

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 6th December, 2000

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.533

RELOCATION OF GURAR/BUNA DIVISIONS

Mr. Deputy Speaker: Dr. Ali is not here? We will come back to that Question later.
Next Question, Mr. Ojode!

Question No.644

THEFT OF MR. OKONG'O'S TRACTOR

Mr. Deputy Speaker: Mr. Ojode is not here? We will come back to that Question later.
Next Question, Mr. Anyona!

Question No.700

ALLOCATION OF NORTH KISII CENTRAL FARMERS' LAND

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

(a) whether he could inform the House why the Government through the Provincial Administration and the Settlement Fund Trustee illegally allocated 1,000 acres of land from LR No.3016 belonging to M/s North Kisii Central Farmers Limited;

(b) whether he could explain why the Settlement Fund Trustee has failed to pay M/s North Kisii Central Farmers Limited the sum of Kshs441,350 with interest as ordered by the High Court on 28th June, 1993, Civil Case No.132 of 1987; and,

(c) what the total sum owed to North Kisii Central Farmers Limited is and when the full settlement will be effected.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I would like to seek the indulgence of the House that this Question be deferred because I have not got the necessary information.

Mr. Anyona: Mr. Deputy Speaker, Sir, I do not know what the Minister means by saying he has not got the necessary information. Information from who? This Question met the requirements of the Standing Orders. So, the Minister should be in a position to answer it. The explanation he has given is not good enough.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I am sorry that I do not have the necessary information in order to respond.

Mr. Deputy Speaker: Maj. Madoka, this Question must have been in your possession for at least 10 days. You should have been able to get that information!

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I agree that it must have been in my office for those 10 days, but I am afraid that my officers have not been able to give me the necessary information.

Mr. Anyona: Mr. Deputy Speaker, Sir, I do not think it is good enough for a Minister of the Government to come and tell Parliament that his officers have not given him the necessary information. I do not think

Parliament can accept that! To help the Minister, I would like to table documents here on this issue so that he can understand the Question. This is a very sensitive matter because it involves land which was "grabbed" by the same officers who are now refusing to give him the information.

(Mr. Anyona laid the documents on the Table)

Mr. Deputy Speaker: Mr. Anyona, what is contained in those documents?

Mr. Anyona: Mr. Deputy Speaker, Sir, these documents include: A letter written by the directors of this company to the Minister for Lands and Settlement on 12th October, 1987, proceedings of the court case referred to by the Question, the various correspondences between the company directors and various Government officers. Now that I have provided that information, when will the Minister answer this Question?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I am not refusing to answer that Question. The truth of the matter is that one of the officers who was handling this matter was bereaved. He lost his wife and the other officer who could have sat in for him was hospitalised. That is what caused a delay in this matter. I am really sorry.

Mr. Deputy Speaker: Hon. Members, I would like to inform the House that Ministers are personally responsible for the answers they bring to this House. We understand that they cannot do this work by themselves. But we do not want to encourage situations where Ministers come here, fail to answer Questions and blame it on the officers working under them. Anyway, I am going to defer this Question, but I do not know upto when.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I do appreciate your comments, but I think they are a bit unfair because I stated the circumstances surrounding this particular case.

Mr. Deputy Speaker: Order, Mr. Minister! The Standing Orders of this House do not recognise your officers. They recognise you alone!

Mr. Anyona: Mr. Deputy Speaker, Sir, now that I have given him all the official records, and in view of what you have just alluded to - that the House might adjourn - will he be able to answer this Question tomorrow?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I will do so.

Mr. Ndicho: Mr. Deputy Speaker, Sir, in view of your ruling, which you have repeated several times in this House, would I be in order to ask the Chair to inform Government Ministers that this House is not going to entertain any excuses coming from either the Permanent Secretary or any other Government officer? These Ministers do not seem to be taking the Chair seriously!

Mr. Deputy Speaker: Order, Mr. Ndicho! The Standing Orders are very clear on what you should do if the Minister's reply or lack of it is unsatisfactory. So, take that course and the Chair will be fully behind you.

Next Question, Mr. Muite!

(Question deferred)

Question No.737

WHEREABOUTS OF MR. KARARI

Mr. Deputy Speaker: Mr. Muite is not here? We will come back to that Question later.

Next Question, Mr. Gatabaki.

Question No.381

MERGING OF COMMERCIAL BANKS

Mr. Deputy Speaker: Mr. Gatabaki's Question is deferred to tomorrow because he is unavoidably absent!

Next Question, Mr. Mugeke.

(Question deferred)

Question No.696

DISCONTINUATION OF PASSENGER
FLIGHTS TO KENYA

Mr. Deputy Speaker: Mr. Mugeke is not in? We shall come back to that Question later.
Next Question, Mr. Ndicho.

Question No.309

POWER SUPPLY TO RUIRU SOUTH RESIDENTS

Mr. Ndicho asked the Minister for Energy:-

- (a) if he is aware that the residents of Karibaribi, Kiiu South in Ruiru and Kwihota have contributed the requisite 10 per cent for the supply of electricity to their areas; and,
- (b) why the Government declined to pay the 90 per cent balance to the Kenya Power and Lighting Company for supply of power to the residents.

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

(a) I am aware that residents of Karibaribi and Kiiu, through joint effort, have contributed 10 per cent of the estimated project cost to enable the Kenya Power and Lighting Company undertake preparations of surveys and detailed designs of the rural electrification projects for their areas. I am, however, not aware that Kwihota Rural Electrification Group has paid the required 10 per cent for the survey and design of their proposed rural electrification project.

(b) When the resources are available, the Government will pay the 90 per cent of the project cost to the Kenya Power and Lighting Company, once the detailed designs are completed for Karibaribi and Kiiu South projects. It would be necessary also for the projects to be accorded the necessary priority ranking by the Thika District Development Committee.

Mr. Ndicho: Mr. Deputy Speaker, Sir, I am surprised when the Assistant Minister says that this will happen when the projects are accorded the necessary ranking. I took this matter personally through the Sub-DDC and the DDC. The DDC was satisfied that the three projects have contributed the 10 per cent. I have the receipts of the monies that we have paid to KPLC amounting to 10 per cent. The DDC has even written a covering letter towards the same project and the Assistant Minister is telling us a different story. In view of the fact that these three projects have contributed the 10 per cent, when is the Assistant Minister going to ensure that these people are supplied with electricity?

Mr. Chanzu: Mr. Deputy Speaker, Sir, although payment of 10 per cent is one of the prerequisites, there is also need for the funds to be available in order to undertake the projects. I have a list of the prioritised projects according to the Thika District Development Committee. They include: Gatura, Kierini, Ngorongo, Gatanga, Ritho, Kiang'ang'a, Gatunyu, Echiri, Gitaitimu, Kaguku and many others. The ones the hon. Member is referring to are not part of this list. Maybe, when the hon. Member brought the letter to the Ministry, the DDC was not informed so that they could revise the information they had submitted to the Ministry.

Mr. Muchiri: Mr. Deputy Speaker, Sir, it appears that one of the conditions for the supply of electricity is that a group pays 10 per cent. There must also be a recommendation from the DDC and then, the Government pays the remaining 90 per cent to the Kenya Power and Lighting Company. Could the Assistant Minister tell this House how much money they have set aside in the 2000/2001 financial year as the 90 per cent to be paid to the KPLC if the groups pay their 10 per cent?

Mr. Chanzu: Mr. Deputy Speaker, Sir, as of now, even if the Government were to pay to the KPLC any money, already it is owed a lot of money on various projects they have already undertaken. That is why I am saying, when funds are made available. To be exact, the KPLC is owed over Kshs1 billion on the projects they have undertaken on behalf of the Government. This is as a result of the shortfalls in the Budget. However, there are many other schemes which are coming up from the external funding. So, if these projects are prioritised through the DDC, maybe, they would be considered.

Mr. Deputy Speaker: Mr. Chanzu, you have not answered his question. He wanted to know how much money you have set aside, so that if all those projects were to pay their 10 per cent, you would be able to implement those projects.

Mr. Chanzu: Mr. Deputy Speaker, Sir, at the moment, I do not have the precise figures.

Mr. Kibicho: Mr. Deputy Speaker, Sir, the Assistant Minister says that for a project to be implemented

under this programme, a group must pay 10 per cent and the project must also be prioritised by the DDC. Is he telling the House that whenever a group pays the 10 per cent, the Government is under obligation to implement that project if it is prioritised by the DDC? If that is so, why has the Government not implemented the Kiangai Nima project which paid their 10 per cent three years ago?

Mr. Chanzu: Mr. Deputy Speaker, Sir, the Government is under obligation on condition that we have available resources to implement the projects.

Mr. Obwocha: Mr. Deputy Speaker, Sir, this is a very important Question because it involves all constituencies. In view of the confusion from the Government, who is in charge of the Rural Electrification Programme; is it the Ministry of Energy or the Kenya Power and Lighting Company? Many of us have similar projects where money has been paid but nothing has happened.

Mr. Chanzu: Mr. Deputy Speaker, Sir, it is the Ministry of Energy which is responsible for the Rural Electrification Programme. The Kenya Power and Lighting Company only works as an agent when it comes to implementation.

Mr. Anyona: Mr. Deputy Speaker, Sir, there have been contradictory statements from this Ministry about supply of electricity in the country. Even in this particular Question, it is not clear what the Assistant Minister is talking about. Before, the Minister for Energy made a categorical statement in this House, that as far as rural electrification is concerned, this is a Government programme and there is no contribution from members of the public. Now the Assistant Minister is telling us that members are required to contribute. Which is which?

Mr. Chanzu: Mr. Deputy Speaker, Sir, contributions that are made like in this case, go towards the survey and the preparation of the project.

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, I just want to know the Government policy, because people have ganged up and formed committees to have electricity supplied in their areas. They pay the 10 per cent as instructed by the KPLC. Is it that the Government cannot support that initiative unless it passes through the DDC?

Mr. Chanzu: Mr. Deputy Speaker, Sir, for proper planning and order of development in every part of the country, I think it is appropriate that these schemes are passed through the relevant DDC.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the Assistant Minister has said that they cannot implement projects which have not been prioritised by the DDC. Why does the Ministry take the 10 per cent when they know that those projects have not been prioritised by the DDC?

Mr. Chanzu: Mr. Deputy Speaker, Sir, the Ministry is advising prospective applicants not to pay the money to the KPLC. Instead, the money should be put in a certain account and proof be furnished that the money is available. It is not necessary to pay that money to the KPLC.

Mr. Sungu: Mr. Deputy Speaker, Sir, this Question affects the entire country. In Kisumu, there was a West Kisumu Project where the KPLC gave a quotation of Kshs81 million and most of it was the cost of the transformer. Yet, this transformer will never belong to the consumers; it belongs to the KPLC. Why does the Government allow the KPLC to hold consumers to ransom by asking them to pay for the transformers which are very costly and yet, they do not belong to them? Why do they not charge us the cost of the wires only?

Mr. Chanzu: Mr. Deputy Speaker, Sir, I think I need to have more information on that particular question the hon. Member has asked. Maybe, he can file a Question to that effect and we will be able to look into it and give an appropriate answer.

Mr. Katuku: Mr. Deputy Speaker, Sir, as most hon. Members have expressed concern over this issue, I have also a similar problem in my constituency where people paid the KPLC ten years ago to be supplied with electricity. The project was prioritised by the DDC but they have not been supplied with electricity to date. I want to believe and the Assistant Minister should confirm or deny that the procedure of prioritising these projects is not based on the recommendations of the DDC but on political grounds. I also want to believe that there is no money; that is, the 90 per cent the Assistant Minister is citing because he is unable to give us the figures. Can he give us specific figures for projects which have been allocated funds during this financial year?

Mr. Chanzu: Mr. Deputy Speaker, Sir, if the first part the hon. Member is referring to is true, then that will be an exceptional. But the amount of money that is allocated to every district is in the Printed Estimates and hon. Members were here when all these estimates were passed. I think it will be easier for each one of us to check in the Printed Estimates and find out what has been allocated to every district. The information is there.

Mr. Ndicho: Mr. Deputy Speaker, Sir, I think there is a scheme by the Government to make Members of the Opposition "unpopular" with the electorate. As for Karibaribi, the cost was Kshs4 million. We raised Kshs400,000 and took it to the KPLC. For Kiiu South in Ruiru and Kwihota it was Kshs3 million. I presided over a Harambee and raised Kshs300,000. We remitted it to the KPLC and we were given the receipt. I am an active member of the DDC in Thika. So, I took these three projects personally to the DDC and they were approved. I am

surprised to hear the Assistant Minister read a list which excludes these three projects. Can he confirm or deny that there is a scheme by the Government to make sure that all electricity projects in the Opposition areas are being "sabotaged" to make Members unpopular? I promised my people that once they pay that money and the projects are prioritised by the DDC, they will get power. We are going to the next election without electricity. My political opponents will use that one against me. Can he confirm or deny that this is the Government scheme to make Members of the Opposition unpopular?

Mr. Chanzu: Mr. Deputy Speaker, Sir, I think I had answered the first part of the question and asked the hon. Member to have these projects prioritised by the DDC. Secondly, it is not true. On the contrary, Opposition areas have got more projects than KANU zones, as shown below. In Thika District, the following Rural Electrification Projects have been completed since 1996. Kihunyu Market, the applicant was Muchai. They are 13 of them. The projects which are being implemented in Thika are Mukunyu Club and Thika Holdings, Riakarime Applicants, Muthiga Coffee Factory, Membu Coffee Factory, market and school and Gatuanyaga School. I come from a KANU area, but there is not a single project there.

(Several Members stood up in their places)

Mr. Deputy Speaker: Order! Order! Mr. Assistant Minister, they just want to know why you are taking the deposit if there is no money to complete the projects. All these Members are alleging that they made these projects to contribute their 10 per cent. Some date as far back as ten years ago. Why are you receiving the deposit if you are not ready to supply them with electricity?

Mr. Chanzu: Mr. Deputy Speaker, Sir, we are trying to streamline this issue. Even the public is so much in a rush sometime to pay without knowing what they are doing. We are sorting out this. So, when funds are made available, they must meet this prerequisite so that they are ready to be supplied with power.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House on the projects he has just read out when we know very well that those are not rural electrification projects? Those are individual projects and applicants have paid the full amount to the company to get connected. We are talking about the rural electrification programme. Can he tell us whether they will pay interest to all the millions of shillings that the KPLC has collected from Kenyans and they are not supplying them with electricity? It is not being kept in an account which does not earn interest.

Mr. Chanzu: Mr. Deputy Speaker, Sir, I think that is a question rather than a point of order.

Mr. Deputy Speaker: Next Question, Mr. Murathe?

Question No.754

PESTICIDE LEVEL TESTING FOR KENYAN PRODUCE

Mr. Deputy Speaker: Mr. Murathe is not here? We will leave his Question until the end. Next Question, Mr. Ndilinge?

Question No.722

UPGRADING OF SULTAN HAMUD HEALTH CENTRE

Mr. Deputy Speaker: Mr. Ndilinge is not here? We will leave his Question until the end. Next Question, Dr. Ali?

Dr. Ali: Mr. Deputy Speaker, Sir, I apologise for coming late. I have not received a written answer.

Question No.533

RELOCATION OF GURAR/BUNA DIVISIONS

Dr. Ali asked the Minister of State, Office of the President:-

- (a) when Gurar and Buna Divisions of Wajir District were carved out of Moyale District;
- (b) what led to the relocation of the two divisions; and,

(c) now that Moyale District has been created, if there is a possibility of returning the two divisions back to Moyale.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I apologise to the hon. Member. I thought the written response had been sent to him. However, I beg to reply.

(a) Gurar and Buna divisions were carved out of Moyale in 1962.

(b) The transfer of Gurar and Buna divisions to Wajir District in North Eastern Province came about as a result of the desire by the predominantly Ajuran Somali sub-clan to join fellow Somalis in Wajir District.

(c) The relocation of the two divisions will require, first, that the views of the Ajuran community must be sought. Secondly, alteration of provincial boundaries will have to come to this House for discussion.

Dr. Ali: Thank you, Mr. Deputy Speaker, Sir. Those divisions were carved out in 1963 without consulting the locals. There was no amendment which was brought to this House. Could the Minister reconsider relocating the two divisions back to Moyale District because of the problems they are facing there? The distance from Bute to Wajir is 167 miles, while from Bute to Moyale is 30 miles. What plans does the Ministry have in place instead of talking about imaginary things? They were just seeking the opinion of the people in Wajir yesterday. That is how they got the answer. There are no facts in the files.

Maj. Madoka: Mr. Deputy Speaker, Sir, the boundaries are very clear. As I said, if the community strongly feels that they should go back to Moyale District, we can take up that issue, seek their views and also bring up the question of the alteration of the boundary to this House.

Mr. Muchiri: On a point of order, Mr. Deputy Speaker, Sir. The question of carving out districts has brought a lot of confusion in this country. In Nairobi, we do not know whether we are in Nairobi City, Nairobi District, Nairobi Province or Nairobi Area. Can the Minister explain to "Nairobians" whether Nairobi is a district, a province or a municipality? Where are the boundaries?

Maj. Madoka: Mr. Deputy Speaker, Sir, that one is quite heavy. I think I will have to come and give the full details on that one, if I have to be exact.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. The Minister has made a non-committal statement. He seems to have agreed to consider this thing, but he did not commit himself. He seems to be willing to meet the request made by the hon. Member. Then, why does he not make a categorical statement that he will do it?

Maj. Madoka: Mr. Deputy Speaker, Sir, the facts are supposed to come through the District Development Committee (DDC). We will, definitely, consider the matter if the facts are brought to us. But I do not think I will make a definite commitment at this stage.

Mr. Deputy Speaker: Very well; Mr. Ojode's Question, for the second time.

Mr. Ojode: Mr. Deputy Speaker, Sir, I apologise for coming late.

Question No.644

THEFT OF MR. OKONG'O'S TRACTOR

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

(a) what happened to tractor registration No.KWW 171, chassis No.15518, belonging to Francis Obunga Okong'o of Kanyamwa Location, Ndhiwa Division, which was stolen and reported at Awendo Police Station on 15th September, 1999;

(b) why it was necessary for the District Criminal Investigations Officer (DCIO), Migori, to confiscate the logbook and not release the same to the owner; and,

(c) when the suspect will be taken to court.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, we had answered this Question. We had a bit of a problem; there appears to have been a duplication of the logbook within the Registrar of Motor Vehicle's Office. So, this is something that we are following up. I, therefore, pray for the indulgence of the hon. Questioner, so that we can pursue the matter further.

Mr. Ojode: On a point of order, Mr. Deputy Speaker, Sir. You can recollect that the Minister promised to bring the same details to this House this week. You appreciate that if we proceed for recess tomorrow, the Question will not be answered. The owner of the tractor is still a suffering man. So, what will he do if we do not solve this problem here before we proceed for recess?

Maj. Madoka: Mr. Deputy Speaker, Sir, I would like to apologise but, really, the investigations into the matter will take a bit of time because of the possible duplication of the logbook. I do not think that, that is a

solution which we can come up with very quickly.

Mr. Ojode: On a point of order, Mr. Deputy Speaker. So, what are we going to do now?

Mr. Deputy Speaker: The Minister is now undertaking - whether we go into recess or not - that at the earliest opportunity, he will bring to you that report.

Mr. Ojode: On a point of order, Mr. Deputy Speaker, Sir. For how long are the police going to do those investigations? You know, most of them are "dreamers"; they might go and dream. For how long are they going to do that?

Mr. Deputy Speaker: Mr. Ojode, what do you want, yourself; a report or a "dream"?

(Laughter)

Mr. Ojode: On a point of order, Mr. Deputy Speaker, Sir. Why can the Minister not bring that report tomorrow then?

Mr. Deputy Speaker: Well; I am sure that if he could, he would do so. But, I do not think that he is able to bring the report tomorrow.

Maj. Madoka: Mr. Deputy Speaker, Sir, the hon. Member is a good friend of mine. As he knows, we have discussed these things. I would like him to be patient for now. Maybe, when we come back, I will be able to give him a proper answer to this Question. I will make sure that I do so.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. I think the Minister is taking us round in circles. There is a department called "Anti-Motor Vehicle Theft Unit". The officers of that department can sought out any problem concerning stolen vehicles within a day. We are talking about a man who cannot work, because his tractor has been held by the police, and the Government is dragging its feet. Why can the Minister not use the services of that unit to verify the rightful owner of the tractor and hand it over to him?

Maj. Madoka: Mr. Deputy Speaker, Sir, this is not the only case being handled by the unit the hon. Member has referred to. In fact, that is the same Unit whose services we are using.

Mr. Deputy Speaker: The Question is deferred.
Mr. Muite's Question for the second time?

(Question deferred)

Mr. Muite: Mr. Deputy Speaker, Sir, before I ask my Question, I would like to apologise for coming late.

Question No.737

WHEREABOUTS OF MR. KARARI

Mr. Muite asked the Minister for Home Affairs, Heritage and Sports:-

(a) whether he is aware that Mr. Joseph Goko Karari, a staff member, Service No.PF/6323,

[Mr. Muite]

disappeared on 14th June, 1998 while stationed at Industrial Area Remand Prison and that he has not been traced to date; and,

(b) what steps he is taking to ensure that Mr. Karari is traced.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Choge): Mr. Deputy Speaker, Sir, I would like this Question deferred, because of the re-organisation going on at the Ministry. Right now, we are transferring officers to other stations. Also, we now have a new Commissioner of Prisons. So, we have not been able to get an answer for the Question for now.

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. I am sure that you can verify from the records in the Speaker's Office that this Question was, in fact, submitted more than two months ago. So, one is surprised by the excuse being given that more time is required to answer it. I would rather that you order the Assistant Minister to answer this Question tomorrow.

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

Mr. Deputy Speaker: Order! Mr. Muite has just raised a point of order, which has not been responded to yet. Mr. Assistant Minister, why can you not answer this Question tomorrow?

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Choge): Mr. Deputy Speaker, Sir, we have a new Commissioner of Prison. The Commissioner of

Prisons who was dealing with this Question has just left the service. So, I think we will have the Question answered by next week.

Mr. Deputy Speaker: Order! Mr. Assistant Minister, the Commissioner of Prisons who has retired has not gone away with the required information. The information being sought is still available. So, this Question must be answered tomorrow afternoon.

Mr. Mugeke's Question for the second time?

(Question deferred)

Question No.696

DISCONTINUATION OF PASSENGER FLIGHTS TO KENYA

Mr. Deputy Speaker: Is Mr. Mugeke still not here? The Question is dropped.

(Question dropped)

Let us proceed to Mr. Murathe's Question, for the second time.

Question No.754

PESTICIDE LEVEL TESTING FOR KENYAN PRODUCE

Mr. Deputy Speaker: Mr. Murathe is also not here? The Question is dropped.

(Question dropped)

Question No.722

UPGRADING OF SULTAN HAMUD HEALTH CENTRE

Mr. Deputy Speaker: Mr. Ndilinge is not here? His Question is also dropped.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

ALLOWANCES FOR KENYA POLICE FORCE STAFF

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

(a) Could the Minister inform the House what allowances the staff of the Police Force are entitled to?

(b) What are their statutory/administrative deductions?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, this is the third time this Question has been brought here. I have been asked to give the actual amounts paid to police officers.

Mr. Deputy Speaker, Sir, I beg to reply.

(a) The amount of medical allowances paid to police officers vary from one Job Group to another. Therefore, I cannot give the exact figures. The payment of housing supplementary allowance was effected on 1st July, 2000. Again, the amounts payable to individuals depend on their ranks. This allowance is paid only to junior officers. Senior officers are not entitled to this allowance. Hardship allowance is specifically paid to officers serving in "operation areas"; it is 30 per cent of an officer's basic salary. Criminal Investigations Department Officers' allowance is also paid according to ranks. A uniform allowance of Kshs2,000 is only paid to Inspectors and gazetted officers once in a year. Dog handlers are paid animal handlers allowance. We are in the process of reviewing this allowance because the amount paid is very small; dog handlers are paid only Kshs56 per month. Travelling and accommodation allowance is paid to officers proceeding on official duties; the amount payable to

each officer is dependent on one's rank. Officers proceeding for leave are paid a refund of expenses at the rate of 85 cents per kilometre. Drivers' allowance is paid according to grades and ranks of individual officers. Instructors are paid 20 per cent of their basic salaries.

(b) Statutory deductions made from police officers' salary include the following: Widows' and Children's Pension Fund, which is 2 per cent of an officer's basic salary. Pay-As-You-Earn, which hon. Members know what it is all about, is another deduction made. Health contribution, which is specifically paid over to the National Hospital Insurance Fund, which again, hon. Members know what it is all about, is also deducted from salaries of police officers. Union dues, which even the media keeps on referring to as "trade union dues"--- I would like to clarify that these are not trade union dues; they are welfare dues.

Regarding welfare dues, the police officers agreed to be deducted Kshs50 per month. Those funds, for example, have gone towards the establishment of the Utumishi Academy in Gilgil, which is serving the children of the police officers. It is also accommodating others. Then, there is the Sports and Welfare Fund, and police officers pay Kshs20 which is paid through the pay slip.

The hon. Member asked about the Sink Fund. It is true that it exists, and it is paid through the Co-operative Union. It is money which police officers agreed to pay to their co-operative union. He also spoke of another fund which we cannot trace in any of the payslips. There may be some other dues which are deducted from the officers, for example, if they have a hire purchase agreement or insurance. But that is specifically deducted on the agreement of the police officers concerned.

Mr. Kathangu: Mr. Deputy Speaker, Sir, this Question had been deferred to this day because the Speaker wondered how a police officer would walk into the Police Commissioner's office, or the paymaster's office, and ask what those various allowances meant. The Minister agreed at that time that there are several allowances that he does not know, and even the officers do not know what they are all about. There is a "small lie" in what the Minister---

Mr. Deputy Speaker: Order! That is unparliamentary language!

Mr. Kathangu: Mr. Deputy Speaker, Sir, I withdraw that. There is a "small untruth" on what the Minister said - that is, misquoting some figures. For example, there is 20 per cent which the Minister talked about, but we know that the hardship allowance for police officers is Kshs30 per month. I would like him to confirm that. The CID allowance, which is a special allowance for the police, is not 20 per cent; it is Kshs20 per month. I would like him to confirm those facts, so that we do not get misguided. All these allowances, plus the salary for a constable, do not go beyond Kshs5,000 per month, and that is what we are trying to confirm from the Minister. How would a police officer who wants to be upright and clean---

Mr. Deputy Speaker: Order, Mr. Kathangu! This is not a Motion! Ask your Question!

Mr. Kathangu: Mr. Deputy Speaker, Sir, the question is: If a police officer earns Kshs5,000 per month, how will he or she be able to sustain himself or herself in the service without being corrupt?

Maj. Madoka: Mr. Deputy Speaker, Sir, first of all, let me say that there is a misconception. Our police officers are very intelligent, and if there are any doubts on any deductions, all of them would know how to enquire. So, let us not be told that they cannot go to their OCSs and ask what all those deductions are all about. They know them, and they are intelligent. So, let us not underrate their intelligence. It is true I said that the hardship allowance is 30 per cent, and regarding the CID allowance, I said that it varies. I know that it goes from Kshs20 to Kshs80 and to Kshs100, depending on those allowances. We agree about that and we are concerned that we have not yet been able to raise the salaries of the police officers, but there is a harmonisation exercise of trying to make sure that we are able to pay the officers. We agree that we are not paying them enough, but we are looking into it to see how best it can be done because it has to be considered with other civil servants as well.

Mr. Kombo: Mr. Deputy Speaker, Sir, the Minister in his reply talked of the co-operative investment and that was an average of Kshs7,000 deducted between 1992 and 1994 from police officers to build the Utumishi Kwa Wote Academy where children of the ordinary police officers hardly go to. Maj. Madoka, if you say that there were about 64,000 police officers who contributed money, that means close to Kshs0.5 billion was collected from the Police Force. Are you saying that, in fact, the Utumishi Kwa Wote Academy cost Kshs0.5 billion to build?

Maj. Madoka: Sorry, Mr. Deputy Speaker, Sir. I did not quite follow that. Maybe, he could come up again on that issue.

Mr. Deputy Speaker: Maj. Madoka, the question is very simple. He said that police officers were deducted Kshs7,000 between 1992 and 1994 and there were 64,000 police officers. If you multiply that, you will get the figure. He is asking: Is that what it cost to build the Utumishi Kwa Wote Academy?

Maj. Madoka: Mr. Deputy Speaker, Sir, that amount do not just go to build the Utumishi Kwa Wote Academy. They also used it in helping officers in various other cases. So, apart from building the Utumishi Kwa

Wote Academy--- Like now, we know that they are working to put up their own hospital, where police officers can be helped when they are sick and so on.

Mr. Mwenda: Mr. Deputy Speaker, Sir, it is quite obvious that the Government underpays police officers and then "steals" from them the little that they pay them. The Minister talked about medical allowances varying from the lowest to the highest. Could he tell us the lowest and highest medical allowances paid?

Maj. Madoka: Mr. Deputy Speaker, Sir, first of all, let me say that we do not steal from police officers. Let me further state the Kshs50 deduction was agreed on by the police officers themselves. It was not imposed on the police officers. I did not come with the exact figures and I said that it is based on the various Job Groups.

Mr. Muchiri: Mr. Deputy Speaker, Sir, the Minister is aware that police officers from the Commissioner of Police to a constable are the most lowly paid officers in this country. He is also aware that the National Security Intelligence Service (NSIS) officers who were employed the other day and who are acting on the police powers are the most highly-paid people in this country. He is also aware that the Kenya Anti-Corruption Authority (KACA) officers which is using the police powers is the most highly-paid department in Kenya. The Director of KACA is paid a monthly salary of Kshs500,000. Could the Minister consider raising the salaries of all police officers, regardless of their rank, equivalent to the amount that they are paying the officers of the KACA and NSIS all over the country?

Maj. Madoka: Mr. Deputy Speaker, Sir, first, let me correct one thing. The NSIS officers do not act on police powers. They have got their own Act under which they operate. We have said that we are concerned about the salaries of our police officers, and it is something that we are looking into.

Dr. Kituyi: Mr. Deputy Speaker, Sir, the Minister did mention that the Kshs50 deduction for welfare association was partly used in the construction of Utumishi Kwa Wote Academy. A welfare association exists only if the contributors have elected officials and it is them who know which investments they would put their money into. Since many police officers have been complaining that the Kshs50 deduction for construction of the academy was punitive, since they had no role in deciding for it to be built, and which most of them do not have any access to, could the Minister tell us who manages the welfare fund deducted from police officers?

Maj. Madoka: Mr. Deputy Speaker, Sir, they have a committee which manages this fund.

Mr. Deputy Speaker: Next Question, Mr. Sungu.

ASSISTANCE TO KISUMU/NYANDO FLOOD VICTIMS

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

(a) Is the Minister aware that currently there is heavy flooding in the lower parts of Kolwa, Kadibo, Kochogo and Gem Rae areas of Kisumu and Nyando Districts and that people have been displaced from their homes and property destroyed?

(b) What urgent measures will the Minister take to alleviate the suffering of these people?

(c) Why has the Minister failed to initiate the construction of dykes along the rivers in these areas to prevent perennial flooding?

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

(a) I am aware that there were heavy rains on 22nd and 23rd November, 2000, which caused heavy flooding in lower parts of Kolwa, Kadibo, Kochogo and Gem Rae areas of Kisumu and Nyando Districts. About 500 people were temporarily displaced and have returned to their homes immediately after the rain subsided.

(b) Currently, the Government has distributed some relief food to Nyando District and agreements are under way to send and distribute relief food to the affected families in the two districts.

(c) The issue of river flood control in these areas falls under the jurisdiction of the Water Resources Department of the Ministry of Environment and Natural Resources. The *El Nino* Emergency Project which is under my jurisdiction could not finance the construction of dykes because it was not in the priority list forwarded by the Kisumu and Nyando Districts Development Committees for consideration by the project. Moreover, the project being a new construction could not have qualified for consideration under the *El Nino* Emergency Project whose primary brief is to restore *El Nino* roads, water and health sectors.

Mr. Sungu: Mr. Deputy Speaker, Sir, the Assistant Minister cannot shirk his responsibilities with regard to this matter because this is a natural disaster and disaster management falls squarely under the Office of the President. The current situation is that the River Kibos has burst its banks in Kisumu and this has been shown twice on KTN Television; on Monday and even yesterday. The fact of the matter is that the river has burst its

banks and swept all the raw sewerage from Nyalenda Treatment Works into people homes in Nyalenda. This was shown very clearly on KTN. Our people are now in immediate danger of suffering from cholera, malaria and typhoid in an area which is densely populated. Over 200 families have been affected now. What urgent measures will the Assistant Minister take? We cannot wait for the Minister for Water Development to come and salvage the situation. What urgent measures will you take to help the people of Kisumu? Can you, using your powerful Ministry of the Office of the President, request for a helicopter today so that we can go and show you these areas if you have not seen them?

Mr. Kochalle: Mr. Deputy Speaker, Sir, the *El Nino* Emergency Project's primary briefs as negotiated between the Government and donors is to repair damage caused by the *El Nino* floods which devastated most parts of the country between September 1997 and May 1998.

Mr. Wanjala: Mr. Deputy Speaker, Sir, it is quite unfortunate for Ministers who are not informed to be answering our Questions.

Mr. Deputy Speaker: What is your point of order?

Mr. Wanjala: The Assistant Minister is reading an answer which is irrelevant to what the MP has asked. He is only reading the answer he has been given and is not listening to the question before he answers.

Mr. Kochalle: I am just saying what the *El Nino* project is doing. The hon. Member is requesting me to take a helicopter and go to his place, but I am not ready to go to his place right now.

Mr. Deputy Speaker: You have not answered that question. What urgent steps are you taking about the current situation?

Mr. Kochalle: As I have already said, that is an emergency and we have now distributed some relief food to the people of Nyando who have been displaced.

Dr. Omamo: Mr. Deputy Speaker, Sir, I would really like the Assistant Minister to think carefully about this point. The floods from Kibos and Nyando Rivers rushed down to cause damage because they were not held upstream. The Government suddenly left Ahero Pilot Irrigation Scheme in the lurch. Instead of the water getting into Ahero Scheme, it passed through the lower areas of Kolowa, Kadibo and Gem Rae hitting them hard. Could the Assistant Minister consider as a matter of urgency re-opening Ahero Pilot Scheme and surveying these areas to help the primary school teachers to get hardship allowance? The teachers have been hit hard and there are no classrooms anywhere. Could the Assistant Minister agree to do this on humanitarian and economic basis for the benefit of the nation?

Mr. Kochalle: Mr. Deputy Speaker, Sir, I have taken note of what the hon. Member has said. Since this problem is between the two Ministries, we will make sure that we meet and do whatever is required.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, the problem of flooding in the Kano Plains has been perennial. This country has been experiencing a drought problem. What long-term plans does the Government have to ensure that the water that goes to waste is used for the good of this country? In the---

Mr. Deputy Speaker: Ask one question at a time!

Dr. Ochuodho: Mr. Deputy Speaker, Sir, can I then withdraw the other question and ask my question? In the short term---

Mr. Deputy Speaker: Order! Do you want it answered or do you not?

Dr. Ochuodho: Mr. Deputy Speaker, Sir, why can they not consider---

Mr. Deputy Speaker: Order! Next question!

Mr. Wanjala: Mr. Deputy Speaker, Sir, flooding in the areas of Kolwa, Kadibo, Kochogo and other areas including Budalangi is a problem that has been there since time immemorial. It is now 40 years since Independence with the Government in place. Today they are using the *El Nino* rains as a scapegoat. We usually experience floods in these areas at least twice a year; in April and from September to December. In August, the Ministry of Water Development advertised for a tender to rehabilitate the Nyando and Nzoia dykes. What immediate steps is the Assistant Minister taking to save the lives of those people who have been affected by floods and who might be affected by cholera?

Mr. Kochalle: Mr. Deputy Speaker, Sir, I hope the Minister for Water Development is around. He has just heard what the hon. Member has said and he will take that into consideration.

Mr. Sungu: Mr. Deputy Speaker, although hon. Otita is very much from that area---

Mr. Deputy Speaker: Order! Then I will give this chance to hon. Otita.

Mr. Otita: Mr. Deputy Speaker, I have been standing, but I did not catch your eye and I do not know why?

Mr. Deputy Speaker: Is it the reflection from the upper part of your body?

(Laughter)

Mr. Otita: Mr. Deputy Speaker, Sir, we have several problems along River Nyando. At the moment, there are four schools which will not open in January simply because the buildings have been [Mr. Otita] brought down by the floods. This is a question which the Government should take seriously. The Assistant Minister has just been saying that relief food has been sent and yet I was at home over the weekend and there is nothing happening there. Could the Assistant Minister ensure that the dykes are built along River Nyando and assist these schools so that when they open, they will have buildings and our children can continue learning? The most affected primary schools are Kagimba, Ombaka, Ahero Primary and so on. Could the Assistant Minister assure this House that all these calamities will be eradicated before it is too late for the children to go to school?

Mr. Kochalle: Mr. Deputy Speaker, Sir, Kisumu and Nyando are among the districts where the projects were carried out. Ablution measures such as selecting facilities and infrastructure were prioritised by the District Development Committees. Construction of dykes along the rivers were not included in the priorities. So, the committee should meet and include the construction of the dykes, so that we can evaluate the work.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! He is talking about dykes which have been built and that is why water is flowing through them. So, that is not a new project. They are rehabilitating existing dykes. So, respond to that question because they are not asking you to build new dykes.

Mr. Kochalle: Mr. Deputy Speaker, Sir, as far as I know, construction of the dykes along the river is not included in these priorities. So, we will make sure that these priorities are upheld. We will try and do our best to construct some new dykes.

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to evade answering the question by hon. Otita? What immediate measures are you taking to deal with this problem? How much money are you putting into the project? Are you doing anything because hon. Otita was at home over the weekend and no food was being distributed?

Mr. Kochalle: Mr. Deputy Speaker, Sir, as far as I know, the food has been sent there and so, people have been getting food. That is what we have just done.

Mr. Muturi: Mr. Deputy Speaker, Sir, the Assistant Minister says that when there are floods in Nyando area, the thing that comes to his mind is famine relief. When he is faced with drought in North Eastern Province and Ukambani, it is famine relief again. The question is: Does the Government have any plans to deal with situations in special circumstances such as flooding, in a manner commensurate with the problems that are raised so that when there is drought, it should be dealt with in a manner that deals with drought, so that we can now be talking about the construction of dykes and then start dealing with dams in Ukambani and other dry parts?

Mr. Kochalle: Mr. Deputy Speaker, Sir, we cannot predict when these things will occur. However, as we have just said, we have to meet the Ministry of Water Development staff so that we can decide on how we can help people of that area.

Mr. Sungu: Mr. Deputy Speaker, Sir, this Question is of immense importance and the Assistant Minister cannot duck from his responsibilities because Lake Victoria Environmental Programme (LVEP) has programmes on water control in this area and this falls under the Office of the President. In 1962, the Kibos River was channelled---

Mr. Deputy Speaker: Order! Ask your question!

Mr. Sungu: Mr. Deputy Speaker, Sir, my question is: Could the Assistant Minister take immediate action to open up a channel so that River Kibos can reach the lake? The reason why it is flooding is because the channel has been blocked by siltation and it is simply a question of sending a tractor there and scooping out the sand, so that water can reach its destination which is the lake instead of flooding homes, people's farms and even the sewerage treatment plant.

Mr. Kochalle: Mr. Deputy Speaker, Sir, as I have already said, this does not fall under the Office of the President. Opening up the channel falls under the Ministry of Water Development. The Minister concerned is around. He has heard and he will go and open up the dykes.

Mr. Deputy Speaker: Next Question! Mr. Mwakiringo!

SUPPLY OF SEED MAIZE TO
TAITA-TAVETA RESIDENTS

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Is the Minister aware that most parts of Taita-Taveta District, especially the lower dry zones have not received any maize and other seeds for planting during this rainy season?

(b) When will the seeds be available to farmers for planting before the rainy season ends?

Mr. Deputy Speaker: There is nobody from the Ministry of Agriculture and I will defer this Question to tomorrow.

(Question deferred)

Mr. Deputy Speaker: Next Question, Mr. Nooru.

COMPLETION OF SHIMPIR FATUMA BOREHOLE

(Mr. Nooru) to ask the Minister for Water Development:-

(a) Could the Minister inform the House why the officers who were drilling Shimpir Fatuma Borehole 10 years ago abandoned the project, leaving 40 feet long drilling bars inside the open borehole?

(b) Could the Minister urgently consider completing the project or drilling another borehole in order to provide the area residents with water?

Mr. Deputy Speaker: Mr. Adan Nooru is not there and, therefore, the Question is dropped.

(Question dropped)

Mr. Deputy Speaker: Next Order! Mr. Anyona.

POINT OF ORDER

ISSUANCE OF FEES GUIDELINES FOR 2001

Mr. Anyona: Mr. Deputy Speaker, Sir, as there is a likelihood that the House might rise tomorrow for the long recess, as we approach Christmas and the new year, one of the issues that tend to beset our people is the question of school fees at the beginning of the year. Usually, there is a lot of confusion as to what the fees are to be said and whether the schools comply with those fees prescribed by the Ministry if they are prescribed. In those circumstances and in order to avoid similar confusion in the new year when the House may well be on recess, I would like to request for a Ministerial Statement from the Ministry of Education which I would like to be given tomorrow because that is possibly the last day, otherwise, it will not serve any purpose for the year 2001. I want that Statement to address three issues: One, what are the criteria used in determining whatever fees they have prescribed; two, who was involved and to what extent were the parents involved in determining those fees levels; and, thirdly, what other charges are there because very often, we are told there are so much fees and then there are so many other charges which make a mockery of the whole exercise? I would like a Ministerial Statement covering those areas.

Secondly, I would like the Ministry to table tomorrow, the fees guidelines so that we all know what the fees are and also make a statement about compliance with the fees guidelines by the schools and the boards of governors.

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Mr. Deputy Speaker, Sir, I think all the information is there. The only thing is with regard to the deadline that he is giving to us before tomorrow because we might not be able to gather all the information and issue a statement, but we shall try.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. The way I understand is that the Ministry has already announced the fees guidelines which means the information is already there. We are just asking that they be presented formally in this Parliament, so that we know those are the formal fees. So, I do not know what other information he is looking for.

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Mr. Deputy Speaker, Sir, as I said, the statement can be given as it was in the newspaper, but he has added on three conditions. If he wants the statement tomorrow, we may issue the statement without those conditions.

Mr. Deputy Speaker: Order! Those conditions must have been considered before you issued the public statement. You should not have gone to the public with those conditions as part of the statement. The logic behind those decisions exist in your file, Mr. Assistant Minister. So, I am sympathetic with hon. Anyona that all

the information required for the purposes of making a statement in response to his point of order already exists. Surely, what is the difficulty?

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Mr. Deputy Speaker, Sir, as we have been telling this House right from the beginning of this year, we involved people right from the grassroots, down to the PTA level and so on. So, we need only to gather all this information and bring it to the Ministry. What we got may have been a synthesised material and this is what we are able to give to him. If we are going to go back to the DEBs and so on to get the information, then it is going to take more time.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. What I understand is that the data was compiled and formed the basis on which the Ministry finally made a decision. So, I am talking about that information available to the Ministry. I am not asking him to go back to the Ministry because I believe there must have been some other areas which you did not accept. So, I want the final product which formed the basis of your decision in determining the fees. We want to know the argument behind that. I am just wondering: Is it possible that a Minister of Government can argue with the Chair as to whether or not they can comply with the matter raised in the House?

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Mr. Deputy Speaker, Sir, hon. Anyona will get the final product.

MOTIONS

IMPLEMENTATION OF JUSTICE KWACH COMMITTEE RECOMMENDATIONS

THAT, in view of the crucial role the Judiciary plays in the democratisation process and particularly in the administration of justice; considering the need to enhance its efficiency and independence, this House urges the Government to urgently implement the recommendations of the Justice Kwach Committee.

(Mr. Waithaka on 29.11.2000)

(Resumption of Debate interrupted on 29.11.2000)

*(Dr. Ochuodho and Mr. Kihoro
stood up in their places)*

Mr. Deputy Speaker: What are you two gentlemen standing to do?

Dr. Ochuodho: Mr. Deputy speaker, Sir, hon. Mwangi had requested me to second this Motion.

Mr. Deputy Speaker: And you, hon. Kihoro?

Mr. Kihoro: Mr. Deputy Speaker, Sir, I want to continue from where Mr. Mwangi left.

Mr. Deputy Speaker: Order! Mr. Mwangi still had five minutes to go. Therefore, at this point in time, there is no Motion because it had not been moved. So, there is no Motion to second. The Motion is dropped.

(Motion dropped)

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I thought hon. Mwangi had started moving the Motion and he is on record as having done so.

Mr. Deputy Speaker: Order, hon. Ochuodho! You have been in this House long enough to know what moving a Motion means. It means and includes ending with the words "with those remarks, I now beg to move." He had not reached that point and that is why there is still five minutes to his credit. Since he is not here to complete the process--- Under our Standing Orders when a Member is not there to move the Motion at the time described, that Motion stands suspended and may not be moved in the next six months.

Mr. Mwenje: On a point of order, Deputy Speaker, Sir. With due respect to the Chair, my understanding and that of other hon. Members is that once an hon. Member stands here and starts moving a Motion, he has already moved it.

Mr. Deputy Speaker: Order! For the time being, only the Chair interprets the rules and it has done so.

That is what we shall abide by.
Next Order!

LEAVE TO INTRODUCE OIL INDUSTRY
REGULATORY BOARD BILL

Mr. Ojode: Mr. Deputy Speaker, Sir, I beg to move:-

THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled The Oil Industry Regulatory Board Bill to regulate the prices of oil products and to ensure price stability and fair play in the industry.

Mr. Deputy Speaker, Sir, the reason why I am moving this Motion is because the oil sector is largely controlled by the multinationals whose interest are at variance with our national goal of alleviating poverty among our own citizens. Yesterday, I asked a Question in this House and the Minister conceded that the prices of petroleum products are quite exorbitantly and prohibitively high.

Mr. Deputy Speaker, Sir, you will agree with me that the reason why we are having price increases on essential commodities in Kenya is as a result of increase in prices of petroleum products. Kenyans are suffering. They cannot even afford to go to their residential areas. For example, to get to Dondora, a citizen of Kenya has to pay Kshs60 to and fro. These are the lower cadres. For how long we will put Kenyans into this kind of suffering? Yesterday, I gave out some figures to illustrate the prices of petroleum products in this country. During the month of October, super oil was selling at Kshs53.20 per litre, regular oil was selling at Kshs52 per litre and diesel was selling at Kshs41 per litre. At that particular month, the cost of crude oil---

Mr. Munyao: On a point of order, Mr. Deputy Speaker, Sir. I do not want to interrupt the hon. Member who is moving a very important Motion for the benefit of this House and nation. But the Minister concerned is not here with us to make notes on what the hon. Member is talking about.

Mr. Deputy Speaker: Hon. Munyao, the Minister will not fail to respond even if he is not here.

Mr. Ojode: Mr. Deputy Speaker, Sir, the cost of crude oil in the month of October was US\$32.15 per barrel. In the month of November the cost of super oil rose to Kshs56.20; regular oil was being sold for Kshs55.20 per litre while diesel was selling at Kshs44 per litre. During that particular month, the cost of crude oil per barrel was US\$30.82. So, there is no justification for the increased prices in the petroleum products. That is why we are saying that we need a regulatory board to regulate the prices of petroleum products.

Mr. Deputy Speaker, Sir, that notwithstanding, the Kenya Shilling is also appreciating against the USA dollar. However, the prices of petroleum products in this country are still going up on daily basis. You will agree with me that during the Gulf War, the prices of petroleum products went up tremendously. After the war, there was some reduction on petroleum products. However, that reduction in petroleum products did not affect the Kenyan consumers. Why? This was because nobody was protecting the interests of Kenyans at large. That is why we are saying if we have a regulatory board then the consumers in Kenya will be protected. Multinationals are interfering with the economic growth of this country because they are left free to decide on whatever should be done in Kenya. As a result we will not have any economic growth.

Mr. Deputy Speaker, Sir, when prices of petroleum products are increased, the cost of transport goes up. Factories use a lot of petroleum products. If you go to Kenya Railways, they are using a lot of diesel. As we are talking now, KPLC has tremendously increased their rates on electricity bills. Kenyans are poor. We are talking of eradicating poverty in Kenya. How will we eradicate poverty when we still have these increases on petroleum products? Agricultural products are becoming expensive on a daily basis because of the prices of diesels. Why can the Government not come up with a policy which will see the prices of petroleum products regulated?

Mr. Deputy Speaker, Sir, America attained her independence 200 years ago and the prices of oil is only US\$1.45 per gallon. The same gallon is being sold here in Kenya at US\$5. What is the rationale behind it? It is only 37 years since Kenya attained her Independence. That is why we are saying that the Minister should come up with a policy to regulate these prices.

The Minister was talking about the Petroleum Bill which provides for the office of commissioner of petroleum products. How will that help Kenyans? Creating the office of commissioner will not help Kenya at all. We want the Minister to come up with a regulatory policy or constitute a Committee to regulate the prices of petroleum products. Creating the office of the Commissioner of Petroleum Products will not help Kenyans. We want the Minister to come up with a regulatory policy or a constituted committee which will regulate the price of fuel. I am saying this because as I am talking here there is a Petroleum Monitoring Unit within the Ministry, but they have tremendously failed. The Unit has completely failed. We have the National Oil Corporation of Kenya (NOCK) which is supposed to control the price of petroleum products, but it has also failed. Why has this

Corporation failed to control the price of petroleum products? It has failed because the majority of the local stakeholders are the Front-benchers. I would like to state that these Front-benchers are the owners of petrol stations. I would like to say that Kenol and Kobil Oil Company are known to be owned by an hon. Member of this House.

An hon. Member: He is hon. Biwott!

Mr. Ojode: Mr. Deputy Speaker, Sir, the other day I read in the newspapers that hon. Kamotho, who is a very good friend of mine, was also fighting for his Agip Petrol Station to be given fuel when there was rationing. There will be no reduction of prices as long as the Front-benchers in this House have got interest in the petroleum industry. It is not possible! That is why we are saying that the NOCK cannot control the price of petroleum products in this country, because the Corporation is being controlled by the same Front-benchers.

The Assistant Minister for Labour and Human Resource Development (Mr. Maizis): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member on the Floor to say that the Front-benchers are the only people who are allowed to own petrol stations in a free economy? Why should they also not own petrol stations in the free economy?

Mr. Deputy Speaker: Hon. Maizis, that is not a point of order.

Mr. Ojode: That is a frivolous point of order, Mr. Deputy Speaker, Sir. You will also agree with me that by the end of December inflation will definitely go up. Why is this so? This is because Abu Dhabi National Oil Corporation is in the process of increasing the price of petroleum products again. What will happen when it does that? The economic growth rate of this country will go down from 0.4 per cent to 0.2 or 0.1 per cent. But that is what we are trying to avoid. The Chair knows that you and I are the sufferers when the price of fuel goes up. The common man whom we represent is also the sufferer. I know a constituent in Ndhiwa Constituency who cannot even afford kerosene. How about the owner of the tractor who wants to cultivate his land? They are talking of Kenya being an agricultural country, but how can this happen if there are no incentives? It will not be possible if the Government cannot subsidise the petroleum sector. If it is a question of paying taxes, let the Government reduce taxes on petroleum products. I would like to say that Kenya will not be the only country that will do that. In Ghana, for example, the Government subsidises the petroleum sector in terms of taxes and duties. South Africa is another role model. Why can our Government not come up with a certain policy which will give some subsidy to the farmers? We said in this House that there is no point in saying that a tractor is being brought into this country duty free and, yet, the tyres which the tractor use are taxable; there is no need in saying that the tractor is being imported into the country duty free and, yet, the trailer plus the plough are duty paid. How do you expect these farmers to farm?

Mr. Deputy Speaker, Sir, in the United States of America or Europe, for example, you will find that farmers are paid not to produce what is in surplus. How about our country? There is nothing like that. It is unheard of. That is why we do not care, as a country, to what happens to our constituents; we do not care, as a country to what happens to the common man. Any time you increase the price of fuel, you affect the ordinary person within your constituency.

You know that the Central Organisation of Trade Unions (COTU), which was supposed to fight for the rights of the employees "died" long time ago. There is no COTU in Kenya.

The truth is bitter, but this is the truth. There is no COTU. People, including civil servants are suffering and nobody comes up to talk about them. I would like to request the Government to find ways and means of reducing taxes on the petroleum products. If they do that then the price of fuel will definitely go down. As I am talking here, the tax which the Government levies on fuel is 44 per cent. In other words, if the Government does away with the 44 per cent tax levied on petroleum products, then fuel will cost about Kshs35.60. That will be the cost of fuel. This is very low and it will give incentives to the farmers to use diesel as and when they want to cultivate the idle land. This will improve the living standards of Kenyans and reduce the so-called "poverty" which the World Bank puts a lot of money on. We are saying that the Government should do something about the 44 per cent tax levied on petroleum products.

(Dr. Masakhalia entered the Chamber)

I am glad to see the Minister who is in charge of Energy and who has created many problems to Kenyans. The Minister has just come and I believe that he will make some notes so that he can compare them with his points when he will respond.

I would like to repeat that the Government has imposed a duty and the VAT to the tune of 44 per cent on petroleum products when the Minister is here. That is why the cost of fuel per litre is going for Kshs58.20. If the

44 per cent tax was waived, then the cost of fuel per litre would be Kshs35.60. I would like to inform the Minister that I had said earlier on that there is nothing which bars the Government from subsidising the petroleum sector in order for the common man to afford petroleum products. I gave an example of Ghana, and I would like to repeat it when the Minister subsidises petroleum products by waiving taxes or duties which are supposed to be levied on the petroleum sector. That is why the price of fuel in Ghana is low. I would like to point out that South Africa has done the same. Why should we have very high taxes imposed on petroleum products? A bar of soap costs Kshs140 because the factories cannot afford the high cost of production. Even if they try to reduce their figures, it will not be possible for them to subsidise the price of a bar soap.

Mr. Deputy Speaker, Sir, as I said, if the tax was zero-rated, then the cost of oil products will dramatically go down. My Bill wants to deal with primarily the problems that come about as a result of liberalisation of the economy, which began in 1994. This Motion covers refining, transportation, licensing, environmental consideration and, above all, it covers fair play in the oil industry. That is why I am saying that, we will have to use the Oil Industry Regulatory Board Bill to come up with the figures, if the cost of crude oil is increased. If the cost of crude oil is increased, I do not have any problem. Those stakeholders will go to the Regulatory Board to complain and they will say, "Okay, this month we were buying crude oil at US\$32 and today we are buying the same crude oil at US\$38." So, you have to do something. But we cannot afford a situation like the one which exists now, where one wakes up in the morning, and because he belongs to the multinational companies, one says that the price will go up by three or four shillings. We cannot afford that! We are the ones ruining this country! This is a beautiful country, but it is being ruined by these fellows! That is why I am saying that the Minister should be held responsible for the plight of Kenyans. But he has an I-do-not-care attitude and that is why we are having these increases.

When I had given a notice to grant leave for this Bill to come through, the Minister also gave his. He said, "Oh, I am going to bring mine". I am not worried about his Bill, but his Bill is not talking about the regulatory board! How are we going to regulate the oil industry? That is my main contention! How are we going to regulate the oil industry? He is talking about the Commissioner of Petroleum! What will the Commissioner do, if the monitoring unit, a section within his Ministry has not done anything? A full section in the Ministry has not done anything, and he is talking about bringing a Bill into this House with a post of the Commissioner of Petroleum!

Mr. Deputy Speaker: Hon. Ojode, which Bill are you talking about?

Mr. Ojode: I understand he intends to bring a Bill into this House.

Mr. Deputy Speaker: Order! Order! You are anticipating debate on the Bill! There is no Bill before the House! So, do not refer to a Bill that does not exist. Proceed!

Mr. Ojode: Mr. Deputy Speaker, Sir, what we are saying here is that, let the Government come up with a policy which will help Kenyans. Who are these Kenyans who this policy can help? Some of the Kenyans who this Bill will assist are his own constituents! He will correct me if I am misleading the House that, even some of his constituents cannot afford the price of kerosene and yet he is the Minister for Energy. What is he doing in that Ministry if he cannot help Kenyans?

Mr. Deputy Speaker, Sir, when this House passes this Bill, we will have to set up a Board which will include some of the stakeholders and the Minister for Finance or the Permanent Secretary and the Permanent Secretary, Ministry of Energy will be the Chairman.

Mr. Deputy Speaker: Order! Order! Hon. Ojode, you are seeking leave of the House now. You are not debating a Bill!

Mr. Ojode: Mr. Deputy Speaker, Sir, I want my colleagues to know the individuals who will make up the Committee that will become the Regulatory Board.

Mr. Deputy Speaker: But you do not have the leave of the House yet.

Mr. Ojode: Mr. Deputy Speaker, Sir, we are saying that, when the Bill is passed, then we will include some of the stakeholders, even the small-scale dealers of petroleum products. As I am talking now, by next month, you will see that the Kenya Railway costs charged, in terms of goods and passenger rates, will go up. Why will that happen? This is because as we are talking, the price of fuel can go up any time and yet the price of crude oil is still going down and down. It is common knowledge that, if we increase any price affecting the petroleum products, the whole thing will fail and Kenyans are suffering.

Mr. Deputy Speaker, Sir, since my time is running out, I beg to move. I request hon. Paul Muite to second the Motion.

Thank you.

Mr. Muite: Mr. Deputy Speaker, Sir, I would like to second this very timely Motion. In seconding the

Motion, I would like to say that, any economic policies or economic arrangements which result only in favouring the multinational companies at the expense of a majority of the Kenyan people, need re-examining. There is something wrong. The object of any Government is to promote the economic and social well-being of the majority of its people. That is the primary objective. The objective is not to increase the profits of the multinational companies. So, if there are policies and economic arrangements that actually result in increasing the profits of the multinational companies, which profits will be repatriated while Kenyans continue to sink deeper and deeper into poverty, it is time the Government paused and re-adjusted such policies. That is the first point.

The second point is that, we must not confuse regulation with control. It is the responsibility of any government to regulate the performance of the economy and also each and every aspect of the economy. That is permitted. Therefore, we should not confuse the issues of liberalisation with the duty of the Government to regulate each and every aspect of our economy. As I understand it, this Bill is not seeking to control. It is not a command economy; it seeks to regulate.

Mr. Deputy Speaker: Which Bill are you talking about?

Mr. Muite: Mr. Deputy Speaker, Sir, the Bill that is intended to be brought before this House, when the House grants leave. I hope the Motion is seeking leave of the House.

Mr. Deputy Speaker: But leave has not been given!

Mr. Muite: The Chair is quite right. So, I am saying that the intention is to regulate rather than to control. So, we should bear that in mind when we are considering whether to grant leave or not. Even the Bill which we passed yesterday is actually regulatory in effect. It is not intended to control interest rates.

So, it is our duty as a House to step in where the Government is actually not acting in the best interest of the people. We would have expected the Government to realise that it needs to step in and to regulate. It is because the Government is not doing that, that we now want the leave of the House in order to bring a Bill that is going to regulate the oil industry. There is nothing more fundamental in any economy than fuel energy. This is because once the cost of fuel goes up, the cost of everything else goes up. So, this is not something that you can afford to leave to multinational predators. Even in a completely free market situation, you have to ensure that there is a level playing field.

Mr. Deputy Speaker, Sir, my friend, hon. Ojode, is very strong and six feet tall; even when he was in his younger days, he was physically strong. But it will be unfair to ask hon. Ojode to go into a boxing ring on behalf of Kenya, to box against Mohammed Ali. He will not have any chance because the other one is a professional and he is trained. That is the sort of situation that we are overlooking here when we are told that the multinational companies must come here although they are predators. As a country, we cannot compete with them. They have accumulated capital over a long period of time. So, we need to step in and regulate them to ensure that the contest is fair. That is what we need to do. We need to pause and ask ourselves this fundamental question: Will this liberalisation, given the manner in which it is being proposed, result in a benefit to our people or will it result into our people sinking deeper into poverty? If it is the latter, then we must step in and regulate the industry in order to protect our people.

Even in the mother country of this liberalisation, which is America, they ruthlessly enforce the law against monopolies. That is why recently, Microsoft, the market leader in computer technology, was forced by the anti-monopolies commission to break up the company in order to protect the consumer and ensure that the cost of the product is affordable by the consumers. So, the Government in the United States of America is very conscious about the well being of the consumers. They regulate their market. But here, the multinational companies constitute a cartel or a monopoly that will not be permitted in the United States itself.

So, the time to regulate the oil industry has come. We must do that. We read recently that in the whole of Europe, all the Governments, from the United Kingdom, France and Belgium, were brought to a halt because of the increase in the cost of fuel. This Government should be very lucky because Kenyans are very peaceful people.

The Government gets away with murder and Kenyans just take it in their stride, lying down! But I hope that, that will not be permitted to happen any longer. The Kenyan people, together with their National Assembly, will step in and take action, including legislation that will promote the economic welfare of the majority of our own people. We must not allow situations of conflict of interest where a few Kenyans are also part of the multinational cartels to benefit. We must not permit any situation of conflict of interest to arise. We must have the welfare of the majority of our own people in mind when we come up with any economic arrangements.

Mr. Deputy Speaker, Sir, when leave is granted, I do trust that the Bill will also look into the promotion of the economic interests of the local entrepreneurs. Those are the local people who have tried to import and distribute fuel. They should be encouraged. Those are the economists and entrepreneurs who will promote the economy of this country. At the moment, they have been squeezed out of the market by the multinationals. They bring in competition which the multi-nationals do not want. So, if leave is granted, I hope that the Bill to be

brought in this House will have provisions that will specifically cater for the indigenous fuel distributors, who are trying very hard to get into the market.

When we talk about the multinationals, I would like the Minister to confirm or deny whether, at the moment, one of the multinational oil companies is doing everything it can to buy the oil refinery at Mombasa! If it is bought, the intention is not to upgrade it. We know that it is outdated and inefficient. But the objective is not to upgrade it. The objective is to close it down, so that the said company could import fully refined fuel into this country. We must be very careful when we deal with multinational companies. We must be conscious and put the interests of our people ahead of the interests of the multinationals. Let us look for ways and means of revitalising the oil refinery in Mombasa. It is an asset that belongs to this country. Let us not sell it. Funds can be made available. Through the Speaker, the Minister can talk to the Ugandans next door. Let them invest in the rehabilitation of the oil refinery. Give them shares as the Government of Uganda in return for shares in the second hydro-electric power station that they are developing on the River Nile. Those arrangements could be made, so that they do not feel blackmailed that one day, we will kick them out of the refinery on the Kenyan soil. They will give you shares in the generating capacity that they are developing. You can borrow jointly to develop that hydro-electric project and then give them shares in the refinery. We can also give them shares in the pipeline that takes fuel to Kampala. Those are economic arrangements that could result in lowering the cost of production.

Mr. Deputy Speaker, Sir, at the moment, when oil prices go up, nobody can be able to grow coffee through irrigation. The cost of irrigation, because the cost of power and everything else will go up, will be very costly. That is a situation which we cannot leave to what is vaguely called the market system. On the taxation element that the Mover of the Motion mentioned, if we are going to look at a situation where we will improve the economic wellbeing of a majority of the people, time has come very for the Government to very urgently re-examine the element of taxation on fuel products. Beside the import duty, which is 44 per cent, you load on the Fuel Levy, VAT and other taxes. On Super Petrol alone, the percentage cost of taxation that goes to the Government - and the Minister can confirm that - is over 60 per cent.

With those few remarks, I beg to second.

(Question proposed)

The Assistant Minister for Labour and Human Resource Development (Mr. Maizis): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity, to contribute to the Motion. The eighth Parliament has tried very much to save our voters from many vultures. I think the first one was to give 5 per cent of the Fuel Levy to the constituencies. We are trying to decentralise most of those things to avoid a lot of corruption.

Mr. Deputy Speaker, Sir, the cost of fuel, particularly in my constituency, has contributed to a lot of poverty. To plough one acre of maize now is very expensive because of the cost of fuel. If the prices of fuel went down, we can be able to break even when we harvest the maize. In fact, we are almost giving up the growing of maize in this country. When the drought came up, the whole country had to borrow funds to buy maize and food in general from outside. Yet, the Rift Valley, parts of Western and Nyanza Provinces can grow enough food to feed the country, and have a surplus in case of an emergency.

Mr. Deputy Speaker, Sir, the cost of fuel, just like the interest rates that we debated yesterday, should be controlled. We should have a regulatory system to control the cost of fuel.

(A mobile telephone rang)

Mr. Maundu: On a point of order, Mr. Deputy Speaker, Sir. I am hearing some funny noises like a mobile phone is ringing! Is that not true? The gadget has refused to stop ringing!

Mr. Deputy Speaker: Order! Hon. Sajjad, is that your mobile phone?

Mr. Sajjad: Yes, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: You will take it and yourself out, and stay there for the rest of the morning's sitting.

Proceed!

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. About the mobile telephones, when you go to clubs like Muthaiga, you cannot even walk into the club with the gadget. You have to leave it in the car. Why can you not enforce that totally and order that the gadget should not be brought to this House?

Mr. Deputy Speaker: Order! That is not a point of order, Mr. Murathe, and you know it! The

Speaker has ruled that hon. Members should not bring those gadgets into the Chamber! But if by sheer bad luck, and many of you suffer from memory lapses, you forget that you have it in your pocket and it rings when you are here, the consequences are that you will be sent out for the rest of the sitting.

The Assistant Minister for Labour and Human Resource Development (Mr. Maizs): Mr. Deputy Speaker, Sir, a country like ours needs a lot of price controls because the market forces have failed to regulate the prices of commodities.

We should not assume that it is easy to have a perfect market just because the IMF and the World Bank have dictated that we should privatise. In a Third World country, there cannot be any perfect market because the markets are controlled by monopolies and multinationals. Fuel in this country today is being controlled by a cartel of a few individuals. These people cannot allow the forces of demand and supply to determine the market price. Therefore, the true price of oil products cannot be attained in this country.

Mr. Deputy Speaker, Sir, farmers in my constituency have suffered for the last ten years because fuel kept on sky-rocketing under the pretext of market forces. Today, it costs Kshs2,000 to plough an acre of land. The tractor owners have done this because the cost of fuel is very high. So, the mover of this Motion brought it at the right time. With the high cost of farm implements coupled with the high cost of fuel, farming is going to be a thing of the past in this country. If this is going to continue, how will the farmers break even? This is the more reason why we should come up with a legislation to regulate the prices of oil products. If we do this, then we shall have something to be proud of and Kenyans will also be proud of the Eighth Parliament.

Mr. Deputy Speaker, Sir, once we regulate the market for oil products, agricultural production in this country will go up. If we leave things the way they are, there will be no economic growth in the country. Today, we have more people to feed and yet our levels of production have been drastically reduced. We cannot bear the burden which the oil companies are off-loading to the consumers in this country. I urge this House to pass this Motion so that we can eventually come up with a regulatory Board which can help us to clear this mess.

Mr. Deputy Speaker, Sir, after passing this Motion, we should also look into ways of regulating the marketing of wheat and maize so that we can have food reserves in this country. Nobody in this country seems to be concerned about the plight of farmers. The 16-year Poverty Alleviation Plan should start with the regulation of the prices of commodities. The forces of demand and supply in this country have failed to regulate the market. Our farmers do not have enough knowledge to know what is happening either in Mombasa or Uasin Gishu.

Mr. Deputy Speaker, Sir, many of our local companies like Bata Shoe Company, Rivatex in Eldoret and Raymonds Woollen Mills have collapsed because of the dictatorship of multinationals. Perfect markets cannot exist in Africa! We are going to be poorer and poorer! We were richer in 1963 than we are now! During that time, our maize had markets, the Kenya Farmers Association was in existence, a good Kenya Co-operative Creameries and many other things. If we cannot regulate the prices of oil products in this country, then the Gross Domestic Product will go down and our development index will go down from 0.4 per cent to negative 10.5 per cent.

Mr. Deputy Speaker, Sir, if this Motion is passed, we will invite hon. Ojode to Uasin Gishu and give him a guard of milk because he has done a lot of good work. If we control the cost of fuel, then we will have more maize.

With those remarks, I beg to support.

Mr. Ndicho: Mr. Deputy Speaker, Sir, I stand to support this important Motion. From the onset, I wish to declare my interest on this matter because I am a Member of the Energy Committee of this House. We are working towards the same goal and we shall incorporate hon. Ojode to our Committee when we shall be working on this Bill.

Mr. Deputy Speaker, Sir, I must thank Kenyans for being tolerant. There are no easy people to rule in the whole world like Kenyans. The price of petrol went up in Zimbabwe by a cent and all Zimbabweans stopped operations until the Government had to bring prices down. The same happened in Europe and all trucks blocked fuel filling stations until governments agreed to bring prices down. So, what is wrong with Kenyans?

Mr. Deputy Speaker, Sir, I must also thank the matatu operators because they have not increased fares although petrol was increased by Kshs12.20 within a period of one-and-half months.

Mr. Deputy Speaker, Sir, we are supposed to be a sovereign state as stipulated in our constitution but the things happening in this country do not testify to this assertion. We have left foreigners to control both our financial and oil markets. When it comes to the oil industry, it is only controlled by eight multinationals. The worst part of it - as hon. Ojode said - is when senior officials in Government go into cartels with those people, sit down with them and set the prices. Petrol price was increased from Kshs56.20 last Sunday without consulting anybody. So, this is a very sensitive Bill, because they will no longer sit down at Muthaiga Golf Club one afternoon sipping gin and tonic and then deciding to raise the petrol prices. There must be somebody to regulate the oil prices.

Mr. Deputy Speaker, Sir, the multinational oil companies have threatened to leave the country if we regulate their investments. I would like to tell them that they are free to leave, because we are not going to be intimidated. The National Oil Corporation has let this country down. It was established by an Act of Parliament to make sure that they import fuel for the nation and distribute it. But, at the moment, they are not doing that. I would like to ask that the National Oil Corporation be scrapped, because they have relegated their job to the eight oil multinational companies. Most of the oil we use in this country is imported from Abu Dhabi.

Our Government should also go roaming in the Arab World where oil is produced. We should not buy oil from one country only. There is a lot of oil in Saudi Arabia, Nigeria, Iran, Iraq and Kuwait where we can buy it. As a result of the competition, we could purchase oil at cheaper rates per barrel which can be translated to the consumer in this country. But because there are people in Government who are reaping from the industry with the foreigners, nobody raises a finger - even the one-finger KANU salute - about the increase of fuel prices. It is high time we told the Government to slash their taxes by three-quarters, so that petrol can be sold at Kshs30 per litre while the Government gets about 8 per cent in taxation.

Mr. Deputy Speaker, Sir, the value of the Kenya Shilling to the US Dollar has been gaining while the price of oil per barrel from Abu Dhabi came down. So, what really justified the increase of petrol prices, unless there is something secret, which we must be told by this Government.

Mr. Deputy Speaker, Sir, the other problem is the loading facility at Embakasi which is for the exclusive use of the eight multinational companies. The African entrepreneurs who have come into the oil industry are fetching their oil from Nakuru and Eldoret where the other loading facilities are. It is high time that we built another loading facility at Embakasi, so that the multinationals can draw their oil from their loading facility and the African entrepreneurs also get theirs from the other loading facility. The Government has already voted Kshs20 million for the construction of the second loading facility. That was about five years ago. Why the Government has refused to raise that money to about Kshs500 million to put up another loading facility is questionable. If the Government is really concerned about the welfare of its people, it should, in the next Budget put aside Kshs500 million for the construction of another loading facility. In fact, when the former Permanent Secretary for Energy, Mr. Mutitu raised this issue persistently, it cost him his job. The multinational oil companies went and pressed the Government to drop Mr. Mutitu because he knew exactly what would happen as a result of that was that, the profits would be shared between the multinationals and the local businessmen.

Mr. Deputy Speaker, Sir, Kenya is closer to Nigeria which is an African country and we can also import our oil from there. We could even enter into a bilateral agreement with Nigeria, so that oil can be pumped to Kenya. That is why hon. Ojode gave an example of Ghana having subsidised the oil prices because they are next to Nigeria. We ought to support our African countries.

The other question I would like to pose is what became of the exploration of oil in this country. A lot of money was given to a company from California and another one from Texas in America to do oil exploration in North Eastern Province. When those companies started showing us progress even on television and the possibility of discovering oil in Kenya, somebody went and stopped that operation for reasons we do not know. There is a possibility of us exploring and discovering oil. If we did that, our country would not only develop and be economically stable, but the price of fuel pumps would be regulated.

Mr. Deputy Speaker, Sir, it is good that in the next one hour, we are going to pass this Motion and bring the Bill to the House. I know that the multinational oil companies are not happy at all. They are all threatening to leave. The other day when hon. Donde told them to leave if they so wished when we were debating the Central Bank (Amendment) Bill, they kept quiet because "walikuwa wameshikwa koo". So, if the multinational oil companies think that they cannot allow us to regulate what they are doing in this country, they can also leave. We are going to put them in one British Airways aircraft at the Jomo Kenyatta International Airport alongside those from the banking industry and bid them farewell. We will then buy all those banks and have our people borrow the same money offshore from Europe. That is why the Constitution states that we are a sovereign Republic. We cannot be a sovereign State when half of the best land in Kenya is owned by the white people. When we say we want our land back, they threaten to go. They will also be put in one British Airways plane and be returned to Europe. We shall show them that we can run our country without them.

With those few remarks, I beg to support.

Mr. Mbela: Thank you, Mr. Deputy Speaker, Sir, for giving me this chance to contribute to this Motion.

I am a little disappointed because we seem to be having some rivalry as far as this matter is concerned. I had a team of 11 Members of this House which has been working on this subject in the last few months. I even went to the extent of giving notice or informing the House that we were just about to table a Bill that will do exactly what this Motion is requesting should be done.

Mr. Deputy Speaker: What are these eleven members?

Mr. Mbela: The Departmental Committee on Energy, Communications and Public Works, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Were you intending to introduce a Bill?

Mr. Mbela: I informed this House that we are already working on the Bill and we thought we could have tabled it even this week. I even informed the Mover of this Motion that we were doing this, but I cannot understand the rivalry which is quite unnecessary. I want to say that---

Mr. Deputy Speaker: Order! Order, hon. Mbela! Any Member in this House is free to move a Motion whether that matter is before a Committee of the House or not. But more importantly, departmental committees cannot move a Bill. If you look at the Standing Orders, there are only two forms of Bills; that is, a public Bill which is moved by the Government, and a private Bill. So, you could not possibly move it as a Committee, but one of you could have moved it as a private Bill. So, let us get the facts straight.

Mr. Mbela: Thank you, Mr. Deputy Speaker, Sir. I was going to move the Bill and I still intend to do so. We have gone very far in preparation. There is a team of experts which is helping us.

Mr. Deputy Speaker: Order! Order! Mr. Mbela, we are discussing a Motion seeking leave of the House. There is no Bill before us. So, if the leave is denied, then that will be the end of this Motion. So, let us discuss the merits and demerits of the leave being requested.

Mr. Mbela: Mr. Deputy Speaker, Sir, I am not opposing the intention because I am thoroughly convinced that it is necessary for the fuel prices to be regulated. I have done a lot of research as far as the law is concerned and with my one-and-half years experience as a former Minister for Energy, it is a [Mr. Mbela] subject I can claim to know fairly well. There is no way you can believe that any of the multinational companies will certainly be kind towards Kenyans and start behaving responsibly. In fact, the current conduct is typical of cartels and we have said this on many occasions.

As far as the legal structure that we have at present is concerned, it is possible for the Minister to take action. Under the Restrictive Trade Practices, Monopolies and Price Control Act, Cap.504, there is provision for a Commissioner to whom complaints can be sent regarding cartel practices. When such a report is made, it is possible for the Government to take action. But it is quite obvious that the Government has been reluctant to see this done. If the deregulation was done as far back as 1994---It is a bit late in the day for the Government to resort to the construction of loading arms which are absolutely necessary in a liberalised market of this type. This is being done through the wrong agency. If the Kenya Pipeline Company (KPC) was a very efficient transporter, there would have been no need for the new loading arms facilities to be sponsored by the National Oil Corporation of Kenya (NOCK) or the Ministry directly. But since it is positive, we would rather support it and hope that this facility can be transferred to the KPC.

There is one thing which is common with gymnastics as far as the oil companies are concerned. The changes in prices are very regular and unjustified. For example, in January 1998, the price of crude oil was exactly what it is today. The price then to the consumer was Kshs34. From that time up to now, a lot of increases have been done; many of them unjustified. But let me cover the recent few months. In September this year, the price of crude oil was US\$33. In October, it went to US\$35 and the oil companies suddenly raised the prices by Kshs6. The price of crude oil has come down to US\$30. The rate of exchange for the Kenya Shilling is basically what it was in September and yet, the oil companies still insist on raising the prices.

(Applause)

In addition, Mr. Deputy Speaker, Sir, if you recall, at the time of introducing rationing for electricity; the price of fuel was increased by Kshs3. Rationing has been eased very much and yet, there has been no adjustment downwards for fuel. The oil companies allege that it is taxation which is to blame. I agree that taxation is quite high. It amounts to 40 per cent of whatever you pay at the pump price. But Government taxes have remained exactly the same in the last five years. Then, how can they be blamed at this hour for being responsible for the price increases?

There is one aspect, Mr. Deputy Speaker, Sir, which goes against the pricing and even competition. When you want to venture into the business of oil marketing, you are required to sign a refining agreement with the oil refineries. We have our oil refinery at a strategic place, but it is extremely inefficient and uneconomical. If we were to rely on it, it is the consumer who subsidises it. The Government owns 51 per cent of the shareholding in the oil refinery and they get some good dividends since the refining cost is fixed. But the truth is that, unless the oil refinery can be modernised and expanded, there is no way it can refine the products at competitive prices. At present, one has an option of importing refined products. But you can only do that if you have a refining

agreement with the oil refineries.

Mr. Deputy Speaker, Sir, we have been handling the New Petroleum Bill, a voluminous document compared to the three pages which you find with the current Petroleum Act, Cap.116. Fat as it is, this document only talks about safety and a number of things they call standards. But there is nothing about marketing and pricing. To pretend that the new office of the Commissioner as proposed in this Bill will provide a solution is to be dishonest. I believe the correct way is to amend this Bill when it is formally tabled in this House to provide for the office of a regulator with facilities to be able to receive applications from any of the competing eight companies. In the event of a price increase being justified, then applications will be made and a decision as to how much it can be increased will be made by the regulatory board.

With those few remarks, I support the need to change the law.

Ms. Karua: Mr. Deputy Speaker, Sir, thank you for giving me this opportunity. I am sorry that I was not here to second this Motion.

I would like to begin my contribution by thanking the Mover of this Motion for bringing here the idea of regulating prices in the oil industry. I would like to dispel the fears expressed by the hon. Member who has just contributed, that this Motion rivals this House's Committee on Energy, Communication and Public Works.

As you rightly put it, Mr. Deputy Speaker, Sir, every hon. Member is free to bring a Motion to this House. It is expected that once Parliament gives leave for the introduction of the proposed Bill, this particular hon. Member will not only work with the relevant Departmental Committee, but will also work with all interested Members of Parliament as well as members of the public, who are interested in this sector. That will include consumers, the multinational oil companies as well as local investors involved in the oil industry, so that there can be as wide consultations as possible before the final draft of the proposed Bill is tabled before the House for enactment.

Mr. Deputy Speaker, Sir, although we are now in the era of free market enterprise, there cannot be freedom without restrictions. The right to free trade is also subject to the consumers' rights. By seeking to regulate prices in the oil industry, nobody should confuse Kenyans that we are going to kill the industry. All that we are doing is to protect the consumer from unfair trade practices. In the developed world, there are laws against unfair trade practices, but people have taken this to mean only protection between the big companies in their competition for the business. To my mind, unfair trade practices extend to the relationship between the companies, that are dealing in the oil sector, and the consumers. This Motion seeks to bring a Bill to regulate the oil industry so as not only to rule out unfair trade practices between the competitors in the industry, but also to take care of the consumers' interests.

We saw what happened when the just passed Central Bank of Kenya (Amendment) Bill was brought here. There was a lot of Press, telling us that, that was not the right thing to do. There was a lot of name-calling from commercial banks and the Governor of the Central Bank of Kenya. We all know that, towards the end, the tune changed and a let-us-reason-together attitude, with proposed amendments, was realised. We are calling upon the players in the oil industry to take this move by Parliament seriously and come up with proposals that can be incorporated into the Bill being sought by this Motion. They should also know that time has come for us to actually take care of the consumers' interests, which are currently being trampled upon in the name of business.

We are aware that there are cartels in the oil industry. These cartels have worked hard to throw out the small local traders who have ventured into the market. We have even witnessed the laws of this country being applied selectively to throw out the small traders out of business, notwithstanding the fact that they have been licensed by the authorities. The regulation of the oil industry will see to it that every trader, whether small or big, is catered for and, most importantly, that the consumers' interests are also looked after.

It is the practice by the players in this industry which has prompted us to take this move; their being unable to regulate themselves and curb their ever-increasing urge for greater profits in total disregard for the consumer. It is, therefore, time to regulate them. I would, therefore, urge my colleagues in this House to support this Motion, so as to enable the Mover, alongside all interested parties, to develop a Bill, which can then be tabled before this House for debate and subsequent enactment into law, in order to bring sanity back to this industry.

Mr. Deputy Speaker, Sir, we are aware that the Government benefits from increased oil prices by getting over 40 per cent of the price of oil products as taxes. But we are saying that the Government should also look elsewhere for other sources of revenue. Let us spread out the taxation burden and touch the untouchable. We are aware that there are very many big companies and individuals who are not paying taxes in Kenya. We are aware that the Kenya Revenue Authority (KRA) officials are likely to notice small revenue defaulters while leaving out the big defaulters. Let us spread out the taxation burden and collect revenue without hurting the consumers.

After all, we collect taxes in the name of those same consumers, saying that they are to be used for giving services to the citizens. Let us then not degrade the citizens' quality of life by making fuel unaffordable. Many

people in this country use fuel for cooking, lighting and for daily life activities. What is happening is that oil price increases are actually triggering the rise in prices of other essential commodities. It is now time that we realised that any further rise or unregulated prices in the oil sector will actually hurt the citizens even more; this is going to do more harm than the good that can be done through the Government's increase in tax collection from the multinational oil companies.

Mr. Deputy Speaker, Sir, I would also like to note that, contrary to what the multinational oil companies are saying, in their home countries, there is regulation of the very sector we are talking about here. In their own country, whether by law or practice, oil prices will not be let to fluctuate without any reference to the world market. It is only in Third World countries, such as Kenya, where we have been less vigilant in safeguarding the rights of our citizens, where these unfair trade practices have been extended. Let this be a warning to all sectors of this country's economy. Once we are through with the oil industry, there are many other areas we should look at. Look at the very many mushrooming educational institutions. Is anybody looking at the quality and standard of education being offered by such institutions? Kenyans are being cheated of their hard-earned money with certificates that will not lead to employment; sometimes they get no certificates at all!

I am glad that Parliament is now vigilant, and this should be a warning to all the sectors. Standards and quality are going to become a matter of law in Kenya. Although we have the Kenya Bureau of Standards and the Monopolies Commission Office, we have not yet felt their effect; they have failed us completely. If those institutions have failed us because we have not given them enough revenue or manpower, these are things we should look into. Until recently, people did not even know that there is an office which deals with monopolies. What is that office doing when cartels are developing in the energy sector? What is it doing when Kenyans are being exploited? These are the issues that I am sure the Mover of this Motion, and those who are going to participate in the drafting of the Bill being sought, will look into while designing the clauses that are going to save Kenyans from the agony of exploitation.

Mr. Deputy Speaker, Sir, I know that lobbyists are going to come up, but let them know that, although everybody has a right to put forward his ideas, there is no way this Parliament will uphold the rights of multinational companies at the expense of this country's citizens. There is no way this Parliament will only protect the international investors without protecting local investors. The work of this Parliament is to balance the interests of all those persons, with a special bias towards the interests of its citizens. I am sure that we will rise to the occasion and ensure that sanity returns to this industry.

With those few remarks, I beg to support.

(Applause)

Mr. Maundu: Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to support this Motion which seeks to introduce a very important Bill, to regulate and make sure that the oil industry, which is very critical, is put under control. The point has been made quite clearly by my colleagues. We want this Parliament, to become same kind of a riding school in which individual horses turn around, but in which the ultimate decision and matters of events, are left to the riding master in the name of the Government and not the marauding multinationals. We want to sound a clear signal and warning from this Parliament: That Parliament now stands for the rights and interests of the people. I have said it very many times, on the KANU side and even in many KANU Parliamentary Group Meetings; that so long as the Government continues to distance itself from the problems of ordinary Kenyans, the Government will stand to be seen as the enemy of the people.

We would not have arrived at this stage where we have a problem of interest rates soaring and uncontrolled prices in the major economic sectors if the Government was committed to making sure that the interests of the people have been taken care of. At this juncture, we are paying for the mistakes we made during the period before multipartyism came into being, when this Parliament, on several occasions, became almost a rubber stamp and accepted privatisation which is not guarded. We accepted that the World Bank and the IMF could make major decisions about our country and economy, without having such decision approved by this Parliament. We are running scared to return to this House and establish our authority once again.

Mr. Deputy Speaker Sir, I would like to say that most of the decisions that are going to be approved by the Executive arm of the Government should find a place in this Parliament for purposes of vetting and approval because the Executive is negotiating, more often than not, on matters that this Parliament is unaware of. When such matters come to the public domain, we start running scared and trying to tame the situation. We have had such a problem in the retrenchment of the Public Service, interest rates and now with the oil industry. We are now seeking leave of the House today to introduce a Bill that will regulate the oil industry. It is important that from now onwards, all the Ministers should---

You have heard that the World Bank, the IMF and other donors are negotiating with this country before a final conclusion on those matters is reached. We must have this Parliament vetting those matters, to make sure that the input that we have is relevant to the interests of Kenyans. How can we accept, all the time, to be told that the World Bank and the IMF have said that unless this and that condition is met, there will be no money. We must not be foolish enough to accept these conditions. We must accept the idea that the interests of this country are paramount, and if you are going to accept what hon. Ndicho said about sovereignty, we must be firm enough, at the risk of starvation, if we are not going to get the money. More often than not, I have seen the President in agony, and being manipulated by the World Bank and the IMF on matters that this Parliament can make a clear declaration.

The time has come when Parliament, as an arm of the Government, must come out clearly on matters that touch on the interest of Kenyans. We must have Sessional Papers coming to this House as often as possible. We have not seen any Sessional Paper on how the Minister wants to proceed on that matter. The Minister quite often - in this House and outside - has talked of a Bill which will be brought before the House to regulate the oil industry. That is wishful thinking. The officials in the Ministry of Energy have for some time spoken on that issue, but without teeth. More often than not, their teeth are false and belong to somebody else. When there is a crisis and Kenyans have cried out, that is the time when the Ministry comes up with feeble statements disclaiming liability and incapacity to perform. How can we accept to have a Ministry which is in charge **[Mr. Maundu]** of a very vital sector just running away when Kenyans are in agony? That is why this particular Motion is timely, in order to make sure that we give direction to the Ministry of Energy; that they know that what is expected of them by Kenyans and to have a regulatory body that will oversee these events.

We also want a body, in the name of the Bill that is going to come up that can easily control cartels. The problem is mainly with these cartels - not in general economic terms of monopolies, but we may call them oligopolies. That is, people sit down over a cup of tea and a sweet beer after a good day's work and agree that the prices are going to be this and that. Within that second, that information is circulated throughout the country and you will find that the prices are the same all over the country. What is that? Is that not a cartel, where you sit and agree that you must squeeze Kenyans and take the last drop of their blood? That agrees very clearly with what Shakespeare said; that all they require from you all the time is a pint of blood and a pound of flesh, and that has been taken from all sides of our bodies. This Parliament should not accept that situation to continue to prevail.

The other problem that we have in the oil industry is that some of us in the Executive, and in influential positions, are players with those who want to exploit Kenyans. They participate by looking like lovely doves and complain when the price rises. But we know that they wine and dine in the evening with those who want to take away money from us. We must accept that the time has come where those in parastatals, and in charge of the oil industry and energy, are taken there, or they qualify to be there by virtue of qualifications, but not through blood. When you look at the oil industry in totality, you will find that there is a lot of blue blood there. Jobs are not given to people on merit, in order for them to serve Kenyans very well. In that respect, we must be careful. So, I support this Motion. Let us not introduce politics!

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order, hon. Members!

Mr. Maundu: Mr. Deputy Speaker, Sir, I would like to inform hon. Members who have stood up in their places that I have to finish my time because I have not run out of ideas!

Mr. Angwenyi: This is a popular Motion!

Mr. Maundu: Mr. Deputy Speaker, Sir, you have saved me from harassment by Mr. Angwenyi. In this respect, we must recognise that, from now onwards, without even having to wait for a Bill to be introduced in this Parliament, we would like to see the teeth and claws of the Ministry of Energy. They should come up with guidelines which Kenyans can listen to - to say that the price of fuel should not be more than Kshs40 or Kshs45 at most. Kenyans should also be given that message, so that if they find that the fuel pump attendants are selling at Kshs56, they should say: "No! The Government of the Republic of Kenya has fixed this price." Why are we afraid of taming the multinationals?

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. In view of the fact that everybody is speaking in favour of this Motion, could we hear the Government's position?

Mr. Deputy Speaker: Order! This Motion is allotted two hours - not a minute less, not a minute more! The Minister will have his time to respond. This time round, I hope he will take the opportunity to respond.

(Laughter)

Proceed, Mr. Maundu!

Mr. Maundu: Thank you, Mr. Deputy Speaker, Sir. So, from now on, the Ministry should come up with guidelines and say that as far as we are concerned - as a Ministry in the Republic of Kenya - we think that such and such a price is genuine and the rest of it is exploitation and blackmail against the people in the country.

The other point is that the multinationals, as some of my colleagues have indicated, are shutting out other players who are locals and who have established their own outlets. They have been frustrated left, right and centre, and the Ministry should not allow any multinational company to control the buying and selling of oil products. How can you allow the multinationals to control the importation of fuel and at the same time control the outlets - the distribution? They do not allow anybody else to do that business, and there is no single player in this country - an independent petrol dealer - who can pass his or her fuel through the pipeline. The demand has been that, if any independent fuel dealer wants to pass his or her own fuel through the pipeline, he or she has to pay a deposit of Kshs40 million. This is a Government facility, but it is run by parastatals. I agree that the multinationals are making their contribution, but they should not hold every other stakeholder hostage because of this particular facility. We want this facility to be open to all other players at a very small fee because it is a national facility. Ordinarily, this pipeline should be taking water to Ukambani and North Eastern Province, but it is instead transporting oil. We also want Kenyans to take part in this.

Mr. Deputy Speaker, Sir, I beg to support.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I rise to support this Motion which seeks leave of the House to introduce The Oil Industry Regulatory Board Bill. I rise to support this Motion because I believe that hon. Ojode, and the Departmental Committee on Energy, should work together to ensure that what is finally brought to the House will meet the needs of Kenyans. In that regard, I think we need to look at four laws in our law books which should be harmonised in relation to this proposal. The first one is Cap.116 which hon. Mbela referred to; that is the Petroleum Act. It is an Act of Parliament to make provision for restricting and regulating the importation, transportation and storage of petroleum. Hon. Mbela was correct in saying that, that Act has very little to do with marketing. Its purpose is to regulate and restrict transportation, importation and storage of petroleum.

The other Act is Cap.308, the Petroleum Exploration and Production Act, which hon. Ndicho referred to. This Act is meant to regulate the negotiation and extraction by the Government of petroleum agreements relating to the exploration for development, production and transportation of petroleum for connected purposes. That is to do with exploration and production. The other one is Cap.474 - the Refinery Throughput Tax Act which is an Act that levies tax on those companies that are using the refinery in Mombasa. The Act says specifically that they should not transfer the tax to the consumer. The final Act which was referred to by hon. Mbela is the Restrictive Practices on Price Control Act. If we are going to regulate the price of petroleum, all these provisions need to be harmonised. The manner in which you regulate the price of petroleum will change. For example, if you have domestic production of petroleum, it is bound to be cheaper should we strike oil in this country. So, we should look ahead.

Secondly, I would like to join hands with hon. Muita who did say that regulation is not the same thing as control. We seem to think that when we are talking about regulation we are trying to control prices. No, we are trying to lay down the ground rules which will ensure that the consumer is not penalised by the prices set by those people who are marketing petroleum. The people who are marketing and selling petroleum tend to be greedy. The Government too tends to be greedy. The Government is levying too much tax on petroleum and this is passed on to the consumer. When the National Pipeline was established, the rationale was to ensure that there is very little differential between prices that consumers pay in a place like Mombasa and in a place like Kisumu or Siaya. It is really disheartening that you pay Kshs56 per litre for premium petrol in Nairobi. When you go to Bondo you pay Kshs62. That is a difference of Kshs6. Who will put up an industry in Bondo where the cost of energy is so high? If we have these differentials, the tendency will be that industries will concentrate in a place like Nairobi and Mombasa. People will say that energy is too costly in a place like Kisumu, Eldoret or Siaya. Industrialisation will be very uneven in this country.

It is very important to understand that energy is an important component of production. We are committed as the people of Kenya - maybe not the Government - to seeing a fair distribution of development and that the cost of production for investments anywhere in Kenya is not adversely affected by these huge differentials in petroleum prices. Hon. Ojode and the Departmental Committee on Energy are trying to bring to this House an extremely important Bill which is telling the Government that when you liberalise, the flip side of liberalisation is competent regulation. This is regulation by a State that is democratic, sensitive to the consumers demands and

which includes the consumers in the very regulatory framework. I hope that the body that will be set up to regulate petroleum prices will include, in that body, representatives of consumers in society in general.

Mr. Deputy Speaker, Sir, I would like to very strongly support this Motion.

Mr. Deputy Speaker: Order, hon. Members! As I said earlier on, this Motion has a time limit and the limitation is given on the Order Paper. The Government Responder has 20 minutes. For the avoidance of doubt, I am now calling upon the Government Responder to respond.

The Minister for Petroleum Energy (Dr. Masakhalia): Thank you, Mr. Deputy Speaker, Sir. I should begin by indicating the concurrence on the Government side that there is need for a Bill to be translated into an Act that would enhance the administration and management of the petroleum sector. That need cannot be questioned. Later, I will seek a modification of the Motion before the House. My modification will be in line with the spirit of the Motion. I would like to hasten to say that the enhancement of the well-being of Kenyans motivates actions and policies on this side of the House. The concern for the well-being of Kenyans is not a preserve of the other side of the House. I am now referring to the remarks that were made by hon. Muite. We are concerned about enhancing the well-being of Kenyans. When the prices of petroleum products at the pump are raised by Kshs2 to Kshs3 while they should have fallen, we are very concerned. The position of the Ministry was made very clear.

Let me give some reasons why we liberalised and allowed the market forces of supply and demand to determine prices of petroleum products. First, it is, indeed, the policy of the Government that, where possible, we should get the market forces; supply and demand, to determine prices of consumer items. That was one of the reasons which motivated us to liberalise and de-regulate the petroleum sector on 27th October, 1994. The second reason was to abolish the monopoly of the oil refinery to supply light and middle distillate products to our domestic market. That was a monopoly at that time of the Kenya Oil Refinery. When we deregulated, we also abolished NOCK's monopoly for 30 per cent of oil importation which we deemed not desirable. We also aimed at liberalising the transportation and attendant tariffs at that time, of petroleum products.

Now, we had hoped that the liberalisation of the sector would also lead to new entry of newcomers into the industry, namely indigenous firms. Indeed, that has happened except that the new entrants have not asserted themselves adequately into the market. About 128 companies have been licensed to market oil products; 59 have been licensed to import and the others engage in retail and other distribution activities. However, to date, only five companies are importing oil from abroad because of the nature of the trade. This, I think, has restricted the competition that we had hoped we would evoke through liberalisation. However, we are doing something about it. One of the constraints has been the unavailability of common-user truck loading facilities, particularly in Nairobi. Nairobi accounts for 60 per cent of oil petroleum products consumption in the country. The other 20 per cent is accounted for by Mombasa and the rest of the country consumes a meagre 20 per cent.

Mr. Deputy Speaker, Sir, plans are now at an advanced stage for NOCK to establish a loading facility at Embakasi. We have enough land also, for the establishment of loading arms in Mombasa. I would like to---

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. The same Minister, in 1999, informed this House that Kshs80 million had been set aside and allocated to NOCK for the completion of the loading facility in Nairobi. One year down the road, he says plans are finalised. Could he give specifics?

Mr. Deputy Speaker: You must not interrupt a Member on the Floor by asking questions to answer a thing that happened in the past! That is not a point of order!

Mr. Murathe: He is now contradicting what he said one year ago!

Mr. Deputy Speaker: Now, what Standing Order is he breaching for contradiction?

Mr. Murathe: Irrelevance and misleading the House!

Mr. Deputy Speaker: Proceed, Mr. Minister!

The Minister for Petroleum Energy (Dr. Masakhalia): Let me now address the issue relating to taxation. It was indicated that 44 per cent of the price you pay at the pump, when you buy petrol, is tax and that the Government could subsidise part of that taxation. Let me say that the petroleum sector is quite sizeable. It accounts for 25 per cent of our imports. This economy cannot, at this stage, pay for subsidies through the Government because of the inadequacy of resources. We just do not have the capacity to do what South Africa might be doing in subsidising anything. They have a bigger industrial sector than ours.

Mr. Ojode: How about Ghana?

The Minister for Petroleum Energy (Dr. Masakhalia): How Ghana is subsidising its economy is another matter to look at but in our circumstances, it is not possible for the Government to subsidise consumption of petroleum products. If we did that, we would go broke. In fact, the level of taxation indicates the extent to which the Government depends on revenues from petroleum products. So, in the long-term, it can be a policy but in the

short-term, it will be difficult for the Government to execute that kind of policy.

Mr. Deputy Speaker, Sir, coming to the Motion, the Motion as now drafted is quite narrow. It is confined to regulating prices of oil products and to ensure price stability and fair play in the industry. After liberalisation, we have encountered many problems which should be covered by any legislation that addresses problems of administering and managing the sector. It is for that reason that on the Government side, we have suggested to the Mover of the Motion, and he has largely agreed, that we modify the Motion to read as follows:-

THAT, this House do grant leave---

Mr. Deputy Speaker: No! Propose what you want to delete and what you want to insert first!

The Minister for Petroleum Energy (Dr. Masakhalia): Mr. Deputy Speaker, Sir, I propose that we amend the Motion by deleting all the words immediately after the word "to" appearing in the second line to the end and inserting the following words in place thereof "provide a legal framework to regulate distribution, importation, exportation, refinement, licensing and environmental consideration in the petroleum sector."

Mr. Ojode: And what about prices?

The Minister for Petroleum Energy (Dr. Masakhalia): Mr. Deputy Speaker, Sir, the prices are covered under distribution and marketing. That is where it lies. So, the Motion as amended reads as follows:-

"THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled The Oil Industry Regulatory Board Bill to regulate distribution, marketing, importation, exportation, refining,

licensing and environmental consideration in the petroleum sector."

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

Mr. Deputy Speaker: Order! If you want to propose further amendments, I will let you do so.

The Minister for Petroleum Energy (Dr. Masakhalia): Mr. Deputy Speaker, Sir, I think I would like at this stage to request one of my colleagues to second the amendments.

Mr. Muite: On a point of order, Mr.

Deputy Speaker, Sir. Our Standing Orders prohibit an amendment to a Motion that negates the original purpose of the Motion. The current Motion seems to regulate the oil prices and when you take that away through an amendment, you negate the object of the Motion before the House.

The Minister for Petroleum Energy (Dr. Masakhalia): Mr. Deputy Speaker, Sir, I had an opportunity to have a discussion with the Mover of the Motion and he---

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

Mr. Deputy Speaker: Order! He is responding to a point of order.

Proceed!

The Minister for Petroleum Energy (Dr. Masakhalia): Mr. Deputy Speaker, Sir, as I said, I would like, with your permission, to invite hon. Mudavadi to second the amendment.

Mr. Ojode: On a point of order, Mr. Deputy Speaker, Sir. It is true he did indicate to me that he wanted to move an amendment but we did not agree on the actual amendment which he is now moving because, if he leaves out the words "prices and fair play", then the whole thing is negated!

Mr. Deputy Speaker: Order! The issue of the amendment is the one before us. If you wish to further amend the amendment as proposed by the Government Responder, you are at liberty to do so.

Mr. Wamae: On a point of order, Mr. Deputy Speaker, Sir. As the Motion now stands, it is the property of the House. Therefore, it is not for the Mover and the Government Responder to agree. But it is for the House to agree.

Mr. Deputy Speaker: Order! Nobody has suggested that they should agree. As I told you before, those negotiations and agreements done outside there do not change the position of the House. When a Motion is on the Table, it is a property of the House. Those who wish to make amendments can do so on the Floor. If you wish to amend the Motion further, you are at liberty to do so.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, let me propose a further amendment to the Motion before the House.

Mr. Deputy Speaker: Let the Minister's amendment be seconded first!

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I stand to second the proposal that has been made by the hon. Minister. While doing so, I just want to touch on a couple of points regarding the petroleum industry and the issue of pricing. Not too long ago, we were in a price control regime where, indeed, the prices of petroleum products and other commodities were controlled. The Ministry of Finance was requested, from time to time, to accede to de-regulations or an increase in pricing. If our memory can be prodded, it will be recalled that even during that time, the same players that are in the oil industry

today were in existence. At that time, they still used the same tactics to seek price adjustments on a very regular basis. Indeed, when there was no adjustment on the price, then we would be faced with the element of hoarding and shortages of fuel from time to time. There used to be queues for fuel in this country.

Mr. Deputy Speaker, Sir, I had an opportunity to serve as Minister for Finance and I know very well that the issue of price control was not the problem in creating a more competitive environment in this country. The problem lies more in the inherent structure of the petroleum industry in this country today. One of the biggest issues is that we have the oil pipeline which is the major transporter of fuel from the off-loading point at the Port of Mombasa into the interior. As a matter of urgency, one of the issues the Ministry of Energy must do is to change the structure of the ownership of the line fill in that pipeline to be able to allow other users to use that pipeline. This is because the issue that was on the Table was that the existing oil industry insisted that nobody else could use that line unless they were prepared to pay very huge sums of money, so that they could have the right to use the pipeline. Since this has been, and still is, the primary mode of transporting fuel from the off-loading point to the interior, unless we change the inherent structure and introduce price control, we shall not have achieved anything in terms of regulating petroleum prices. I, therefore, want to put that as a major issue in saying that unless we look at it in totality, we shall be engaging in a futility exercise.

The other aspect which I also want to point out is the issue of the LPG facilities. Up to now, there are no common off-loading LPG facilities for the oil industry. As we speak now, it is an area that is also operated by just a few. Even if we introduce the element of price controls, without providing for common oil off-loading facilities, we shall still again be faced with pressure to adjust prices upwards.

So, the message that I am trying to send across is that it should be seen that the element of control prices lies in merely having a price controller. I think we should look at the oil industry in totality and I would like to remind this House that we are making heavy and weighty decisions on some economic matters and unless we are very careful, we shall rush with amendments without looking at the whole structure.

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

The Minister for Petroleum Energy (Dr. Masakhalia): Mr. Deputy Speaker, Sir, the amended Motion reads as follows:-

"THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled The Oil Industry Regulatory Board Bill to provide a legal framework to regulate, distribution, price, importation, exportation, refinement, licensing and environmental consideration in the petroleum sector."

(Applause)

Mr. Deputy Speaker: Let me dispose of the amendment.

(Question of the first part of the amendment, that the words to be left out be left out, proposed)

(Question of the first part of the amendment, that the words to be left out be left out, put and agreed to)

(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, proposed)

(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question of the Motion as amended proposed)

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. I had proposed a further amendment to the Motion by adding the following words at the end of what you have read: "To ensure price stability and fair play in the industry."

Mr. Deputy Speaker: Order! First of all, that proposed amendment is not before the House! I have not seen it! Secondly, we just do not have the time because it is now time for the Mover to reply. If you want to cede some of your time to another hon. Member, please, say so. But this debate must end at 12.15 p.m.

Mr. Ojode: Mr. Deputy Speaker, Sir, I will give two minutes each, to Mr. Angwenyi and Mr. Badawy.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the Mover of this Motion proves that the House is now becoming sensitive and responsive to the needs of the people of this country. Government Ministries and Departments have failed to address the needs of this country. Just yesterday we had to intervene in the issue of interest rates. Today, we are intervening in the issue of petroleum products. Maybe, tomorrow, this House will be called upon to intervene in health care issues because the Government has failed to provide for the needs of our people. There is a cartel in the oil industry. When you import crude oil from the Middle East, it goes through three or four different companies before it lands here. Each of those companies increases the price which they pass to us.

Mr. Deputy Speaker, Sir, I worked in the oil industry as a chief accountant for eight years and I know what is happening in this industry. For example, when Shell imports oil from Iran, it goes through Shell International who then sell it to Kenya Shell Overseas, who will then sell it to Kenya. Each of those companies will be making a profit before they pass on the crude oil to Shell Kenya. So, this Ministry has proven to be impotent and it is opportune time for this Parliament to move in and make it more potent. I always see the Minister "mourning" that the prices have been increased and he is helpless. The Minister is just as helpless as my grandmother; when the prices are increased. It is good that this Motion has been brought here and we congratulate the hon. Member who has brought it here and his party which has sponsored it.

Thank you, Mr. Deputy Speaker, Sir. I would like to support the Motion.

Mr. Badawy: Bw. Naibu Spika, ninamshukuru sana mhe. Ojode kwa kunipatia nafasi, na hata kabla sijajua msimamo wa upande wetu kukubali kwake, alikuwa na uhakika kwamba mimi ninaunga mkono Hoja hii ambayo ni muhimu sana. Tukikumbuka Mswada tulioupitisha jana kuhusu riba na mambo ambayo yalizungumzwa hapa, kuna kitu au ujumbe mmoja ambao tunazungumzia. Ujumbe wenyewe ni kwamba katika taifa letu, na hasa viongozi, tulifanya makosa makubwa sana kukubali mfumo wa soko huru bila kufikiria athari zake, na hizi ndizo athari mbaya tunazohisi sasa. Sijui

[Mr. Badawy]

tutaendelea kuleta Hoja tukitaka tupewe nafasi tulate Mswada wa kugeuza jambo hili na lile kwa muda gani. Hii ni kwa sababu athari za soko huru zimeingia kila pahali. Kwa upande wa mkulima, mazao yake leo yanashindana na mazao kama vile, mayai, machungwa na bidhaa nyingine kutoka South Africa. Ni athari kama hizo ambazo zinafanya Idara ya Uhamiaji ikubali wageni kufanya kazi ambazo wananchi wanafaa kuzifanya. Je, tutaendelea kuleta Hoja kila siku katika Bunge hili? Ninapendekeza kwamba umefika wakati ambapo inafaa Serikali, kila raia na hasa wataalamu wa uchumi na wasomi, kuangalia yale makosa ambayo tulifanya kwa kukubali kuweko na soko huru nchini kiholela ambayo ni njia ya ukoloni mambo leo. Inafaa tuangalie tutaleta fikira gani za kiasili ambazo zitanasibiana na mfumo wa uchumi wetu. Makosa ambayo tulifanya ni kwamba yale mashirika ambayo tunayalaumu hapa, kwa mfano, International Monetary Fund (IMF), World Bank na multinational companies, ni sisi viongozi ambao tumekuwa tukiwaunga mkono kufikiria hadhi ya kuwapatia mamlaka ya kutawala taifa letu kwa kuwaambia kwamba, fungeni uchumi, zuieni misaada na kadhalika. Leo yafaa turudi katika hisia zetu na tuangalie vile tutapambana na kukabiliana na athari hii mbaya sana ya uchumi, kutokana na kuweko kwa soko huru katika nchi yetu ili tulate siasa ya asili ya kuokoa wananchi wetu.

Kwa hayo, machache, ahsante sana, na ninaunga mkono.

Mr. Ojode: Thank you, Mr. Deputy Speaker, Sir. I would like to thank my colleagues who have contributed to this Motion and I believe that we will have a very good working relationship with the Chairman of the Departmental Committee on Energy, Communications and Public Works, hon. Mbela, and the Minister.

I just want to respond to one comment which was made by hon. Mudavadi. He was talking about those people who are not allowing us to use their pipeline. As a matter of fact, once the regulatory body is in place, then those are some of the areas which we will have to check. I would also like to say that the NOCK buys oil from Kenol. As a matter of fact, this is what has made the prices of fuel to go up. But I think we will work as a team and I am very grateful to the hon. Members who have contributed to this important Motion.

Thank you so much and I beg to move, Mr. Deputy Speaker, Sir.

*(Question of the Motion as amended
put and agreed to)*

Resolved accordingly:

THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled The Oil Industry Regulatory Board Bill to provide a legal framework to regulate distribution, price, importation, exportation, refinement, licensing and environmental consideration in the petroleum sector.

ABOLITION OF POLITICAL PARTIES

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

THAT, in view of the prevailing political enmity among different party members; taking into consideration that the 1992 and the 1997 multi-party general elections results showed clear tribal or regional interests; this House urges the Attorney-General to introduce a Bill to amend Section 1(a) of the Constitution of Kenya in order to abolish all political parties in Kenya, thereby creating a partyless State, in an effort to curb tribalism in this country, and that this partyless State situation shall obtain for a period of 10 years or for the next two general elections, whichever comes earlier.

My Motion is seeking a Bill to amend Section 1 of the Constitution which says that the Republic of Kenya shall be a multiparty democratic State. If my Motion and Bill will go through then our Constitution will read:

"The Republic of Kenya shall be a partyless democratic State."

I would like to state, right from the start, that my Motion does not intend to take back this country to a single-party State as it was before or as some few hon. Members may fear. My Motion is meant to give this country a partyless system of Government. Secondly, the purpose of my Motion is to provide a stop-gap in the ever-growing evil of tribalism in this country. Thirdly, my Motion is geared towards making the individual candidate, during elections, the centre of attraction; the focus from the electorate rather than the party. This is because today, people look at parties instead of individuals. So, these are the areas that my Motion will address itself to.

The other point I would like to make is that each candidate will have to be elected on his own merit or her own merit rather than the party merit. The Chair will agree with me that good personalities and brains have been locked out of this Parliament due to the party nomination process which is open to abuse as it lacks control and transparency.

I would like to refer to two different continents in my Motion. One of these continents is Europe and the other one in Africa. The development and evolution of political institutions in Europe and Uganda--- If people are elected in their own merit without looking at political parties, it will enhance quality debate and leadership in this country, both in this Parliament and the councils. I am not doubting the ability of any hon. Member of Parliament who was elected to this House, but I can imagine that a friend of mine, Prof. Anyang'-Nyong'o, was not elected in his constituency because the party he was in was not the party of the moment in that particular region. If it was not the Social Democratic Party (SDP) that nominated him, his brains, able and researched contribution in this House could have been wasted outside. I would also like to give another example of a friend of mine called hon. Nyanja, and I really want to focus on the people of Limuru. Hon. Nyanja went to seven political parties in 1997 looking for the party which would nominate him, and in whatever party he went, he was getting backing. Finally, he settled in the NDP and he was elected to Parliament. So, this is a good example on how parties can be kept aside and we focus on the personal merit of an individual.

Mr. Deputy Speaker, Sir, we have got 42 tribes and similar political parties in this country.

Mr. Deputy Speaker, Sir, if we do not check on this, we will end up having every tribe with its own party. That will be the end of the country called Kenya because it will disintegrate.

Mr. Deputy Speaker, Sir, later on, my Motion will focus on Section 5 of the Constitution, where the President and the Vice-President will be elected directly by the people. Consequently, the President will be appointed, not by political parties but by individuals. The President will then nominate his Cabinet from the Members who will be elected to this House. Today, if you are not from the party which sponsored the President, you cannot be in his Government. For example, in the current Government, we do not have a Luo Minister.

Mr. Deputy Speaker: That has to be tribeless as well!

Mr. Ndicho: Yes, if the President was elected in a partyless situation, I am sure when allocating Ministerial portfolios, at least, a Luo would have been given a Cabinet portfolio. Even on the part of the Kikuyus, hon. Kamotho is in the Cabinet because he is a personal friend of the President. Otherwise, he is not there on any merit!

Mr. Deputy Speaker: He is not a Kikuyu?

Mr. Ndicho: Yes, he is a Kikuyu, but a personal friend of the President. So, all we are saying is---

Mr. Raila: On a point of information, Mr. Deputy Speaker, Sir. I would like to inform hon. Ndicho that Kenya has got 42 different ethnic communities. If Cabinet Ministers were to be appointed on ethnic basis, we would need to have, at least, 42 Cabinet portfolios.

Mr. Ndicho: Thank you for that information, my friend Raila. But I am envisaging a situation where all Kenyans come under the conclave of this Parliament, as one nation. But if we agree and allow this thing to happen, you can imagine that you have a conclave of tribal parties coming to this House and the national unity will have gone.

Mr. Deputy Speaker, Sir, I would like to relate KANU as the first son of this nation; the bigger brother of the other brothers and the little brothers that were born after the big brother in 1960s. The problem with the big brother, called KANU, is that he wants to kill all the little brothers and take all the father's property. He does not want the other parties to thrive. That is why we have people being beaten up all over when they want to advance their political opinions to the electorate.

So, my Motion is geared towards taking into exile all the political parties for ten years as a stop-gap measure to end inter-party violence. This is what helped Uganda when Museveni took over and put in place that stop-gap measure. The Whitemen are not happy with the system in Uganda because Uganda is a cohesive and united nation. They wanted it to disintegrate so that they could come up with their own ideas. In Africa, unlike Europe, parties are formed on tribal alliances.

For example, in Europe, there was the Magna Carter of 1215, which was about decentralisation of power from the feudal class. So, in Europe, parties are about classes and they do not care about where you come from or who you are. There was another party that was formed in 1688 called the Whig Party. The Whig Party of 1688 was representing the merchant class in Europe. Later, in the 18th Century, the Tories Club came up and it represented the landed gentry; the people who had land and property. They wanted somebody to represent them in Parliament.

Then in 1900, the Labour Party came up and the class that the Labour Party was representing was the industrial working class. Also, parties in Europe and America are about classes. But in our country and nation, parties are about tribes. This is why I would like us to change that for the next coming two general elections; the year 2007 and that of 2012. Consequently, we shall have people who will be elected on their personal merit.

If this Motion is passed, we shall have a partyless State. We cannot talk about that without looking back at what colonialism did to Africa. The colonialists created those divisions. They found Africans in one class called peasants. They came and brought with them the European expansionism. They also went to America when Christopher Columbus landed there. All that tended to exterminate the two classes that were in Africa. In Africa, there was the pseudo-classes of chiefs, leaders of tribal clans and artisans. But since the arrival of the Europeans, Africans have disintegrated rather than integrating. I would like to urge Members of Parliament to read a book that I have borrowed from Uganda. It is on why Uganda still needs the movement system of Government. You can see how they have moved forward from the rebellious political parties that started some years ago before independence. For example, we had the Uganda National Congress which was led by Ignatius Mugaanzi and Meingo. Then, there was the Democratic Party led by Mr. Matayo Mugwanya. He led the Baganda. There was the Uganda Peoples' Party led by Mr. William Lusiba, who was an Ankole. There came the Uganda National Movement of Mr. Augustine Kamaya, a Baganda. There was the Uganda Peoples' Congress in 1959. It was split into two; one by a Baganda called Mr. Ignatius Mugaanzi and a non-Baganda called Dr. Milton Obote. You can see where trouble started in Uganda. Then, there was the Kabaka Yeka Party which also tried to maintain its existence by maintaining the kingdom. It was through Dr. Obote, who tried to break the kingdom and bring in nationalism in Uganda, that trouble started. When he was doing that, he had his own interests. Those were discovered later. He used General Idi Amin Dada to kick out the Kabaka from his palace. The Kabaka later died in Europe. It is the same

Idi Amin who turned around and overthrew Dr. Obote!

Then, there was the Uganda Patriotic Movement of the 1980s by Mr. Yoweri Kaguta Museveni, and the Conservative Party. There came the second Obote Regime again, before the National Resistance Movement, led by Mr. Museveni, overthrew them and is ruling Uganda even now. So, if you look at what happened in Uganda, it also happened in Kenya.

The Kenyan situation is more pathetic because if we continue like this, we will not achieve what the KANU Philosophy is all about. We will not have peace, love and unity. We cannot have peace and love when there is no unity. So, I would like to tell the Members of Parliament that, when we meet next, I shall expound much more on this issue of a partyless State. People will come to Parliament on their own merit. They will not be here because of their party. The party system has locked so many good people out! In a partyless State, you cannot be thrown out. You can already see that Mr. Kones and some other guys have been thrown out. In a partyless State, it is the people in the constituencies who will throw you out! If it was the single-party system, Mr. Kones could not be a Member of Parliament today. You can see that KANU is trying to return us to that system. So, we must be an example in this continent.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, Mr. Ndicho will have another five minutes to go before he winds up moving his Motion. But right now, it is time for the interruption of business. The House is, therefore, adjourned until this afternoon, at 2.30 p.m.

The House rose at 12.30 p.m.