying. They ought to listen very carefully because those are the voices of wananchi through the hon. Members. We are all accountable to the public and, therefore, we must listen carefully to what hon. Members are saying.

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

The Minister for Co-operative Development (Mr. Munyi): Mr. Temporary Deputy Speaker, Sir, I rise to second this very important Bill. What the Minister has just said is very correct.

I would like to take this opportunity to refute what has been appearing in some of the local Press and also in the international Press because they have been giving misleading reports that no reforms have been carried out, as far as the energy sector is concerned. I want to tell them that a lot of reforms have already been undertaken in the energy sector. This is what we want the whole world to know and they should not be listening or reading misleading reports which appear in the Press. The other day, I was surprised to read one local magazine, which was trying to mislead Kenyans and the whole world, that no reforms have taken place. That is wrong. A lot of reforms have taken place. If we look at this Bill, on page 911, all that the Minister has just said, is in this Bill. In addition to what the Government is doing, we should continue with our operations to try and identify areas where we can prospect for oil in Kenya because what the prospecting companies have already done is not enough. We have got plenty of oil reserves in Kenya, either in Lamu or--- We want this to be continued.

Mr. Mak'Onyango: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Why do you not wait and get what he is saying? You have just walked straight in to the Chamber.

Hon. Munyi, proceed.

The Minister for Co-operative Development (Mr. Munyi): Mr. Temporary Deputy Speaker, Sir, I want to tell hon. Munityasia that sometime back when I visited Nigeria, at that time, there were no signs of oil. Today, we have got plenty of oil in Nigeria. Why is it that at that time there were geologists and they did not get oil? I want to give him another example of Libya. I remember having gone to Tripoli and there were some geologists from Italy and other countries, but at that time, there was no oil. Oil was found in Libya in 1965, and today, because of the oil, they are just swimming in wealth. They can do anything because of the wealth derived from oil. Thirdly, Britain, in the North Sea---

Mr. Munityasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Kenyans are listening to the Minister on the Floor saying that there is oil in Kenya, and the evidence he is giving is that at one time, there was no oil in Nigeria, but it was later discovered. Then the same case applied to Libya. Could the Minister not be asked, in order to stop misleading this House, to give specific information about where in Kenya he expects we have got oil, otherwise he should withdraw that remark? Kenyans are listening and we do not want to create hope for nothing.

The Minister for Co-operative Development (Mr. Munyi): Mr. Temporary Deputy Speaker, Sir, I am not going to withdraw because signs of oil have been found in Wajir, Turkana and Lamu at the Coast. I want to tell hon. Members that oil has been found, but it is not of any economical use. We should continue to prospect for oil in Lamu,

Lodwar, Nyanza, Lake Victoria and so on.

Mr. Michuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. From 1967, when BP Shell Company was prospecting for oil in Lamu and across the Somalia border, the signs of oil that the Minister refers to were then ascertained. A reason was given that oil was not of much economic importance. That was when crude oil was being sold at US\$3 per barrel. Again, we are being told that the signs are there, but it is uneconomical, when we know that the market price of crude oil per barrel is between US\$18- US\$20. Surely, if it was uneconomical at US\$3, it must be economical by now. Is it in order for the Minister to repeat what we have been told since 1967, that the oil is there, but it is not economical, when prices of oil have risen so much that they are now six to seven times in the world market?

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order, hon. Munyasia! I thought the Minister was responding to a point of order. That is why he is giving the examples you are now challenging him about. He was trying to substantiate what he said.

The Minister for Co-operative Development (Mr. Munyi): Mr. Temporary Deputy Speaker, Sir, I beg the indulgence of the Chair to allow the Minister for Energy to give information regarding this matter because it is important.

The Minister for Energy (Mr. M'Mukindia): Thank you, Mr. Temporary Deputy Speaker, Sir. I think it is worth clearing this issue. Geologically, Kenya indicates the possibility of the existence of hydrocarbon gas oil, and the science of geology has improved since the 1960s to date. Therefore, there has been a newly interpretation of the same data and indications are that, indeed, possibilities are quite high. I take the point of hon. Michuki that, indeed, the price of oil has changed and, in fact, that is quite true. We have several companies now very keen to explore for oil and gas in this country.

Only last month, we signed two agreements with one Canadian company called Tonardo Resources which has taken over the block in Mandra and other blocks next to the Tanzania border along the Coast. Across the border in Ethiopia, in Mandra region, another Canadian company has already struck huge quantities of natural gas. Also, there are indications along Pemba and Zanzibar of the possibility of existence of oil and gas. Therefore, this Canadian company took blocks adjacent to the blocks which have already been taken by other companies and which indicate potential for oil and gas. The whole of the so-called "Lamu basin", which covers most of the East African coast from Somalia to Mozambique indicates the existence of natural gas and oil.

Mr. Sankori: On a point of order, Mr. Temporary Deputy Speaker, Sir. I seek your guidance as far as this Bill is concerned because I thought the hon. Minister---

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! The Minister is giving information on the possibility of the existence of oil in the country. Proceed, Mr. Minister.

The Minister for Energy (Mr. M'Mukindia): Mr. Temporary Deputy Speaker, Sir, to finalise very quickly, other companies are also interested and, in fact, we call upon oil and gas exploration companies to come to Kenya because the indications are very positive. It is our hope that we will be able to discover substantial quantities of gas and oil in the near future.

The Minister for Co-operative Development (Mr. Munyi): Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ndotto): What was your point of order, hon. Sankori?
Proceed, Mr. Munyi.

The Minister for Co-operative Development (Mr. Munyi): Mr. Temporary Deputy Speaker, Sir, I would like to thank the Minister for Energy for what he has just done. I wanted him to mention something about oil and he has explained and I am sure that hon. Michuki and the others are now satisfied.

All that I want to say is that oil companies should join other prospectors in this country to prospect for oil. I would also like to commend the experts in the Ministry of Environment and Natural Resources and the Ministry of Energy who have managed to come up with the data which has enabled many companies to come forward and prospect for oil in this country. The other issue is that whenever the prices of oil have gone down, there is a practice by multi-national oil companies to continue increasing the price. That is totally wrong. I want to commend the Ministry, especially the Permanent Secretary in the Ministry of Energy who has been warning the oil companies to reduce their prices whenever the price of crude oil per barrel has gone down. That warning has helped us a lot. If they were not warned a month ago, the price would have gone up. Therefore, that was a very good responsibility by the Ministry of Energy and I want to commend the Permanent Secretary for having acted that way. If he had not acted, the price would have gone up. I would like to inform the Minister that in future, whenever the price of oil gets down, the oil companies should reduce oil prices all over the country. They should not increase the prices because they affect the ordinary farmers and thus, everybody is affected.

Mr. Temporary Deputy Speaker, Sir, the Rural Electrification Levy is very important. Hon. Members have been asking in this House about rural electrification. In areas where we have electricity through the Rural Electrification Programme, there are many local industries that have been started. I want to inform the Minister that electricity is not a luxury. It is a necessity and therefore, I want to appeal to him that all regions in this country should be supplied with electricity. It should not only be in the coffee factories but also in areas where there is cotton growing. In areas where there are no crops, people should be given electricity so that they can start jua kali sheds. One cannot start a jua kali shed in an area where there is no electricity. Therefore, I am appealing to the Minister to continue with this programme and he will be supported by this House for the Ministry's Vote to be increased.

Mr. Temporary Deputy Speaker, Sir, due to the reforms in the energy sector, electricity bills are going up and something should be done, so that the prices of electricity are reduced. As the Minister has already explained, we have got a lot of resources, for example, the geo-thermal power and the hydro-electric power generated by the rivers in this country, like in Nyanza. Even in Bungoma, we have got many rivers just like we have got the Tana River. Whenever people give their land, they should be given a good compensation. I want to give the example of Embu and Mbeere Districts. The people there gave their land but the compensation which they were given was minimal. It was almost nothing. Those people should be supplied with electricity and also water for irrigation.

Mr. Temporary Deputy Speaker, Sir, it is important to note that the Minister has said if a line passes through one's land and other people would like to tap electricity from one's line, one should be compensated. That is a very important clause included in this Bill. When the Minister was moving this Bill, he said whenever a power line passes through one's land, one has to be compensated. Therefore, that should be encouraged.

Mr. Mak'Onyango: Where is it? I cannot see it.

The Minister for Co-operative Development (Mr. Munyi): It is there in one of the clauses.

The Temporary Deputy Speaker (Mr. Ndotto): You are responding to hon. Members' questions, but you should address the Chair.

The Minister for Co-operative Development (Mr. Munyi): Mr. Temporary Deputy Speaker, Sir, I would like to request the hon. Member to have a look at the Bill. He will find it because it is in one of the clauses, since he seems to be very much interested.

We would like the European Union--- They did give a promise that power will be supplied to all coffee and tea factories. The tea factories are well catered for. That was a very good gesture by the European Union. Therefore, I am appealing to the donor countries like the European Union, NORAD and Sweden to give us grants. By so doing, our people will benefit. That is very important because many people will be supplied with electricity. I am also appealing to the World Bank and the IMF to come forward and renew--- Talks have already been started by the Minister for Finance and now, I think they are satisfied. I think the International Monetary Fund (IMF) is satisfied and it will give aid to Kenya. We want the loan which was suspended to be renewed and given to Kenya. I think the World Bank has made comments on this. Since the reform process is in place, and there is an Inter-Parliamentary parties discussion between KANU and the Opposition, we would like to get the suspended loans from the World Bank. The Government has agreed to the reforms and it even supports the reform process.

With those few remarks, I beg to second this Bill. Thank you.

(Question proposed)

The Assistant Minister for Finance (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to the Electric Power Bill, 1997.

I have been a friend of the power industry for many years, having been a finance manager there for ten years. I can speak with some degree of authority on some changing aspects in this industry. I had a role to play in this industry, in a practical manner.

I will go into the details of this Bill, clause by clause in a short while, but I want to make a few observations, which are very relevant. The first observation is that only 10 per cent of our country is supplied with electricity today, from the national grid. This leaves 90 per cent of the population not supplied by the national grid. This is understandable because the grid supply of electricity is very expensive. For that reason, investments in non-economic areas becomes difficult, save for the Rural Electrification Fund. My disappointment is that I would have expected this Bill, coming at this time of our development, to take care of the 90 per cent of the population which cannot be supplied by the national grid currently, either because there is a shortfall in the generation of power, or because it is too expensive to extend electricity supply lines to the rural areas. Therefore, I would have expected to see some kind of incentive scheme that would be implemented in order to enhance the generation and supply of electricity in the 90 per cent of rural Kenya that is currently not supplied by the national grid. This is a very important point. I would like the Minister to take note of it and somewhere in this Bill, make a specific provision in one way or another. I would like

him to make sure that every part of Kenya obtains electricity, whether it is through solar energy, geothermal, hydro, diesel or wind generation. That needs to be entrenched here. That is the first observation.

Where is the co-relation between the Bill, as it stands, and our policy to industrialize by the year 2020? If we are going to industrialize, it is very important that there is electric power available throughout the Republic, or sufficient enough for that particular objective. Perhaps, it is not within the Bill to contain such a clause. I do not mind that, but within our policy, we ought to have some provision so that we can be sure that as we talk about industrialization by the year 2020, we, at the same time have made adequate provisions for the supply of the necessary electricity to go with it. That is the second observation.

The third observation is I am aware that there has been the Rural Electrification Master Study. This document should be made public so that everybody can see where they fall. The Rural Electrification Master Study should be made public so that we, in Kaloleni, can see whether we will get electricity in the year 1998 or 2050. This ought to be made public. This will also save us the trouble of bringing Motions to this House which demand electrification of certain areas when, in fact, there are no budgetary provisions. I am making these general observations. There ought to be some information made available to the public so that we all know what is happening.

The fourth observation is that I particularly want to call upon the Minister to make a special effort as, indeed, the Ministry, the Kenya Power and Lighting Company (KPLC) and the Kenya Power Company (KPC) did with the geothermal generation. I want them to make a specific effort in so far as photovoltaic energy is concerned. Photovoltaic is the solar energy or the science of utilising solar energy. We should, as a country, have some kind of policy and some incentives, and go out of our way to try and encourage photovoltaic energy. Those are four points of general observation.

At this juncture, I would like to commend the Minister for the very able and very eloquent manner in which he has moved this Bill. It is a very technical Bill and he has done a commendable job in moving it in so far as the contents are concerned, save for the fact that there are those omissions which I have observed.

In his speech, the Minister remarked that where he has been caught with a power shortfall, he has a duty to ensure that, that shortfall is made good through extensive generation because the cost to the economy is astronomic. I agree with that. What has happened to our 50 years of development plan of power generation and supply? When I was working in the KPLC, we used to have a 50-year plan, 30-year plan, 20-year plan, 10-year plan, five-year plan and a one-year annual budget.

Mr. Temporary Deputy Speaker, Sir, in splitting the power sector into two and liberalizing it, I want to suggest that forward planning should not be left entirely to private entrepreneurs. There ought to be a policy where we know for certain that we have a five-year plan or so, even when the private entrepreneurs are in place. Otherwise, we will be living in a country where we do not know whether an entrepreneur will be willing to invest in power generation, transmission and distribution lines or not.

There has got to be something for certain, which would ensure that one day, we will not wake up in the middle of the night or day and find out that we have no power, because of failure in forward planning. These are very salient points, because the power industry is really one of the greatest catalysts for economic development.

Mr. Temporary Deputy Speaker, Sir, I can go on and on and draw on my past experience, but I would like to only mention about the Seven Forks Scheme and some of the schemes which we have implemented. I do not know what happened to the others, like the Grand Falls and Mutonga power stations. We have done the Turkwel Dam which was within the planned time.

Mr. Temporary Deputy Speaker, Sir, I would also like to say that our generation capacity at 740 megawatts compared to our demand of 700 megawatts and 710 megawatts leaves little room for play, development and expansion. In my view, I think this gap is too thin. It is important that we really examine this critically. I am not saying that we should go to the Kipevu Barge which was not in the original scheme at all, but I take the Minister's point, that when he has a shortfall, he has to make good that shortfall. I only hope that the failure in the forward planning or the non-availability of funds for capital expansion arising particularly from the early 1990's and 1992 clamour for multi-partyism which brought with it its own complexities, including Kenya not being given aid and many other reasons, went along with that sort of thing. I hope, this is a thing of the past. Let us now look into the future.

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Keah has cited multi-partyism as the cause of possible disruption of the power supply and the suspension of aid from the donor community. Is he in order to cite multi partyism as the cause for this? Is it not mismanagement and corruption by this Government which caused donor withdrawal of aid?

The Assistant Minister for Finance(Mr. Keah) Mr. Temporary Deputy Speaker, Sir, the hon. Gatabaki knows very well what harm his own utterances have caused, but I do not want to venture into that. We have now entered a new era of the IPPG and we will ignore such comments. Let us move ahead and forget the past.

Mr. Mak'Onyango: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek guidance

from the Chair. Hon. Keah has stated categorically that hon. Gatabaki has made some utterances which have caused harm. Can he substantiate what utterances he is talking about and what harm they have caused?

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, calling for mass action is one example of such utterances. This has caused untold harm to this country. Such utterances have created problems for this country.

The Temporary Deputy Speaker (Mr. Ndotto): Order, hon. Keah! I rule all of you out of order. We are on the Electric Power Bill and I want us to stick to it. Let there be no more of that debate. Proceed on the Bill.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I will now go to the Bill.

(Mr. Mak'Onyango murmured something)

Mr. Temporary Deputy Speaker, Sir, please protect me. I do not like the hon. Member's remarks. He should give me time to concentrate on this very technical Bill.

This Bill repeals the old Electric Power Act and replaces it with---

Mr. Michuki: The Bill only proposes to do that!

The Assistant Minister for Finance (Mr. Keah): Oh, yes, it proposes to replace the Act. Thank you, Mr. Michuki.

The Temporary Deputy Speaker (Mr. Ndotto): Mr. Keah, I think you are getting yourself into trouble. I may have to caution you that I may not want to protect you because you are putting yourself into trouble.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I am sure that my hon. colleagues know what I mean, even though my tongue has slipped a little bit.

This is the right time for this Bill to be in this House. The old Act was archaic. Now that we are in the age of liberalisation, it is proper for us to repeal the old Act so as to permit generation and transmission of power by private individuals. As I mentioned in my general observations, I want to be sure that when we leave power generation to private entrepreneurs, we will have a forward plan that will ensure that the Minister will be assured that there will be continuous and adequate power generation for this country for the future.

I have no major issues to raise on definitions and interpretations in Part One of the Bill. I will thus go on to Part Two, which is on licensing. Clause 4 states:-

"No public or local authority, company, person or body of persons, not being a licensed electric power producer or local generating licensee under this Act shall generate, or not being a licensed public electricity supplier or electric power producer shall, subject to the provisions of this Act... transmit a supply of electric energy or construct, maintain, or operate works for such generation or transmission of electrical energy".

Mr. Temporary Deputy Speaker, Sir, this is not clear in a situation where Mr. Mathias Keah buys a generator to use in his own house and in his village. I hope that, that will continue to be permitted provided, of course, that I do not charge. It is only when I charge that I should be required to fall under the ambit of this Act and so on. But if I generate power from whatever source, whether it is geothermal, hydro-electric or solar and I supply it my to house and my little village, I should not be required to obtain a licence because this is not for sale. Earlier on the Minister alluded to the fact that he is going to charge for the use of these natural resources. I wanted to know to what extent he is going to carry out that guideline of charging because I hope he will not charge us for the air we breathe. This is because that to me is also a natural resource. So, I just want this clarification so that there is no ambiguity. I am sure that my interpretation and my understanding of that clause is what I have said and is correct. But if it is not indeed correct, perhaps, he could clarify when he responds.

Clause 5 which deals with the notice of application for a licence states:-

"Before making any application for a licence, the intending applicant shall give notice by public advertisement of the intended application not more than 90 days and not less than 60 days before the application is made."

Why is it necessary to give notice by public advertisements? Are these public advertisements in one newspaper or in the Kenya Gazette? It says that every such advertisement shall be published in each of two successive weeks in the Gazette and once at least in each of two successive weeks, in one and the same newspaper circulating in the proposed area of supply. This could be a little bit expensive and I am wondering if there is a cheaper way of doing this. I am merely calling upon the Minister to think of a cheaper way of giving this notice. It also says, "same newspaper circulating in the area." The Kenya Gazette does not circulate in the areas of supply. So, he talks of a newspaper and I would like him to find a cheaper way of making sure that this notice is given to the public.

Concerning Clause 6, which deals with the draft licence, it says:-

"The applicant must in each case prepare a draft of the licence being applied for. The draft licence must be printed or typed on one side of the paper and each schedule annexed must begin on a new page..."

Mr. Temporary Deputy Speaker, Sir, is it possible to have a format for a licence prepared by the Ministry? It would help a great deal if the Ministry could develop a standard format so that the applicant merely buys that format and fills it. I am suggesting that, that application form be in a prescribed manner. I have no major quarrel with Clause 7. Let me come to Clause 9, on page 924 - Submission of Licence Application to the Board. This clause states:

"An application for a licence under this Act shall be submitted to the Board for consideration and recommendation to the Minister."

I am not sure as to the difference between powers of the Board and those of the Minister. I read this particular clause and the whole Bill but the difference between the powers of the Board and those of the Minister is not very clear. We do not want any ambiguity in the future, and those powers need to be looked into a little bit more. Maybe, the Minister can explain to us the relevant or respective powers of the Board and the Minister. But in Clause 9(2), it is stated:

"All licence applications for the generation, distribution and transmission of electric power shall be processed within one hundred and eighty days after the Electricity Regulatory Board confirms to the Minister, in writing, that the application is materially complete in all respects."

I think this is a bottle-neck, and I would like to ask the Minister to look at this again, because six months is too long for an investor to wait. Think of the poor investor, who is ready, and has made financial projections and packages. This would mean that in his financial projections, he leaves a whole six months of doing nothing. In financial terms, this would not be acceptable at all. So, I would urge that this period be reduced to three months. If we have a prescribed format, the format should be as detailed as possible, so that the evaluation of that application should be easy. In my view, 180 days is just too long a period for an investor to wait. We are talking of liberalisation and private investors do not have that long time to wait. The banks will not wait that long, the financial people giving the finances, will not wait for six months for an application to be approved. No, I feel we could make an improvement on this one.

Mr. Temporary Deputy Speaker, Sir, in recommending the granting of a licence to the Minister, the Board shall consider a number of things. Those are the items which in my view ought to be entrenched into the prescribed application format that I have been talking about so that none of those is missed by anybody whether it is the environment, the benefits to the community, the technical and the financial capacity of the applicant *et cetera*. All those should be entrenched and should be part and parcel of the prescribed formats.

Mr. Temporary Deputy Speaker, Sir, on Page 925, Clause 10 which talks about "Notice of Application of Time", I am not clear there. If you read that sentence, it does not make sense. It says

"Subject to any provision in this Act to the contrary, before making any for extension..."

I think there is a word missing and it should read:

"Before "making any extension."

Well, that word is missing and I got confused when I read it about three times and I felt that there was something missing in that you say that "It is any application for extension." Perhaps, my colleagues could make a note of that so as to save time. Okay, again the Minister has power to give consent or approval for altering, revocation *et cetera*. I have no qualms there but I do not want to see any licence revoked simply because a person or the licensee happens to be an enemy of the Minister or not a friend of the Minister. I would like every citizen to be safeguarded here so that there is no victimisation, vendetta and we are all given equal treatment here irrespective of whether I come from the Coast, North, East or from the West.

Mr. Temporary Deputy Speaker, Sir, I will then go on to Page 928, Clause 12 which is "Duration of the licence." Now, I think this is a little bit of a joke. It says:

"Licences to electric power producers shall be issued for a term of not less than 15 years."

I really do not know what this means. It says that it shall be issued for a term of not less than 15 years. In other words, it can be given for more but not less than 15 years. This is, as rightly said, to permit people to ensure that they recover their investment costs *et cetera*. But is there any intention whatsoever of issuing a licence? I honestly do not understand why we have this at all here because once a licence is issued and unless it is revoked by the person breaking the terms within the licence, he should be free if one wants to--- Where is the freedom here? You are restricting his freedom. For example, if one wants to invest for ten years and that is all, why should we not allow him to invest for ten years? I am saying that we should not be too restrictive.

If I am an investor and I want to invest my money in the power sector for only ten years you are telling me that I must invest for 15 years. If I lose then it is my own funeral. If I have not recovered my investment costs then you should necessarily force me to have to invest for 15 years. What is wrong is for you to revoke my licence earlier than I

would like to operate. So, perhaps let us preserve the individuals right to invest for two to three years. Of course, you will be a fool if you invest for two or three years.

Clause 12(2) says:-

"Licences to public electricity suppliers shall be issued for a term of not less than thirty years".

Mr. Temporary Deputy Speaker, Sir, my point still stands. Why must we restrict a company to invest for less years or why must we subject a company to invest for more than 30 years when its intention is to invest for only 20 years? This Clause needs to be looked into.

Mr. Temporary Deputy Speaker, Sir, as regards the conditions of licences, I have no particular qualms. But I will now move on to Part III of the Bill on Supply of Electric Power on pages 930 and 931. Clause 21(1) on approval of contract, says:-

"All contracts for the sale of power or transmission services between and among electric power producers, public electricity suppliers and large retail consumers shall be submitted to the Board for approval as provided for by section 121(1)f".

Mr. Temporary Deputy Speaker, Sir, my worry and concern is that there should be a time limit within which those approvals are obtained so that people are not held at ransom. Clause 121(1)(f) says:-

"Approve electric power purchase contracts and transmission and distribution service contract between and among electric power producers, public electricity suppliers and large retail customers".

Mr. Temporary Deputy Speaker, Sir, all it says is that all contracts for the sale of power shall be submitted to the Board for approval. I want to introduce there a time factor, that the approval must be within a reasonable time. I think if we leave this too open here, we could have a Board that is not up to it, and a power contract could take five months or a year to approval. That will be detrimental to the development of the power sector. That is really my concern, Sir.

Mr. Temporary Deputy Speaker, Sir, Clause 22 says:-

"In considering a contract under section 19, the Board shall apply the following criteria for a approval of contract:-

- (a) that the rates or tariffs established in the agreement are just and reasonable;
- (b) that the metering equipment is owned, installed and maintained by the public electricity supplier ; and,
- (c) that the costs of any interconnection facilities..."

Mr. Temporary Deputy Speaker, Sir, I have no worry on this, but we must watch out for overcharging through the tariffs. There must be an appeal mechanism somewhere where the applicant is aggrieved. There is no ombudsman in this Bill except, perhaps, the courts. If one is aggrieved they can go to the courts. But the experience with the courts is that it can stay for two or four years before the case is heard. That aspect must be in one way or the another brought in. And where the courts do not act quickly, as the situation these days, what redress has the applicant got? So, these are some of the salient points where I feel that we need to consider.

Mr. Temporary Deputy Speaker, Sir, I would like to continue because this is a very important Bill indeed. I have reached page 931 and I have many more comments to make on various clauses contained in this Bill, but the time is up. So, I will continue on Tuesday, next week.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 11th September, 1997, at 2.30 p.m.

The House rose at 6.30 p.m.