

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 16th September, 1997

The House met at 2.30. p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The Report of the Inter-Parties Parliamentary Group (IPPG) Committee on Peace and Security
 The Report of the Inter-Parties Parliamentary Group (IPPG) Committee on Constitutional, Legal and Administrative Reforms
 The Report of the Inter-Parties Parliamentary Group (IPPG) Committee on the Electoral Code.

(By The Vice-President and Minister for Planning and National Development)

NOTICE OF MOTION

ADOPTION OF INTER-PARTIES PARLIAMENTARY
 GROUP RECOMMENDATIONS

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the recommendations of:-

- (a) Peace and Security Committee;
- (b) Constitutional, Legal and Administrative Reforms Committee; and,
- (c) Electoral Code Committee; as passed by the Inter-Parties Parliamentary Group (IPPG) during their plenary meeting held on Thursday, 11th September, 1997, in the Old Chamber; and laid on the Table on Tuesday, 16th September, 1997.

ORAL ANSWERS TO QUESTIONS

Question No.316

REMOVAL OF ROAD BLOCKS

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

- (a) whether he is aware that the numerous road blocks are causing traffic congestion and pose security risk to motorists, especially at night;
- (b) if he is further aware that many of the policemen manning these road blocks demand bribes from motorists; and,
- (c) if the answers to "a" and "b" above are in the affirmative, if he could consider removing these road blocks and instead seek an alternative system of monitoring vehicles.

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

I tried to reach hon. Nthenge before we started the proceedings to try and explain to him that there is a mistake in the first line of the answer. I would like him to amend his answer to read:-

- (a) I am aware.

Mr. Nthenge: On a point of order, Mr. Speaker, Sir. I have not even got the written reply he is telling me to amend since it has not been passed to me yet. However, he can continue, I will see it later.

The Assistant Minister, Office of the President (Mr. Awori): Mr. Speaker, Sir, since the answer is good, I do not think he minds. He will be pleased with it.

(b) A few corrupt police officers were arrested taking bribes at various road blocks and were charged in the courts of law and imprisoned.

(c) In January, 1997, the Commissioner of Police issued a directive requiring that all road blocks that appeared to be permanent should be removed forthwith and that road blocks should be used only as a tool for stopping crime.

Mr. Nthenge: Mr. Speaker, Sir, is the Assistant Minister aware that the police on Mombasa Road have mounted permanent road blocks again? Members of Parliament who travel along that road to the Coast and other places can bear me witness.

Mr. Awori: Mr. Speaker, Sir, I do not doubt the hon. Member's statement. I will see to it that there is no permanent road block anywhere on Kenyan roads.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, is the Assistant Minister aware that as we talk now, there are over 30 road blocks between Nairobi and Kisumu? If you take that, that is a distance of 300 kilometres, that means there is a road block after every 10 kilometres. In fact, near Kijabe, there is one road block and about 500 metres ahead of it, there is another road block. This is not only inconveniencing road users, but it is also kind of senseless when the country is in need of security personnel in areas other than on the road. Could the Assistant Minister explain the rationale behind this move?

Mr. Awori: Mr. Speaker, Sir, I am sorry, the hon. Member started asking a question, then he went on to make a statement, and at the end, he is asking me for something else. Could he, please, ask me a question?

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, I said that there are so many road blocks and the rationale behind this move is not clear to people like me who are not trained in matters of security. Could he explain to Kenyans why we need a road block every other kilometre on a main highway?

Mr. Awori: Mr. Speaker, Sir, I am not aware that there are road blocks every five kilometres. I also drive between Kisumu and Nairobi, but I have not counted the number of road blocks. So, I really do not have any information.

Mr. J.N. Mungai: Mr. Speaker, Sir, when the hon. Assistant Minister was answering, he said that the road blocks are used as a tool to stop crimes. It appears that these road blocks are all over the country because the hon. Member is talking about Mombasa Road, the hon. Dr. Otieno-Kopiyo talked about the Nairobi-Kisumu Road which is also used to Nakuru, and I have also heard that the same applies to the Nairobi-Thika Road; the Nyeri-Meru road and all the other areas. It appears that there is an increase in the number of road blocks.

Could the Assistant Minister tell the House whether he is predicting serious crimes in this country and why?

Mr. Awori: Mr. Speaker, Sir, I will not predict serious crime now or in the future. As for the number of road blocks, I will find out from the Commissioner of Police if they are as many as I have been told, and the reasons for them. I will then ensure that we go back to the situation of January, 1997, when most of the road blocks were removed.

Mr. Nthenge: Mr. Speaker, Sir, it is not an international practice to have road blocks on highways. Would the Assistant Minister order that no road blocks should be erected on roads, except for temporary periods to check for stolen cars? Also, road bumps are being erected on highways, which is not an international practice. Can he order these bumps removed?

Mr. Awori: Mr. Speaker, Sir, as to the last question, the police have nothing to do with road bumps. I think road bumps are always erected on roads by local authorities. I will have a word with my colleague, hon. Lotodo, and see if he can talk to local authorities about erection of these bumps.

Mr. Arte: Mr. Speaker, Sir, the Assistant Minister has said that there are no permanent road blocks on our roads. However, on Garissa-Thika Road, we have three permanent road blocks: These are at Bangal, Madogo and Ukasi. Can the Assistant Minister direct the Commissioner of Police to remove these road blocks because they disturb us?

Mr. Awori: Mr. Speaker, Sir, I definitely intend to have a meeting with the Commissioner of Police.

Question No.239

ISSUANCE OF AN IDENTITY CARD TO MR. KUNGU

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

(a) whether he is aware that Mr. John Ndaya Kung'u, identity card No.6864485/62 of P.O. Box 24,

Burnt Forest, whose name had been misspelt and appeared as "I. Congo" in his identity card, swore an affidavit on 25.2.91 to correct this misspelling; and,

(b) if the answer to (a) above is in the affirmative, when Mr. Kung'u will receive his correct ID card.

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

(a) Yes, I am aware.

(b) The applicant was issued with an identity card bearing the names "John Ndaya Kung'u" on 15.1.97. The identity card was sent to the District Registrar of Persons in Nakuru.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, according to the information I have this man has not received this identity card. Could I get any evidence of its issuance so that I can ask him to go and collect it from wherever it is?

Mr. Awori: Mr. Speaker, Sir, I do not know what evidence the hon. Member would like me to produce. I can only ask him to ask this gentleman to go to the District Registrar of Persons in Nakuru. I have given him the number of the identity card, which will, probably, help Mr. Kung'u.

Question No.586

PROVISION OF VEHICLE TO
IKOLOMANI DISTRICT OFFICER

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

(a) whether he is aware that the District Officer (DO), Ikolomani Division, has no official vehicle; and,

(b) If the answer to (a) above is in the affirmative, what the he is doing to provide a vehicle to enable the officer perform his duties effectively.

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

(a) Yes, I am aware that at the moment this DO has got no vehicle. The reason for this is that the Land Rover which was assigned to him has been out of order for quite some time and is under repair.

(b) Arising from my answer to (a) above, this part does not arise.

Mr. Magwaga: Mr. Speaker, Sir, for a long time Ikolomani Division has not had a Land Rover. The Land Rover which is being repaired belonged to Shinyalu Division some time back. I am asking why the Assistant Minister cannot give Ikolomani Division a new Land Rover.

Mr. Awori: Mr. Speaker, Sir, we can only supply vehicles to our officers if we have them. As of now, we do not have the finances to buy a vehicle for the Ikolomani DO.

Mr. Mak'Onyango: Mr. Speaker, Sir, could the Assistant Minister tell the House what steps he is taking to ensure that DOs all over the country do indeed have vehicles? Without vehicles they cannot function. In my constituency we have three DOs, but they have only one vehicle. It is not possible for them to operate using one vehicle! What is the Ministry doing to supply all the DOs all over the country with vehicles?

Mr. Awori: Mr. Speaker, Sir, I will only repeat my previous answer, that as and when we get adequate funds we will continue to buy vehicles for DOs. This will not happen overnight, but we continue to supply DO with new vehicles from time to time. I am sure that we will be getting to Alego/Usonga fairly soon.

Mr. D.D. Mbela: Mr. Speaker Sir, arising from that reply, could the Assistant Minister explain how he expects a DO in a new division to start functioning without even the basic tool of his trade?

Mr. Awori: Mr. Speaker, Sir, a DO will just have to improvise like most of us do.

Mr. Wamae: Mr. Speaker, Sir, will the Assistant Minister tell the House why the Government continues to create more divisions when it knows that it does not have the resources to equip them with vehicles and offices? Will he stop creating new divisions?

Mr. Awori: Mr. Speaker, Sir, new divisions are created because wananchi ask for them. In most cases, it is the leaders who ask for them.

Mr. Magwaga: Mr. Speaker, Sir, when did the Assistant Minister discover that Ikolomani Division did not have an official vehicle for the DO? If he did not discover this from my Question, why did he not provide money for the purchase of the vehicle in the past financial years?

Mr. Awori: Mr. Speaker, Sir, I discovered that the Ikolomani DO did not have a vehicle when his vehicle broke down and was taken into a garage. As for allocation of funds for purchase of a new vehicle, we can only do so after consultations with the Ministry of Finance, when we know what is available.

Question No.288

APPLICATION FOR KENYA CITIZENSHIP BY INDIANS

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

- (a) how many Indians have applied for Kenya Citizenship within the last five years;
- (b) how many such applications have been granted; and
- (c) whether he could provide a list of the successful applicants and their respective occupations.

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

(a) A total of 4,514 Indians acquired Kenyan citizenship, out of which 2,847 were wives and minors who were caught up in the amendment of Section 89 of the Constitution which stipulates that every child born in Kenya after 12.12.63 is a Kenya citizen if at the time of its birth one of its parents was Kenya citizen.

(b) All those who completed and returned application forms were granted citizenship.

(c) I am unable to table a list of successful applicants because I do not believe it will serve any useful purpose.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, how could it be up to him to believe or otherwise? The Question is a Parliamentary Question and it has been put to him. If he did not want to answer the Question, he would have to say that at a different time. Now that the Question is before the House, could he provide the list because the gist of this Question is that, there are many cooks, waiters, drivers, clerks and sweepers who are getting citizenship after staying here for a few years? All that we want to know is why the Government sees it fit to give jobs to nationals from other countries when its own citizens do not have the jobs. So, I would like the Assistant Minister to provide the list. Let him provide that list because this is a Parliamentary Question.

Mr. Awori: Mr. Speaker, Sir, I am not ware of any sweepers or drivers who are not citizens of Kenya other than, perhaps, drivers of diplomats who have been given--- In fact, even diplomats' drivers from outside will not be given citizenship. So, my answer to that part of the Question is that, I am not aware of any of those people who have been given citizenship.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, this Assistant Minister is not even able to see the road blocks between here and Kisumu. How can he be aware of drivers and sweepers? Could I provide him with the list, tomorrow, so that he can be able to see that there are sweepers and watchmen in this country from India?

Mr. Awori: Mr. Speaker, Sir, it is up to you, if you order me to, but as of now, I do not see any purpose of laying that list on the Table.

Mr. Gitonga: Mr. Speaker, Sir, could the Assistant Minister tell this House how many people from the Indian sub-continent have been given citizenship?

Mr. Awori: Mr. Speaker, Sir, the breakdown of those who have been given citizenship in the last five years is as follows:-

Africans; 91, Asian---

Mr. Gitonga: On a point of order, Mr. Speaker, Sir. I have asked about people from the Indian Sub-Continent.

Mr. Speaker: But, Mr. Gitonga, are you saying there are no Africans from India?

Mr. Gitonga: Yes, they are not there!

An hon. Member: There are a few Africans from India!

Mr. Awori: Mr. Speaker, Sir, I just wanted to pre-empt, perhaps, some supplementary questions, but the answer to that is 4,514 people.

Mr. Maore: Mr. Speaker, Sir, without sounding like somebody who is after some Asians or other races, could the Assistant Minister, since he is the one who takes care of the Immigration Department, explain to this House why there have been unprecedented large numbers of Asians who are getting work permits and they are being sold at Nyayo House by the Department of Immigration? Could the Assistant Minister tell this House and the country why that is being done when we have so many Kenyans who are jobless?

Mr. Awori: Mr. Speaker, Sir, this, perhaps, calls for a meeting between me and the Principal Immigration Officer, to see if there are, indeed, any Indians who have taken up jobs that could very well have been held by local Africans.

Question No.570

PAYMENT OF TERMINAL BENEFITS

TO MR. WAIBOCHI

Mr. Maore, on behalf of **Mr. Gichuki,** asked the Minister for Education when **Mr. Augustine Ngimbiu Waibochi,** Personal No.60067, Egerton University, will be paid his terminal benefits, since

his services were terminated in 1993.

The Assistant Minister for Education (Mrs. Ndeti): Mr. Speaker, Sir, I undertook to reply to this Question this week and up to now, I am not quite up-to-date with the information I wanted, to facilitate my good answer. So, I do not think I will proceed. I have already talked to hon. Maore to give me more time, until, maybe, Thursday, and I will be able to deal with it at that time.

Mr. Speaker: Is that okay, Mr. Maore?

Mr. Maore: Yes, Mr. Speaker, Sir.

Mr. Speaker: Question deferred.

(Question deferred)

Question No.575

ELECTRIFICATION OF COFFEE
FACTORIES IN MAKUENI

Mr. Maundu asked the Minister for Energy:-

(a) when coffee factories in Makueni Constituency will be supplied with electricity; and,

(b) how much money has been set aside for the electrification programme of these coffee factories.

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

(a) The coffee factories in Makueni Constituency will be supplied with electricity when adequate funds become available.

(b) At present, no money has been set aside for electrification of the factories. However, the coffee factories will benefit under the STABEX Programme and the Rural Electrification Programme. They will be considered for inclusion in the programme which is being prepared on a least-cost-basis.

Mr. Maundu: Mr. Speaker, Sir, the only thing that has been deleted substantially from the answer to this Question when I raised it last time, are the factories in Kilome. Now, I am surprised. I think the Assistant Minister is not serious enough to give me a good answer. But when will this programme, which will include Makueni factories, be implemented? When is this programme due?

Mr. Nang'ole: Mr. Speaker, Sir, we have programmed for the other factories and as soon as we are through, the Makueni factories will have to be supplied with electricity. I cannot tell the House how soon this is going to be, but it will depend on when we shall complete the others.

Mr. Maundu: Mr. Speaker, Sir, that amounts to no answer at all. Could the Assistant Minister give me a definite answer? Will it take one year, two years or seven years?

Mr. Nang'ole: Mr. Speaker, Sir, the hon. Member is really pushing me to a point where I cannot answer anything because I have promised the House that as soon as we have completed the others, which could be even next year, we will supply electricity to Makueni coffee factories.

Mr. Speaker: Very well. Questions by Private Notice.

Mr. Maundu: Mr. Speaker, Sir, give me the last chance.

Mr. Speaker: Order, Mr. Maundu! Do not push the Chair. Anyway, what was it?

Mr. Maundu: Thank you, Mr. Speaker, Sir. Where are these other factories that have been supplied with electricity now, and why did the Assistant Minister not consider that Makueni is a priority area when, at the moment, there is not even a single line of electricity in Makueni Constituency?

Mr. Nang'ole: Mr. Speaker, Sir, I do not have the list of the ones which we are going to supply power to immediately, but if it is the wish of the House and the hon. Members, I can bring it here next week.

QUESTIONS BY PRIVATE NOTICE

DEDUCTIONS FROM CHIEFS' SALARIES

Mr. Sambu: Mr. 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 between July, 1995 and June, 1997, all Chiefs and Assistant chiefs in Nandi District have had their monthly salaries deducted at source?

(b) If the answer to "a" above is in the affirmative, could the Minister explain what the deductions were meant

for since the employees concerned did not authorize the Ministry to deduct the said money?

(c) Could the Minister urgently refund this money to the employees concerned?

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

I am aware that deductions were made from the salaries of chiefs and assistant chiefs between June, 1995 and July, 1997. The Chiefs and the assistant chiefs mandated the district commissioners to deduct money from their salaries.

The salary deductions cannot be refunded because the deductions were carried out with the full knowledge and consent of the Chiefs and Assistant Chiefs.

Mr. Sambu: Mr. Speaker, Sir, I did not get the reply and I do not have a written answer, although I have been told that there was a written reply. Could he please repeat? Mr. Speaker, Sir, did you follow what he said?

Mr. Speaker: Order! What he is saying is that, he did not follow what you had said.

Mr. Kalweo: Mr. Speaker, Sir, let him listen carefully. The answer is as follows:-

(a) I am aware.

(b) The deductions were made with the consent of the chiefs and assistant chiefs.

(c) They cannot be refunded.

Mr. Sambu: Mr. Speaker, Sir, I am asking this Question because the chiefs and the assistant chiefs have come to me and told me that they never mandated anybody to deduct the money from their salaries. Could the Minister produce the signed authorities by the said chiefs and assistant chiefs?

Mr. Kalweo: Mr. Speaker, Sir, a meeting was held between the DC and his staff and they reached that decision unanimously.

Mr. Rotino: Mr. Speaker, Sir, the Minister has not answered the question put to him. He has been asked to produce evidence to the effect that there was an agreement arrived at on the deduction of this money. Can he just do that or tell us when he will produce it?

Mr. Kalweo: Mr. Speaker, Sir, I have said that these people are normally---

Hon. Members: Do not use the word "normally".

Mr. Kalweo: Just listen to my answer so that you know which questions to put to me!

Normally, letters are not written. There are administrative ways of handling the issue.

Mr. Achieng-Oneko: Mr. Speaker, Sir, earning a salary is a right and not a privilege. Why did this exercise only take place in Nandi District and not other places? Can the Minister also explain what the money was meant for?

Mr. Kalweo: Mr. Speaker, Sir, the money was meant for the construction of Nyayo Wards. This was an agreement that was made by the chiefs from Nandi District and not from all over the country.

Mr. Sambu: Mr. Speaker, Sir, why is the Minister telling this House untruths? The DC who was behind this issue never paid a single cent to neither Chepterwai Nyayo Wards nor Kapsabet Nyayo Wards. The chiefs have had Kshs1,200,000 deducted from their salaries. If the Minister thinks this is a joking matter, he should know that these people are starving. He should be more serious. There was no reason for authorising these deductions. It is believed that the DC took an imprest and used this money to refund it. Let the Minister produce minutes of that meeting.

Mr. Kalweo: I said earlier on that there is no written consent. They met in the DC's office and agreed to contribute the money.

Mr. Leshore: On a point of order, Mr. Speaker, Sir. The Minister is not telling us the truth. Normally, when a DC holds a meeting with senior officers, there must be minutes to that effect. Could the Minister be kind enough to produce those minutes?

Mr. Kalweo: Mr. Speaker, Sir, in that case, I will look for the minutes and bring them to the House.

Hon. Members: When will you bring them?

Mr. Speaker: Order! Order, Members! Taking into account what has been claimed by hon. Sambu that chiefs in Nandi District, and in my own imagination they cannot go beyond 60, have had over Kshs1 million deducted and they have to pay for it, I think it is serious enough that I defer the Question until Tuesday or Thursday. When do you hope to bring that information?

Mr. Kalweo: I will bring it on Thursday.

(Question deferred)

TENSION IN KIBERA ESTATE

(Mr. Raila) to ask the Minister of State, Office of the President:-

- (a) Is the Minister aware that tension is rife in Kibera Estate, and that following reports that violence similar to the Likoni incident is imminent, some residents are fleeing the area?
- (b) If the answers to "a" above is in the affirmative, could the Minister investigate and take appropriate action to avert any occurrence of such violence in this area?

Mr. Speaker: Question No.2 by Raila is deferred. Next Question!

(Question deferred)

DEMOLITION OF SQUATTERS' HOUSES

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

(a) Is the Minister aware that on Sunday 17th August, 1997, the Provincial Administration demolished houses belonging to squatters at Maili Saba, Embakasi, and rendered the squatters homeless, contrary to the Government policy of settling landless people?

(b) Is he further aware that a number of private land owners are using the Provincial Administration to evict the squatters without giving them alternative plots?

(c) If the answers to "a" and "b" above are in the affirmative, will the Minister direct that these evictions be stopped forthwith and those displaced be allocated alternative land to settle?

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

(a) I am aware that on 17th August, 1997 some seven families who had built houses on private land in Maili Saba, Embakasi, were requested to move to an alternative Government plot and the translocation was voluntarily and peaceful.

(b) I am not aware.

(c) There has been no illegal evictions and neither has any one been displaced in Embakasi as alleged. The issue of stopping the eviction does not arise.

Mr. Ruhiu: Mr. Speaker, Sir, this House passed a Motion regarding the squatters in Maili Saba and other villages in Embakasi.

(Messrs. Galgalo and Awori consulted loudly)

Mr. Speaker: Order! Order, hon. Members! Messrs. Galgalo and Awori, can we have semblance of order here?

Mr. Ruhiu: Mr. Speaker, Sir, with the passing of a Motion requiring squatters in villages in Embakasi Constituency to be settled, sometimes last month, many private land owners; afraid of their land being grabbed or bought by the Government, have flocked into Maili Saba trying to evict squatters who are already there. From the Minister's reply, these people were evicted and were not given alternative accommodation and yet we know the Government's policy regarding landless people. Can he tell us whether the Provincial Administration was not responsible for evicting these squatters without giving them alternative accommodation in Maili Saba?

Mr. Kalweo: Mr. Speaker, Sir, the information I have is that there were seven families translocated from a plot belonging to a private land owner to the Government plot. They were voluntarily moved to the Government plot. We take care of landless people.

Mr. Mbeo: Mr. Speaker, Sir, I believe I heard the Minister say that these people from Maili Saba were moved to a Government plot. Could the Minister tell this House where this plot is and how many people were settled there?

Mr. Kalweo: Mr. Speaker, Sir, it is within Embakasi.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, plots in this country bear LR numbers. Could the Minister give us the LR number for this land?

Mr. Kalweo: I do not have it here, Mr. Speaker, Sir.

Mr. Ruhiu: Mr. Speaker, Sir, I wish to ask the Minister whether he is going to give instructions to the Provincial Administration in Nairobi not to evict squatters who have lived there for many years. Is he going to ask these people to stop further evictions of squatters in Maili Saba or Embakasi Village?

Mr. Kalweo: Mr. Speaker, Sir, it is not only happening in Embakasi, but also all over the country. The Provincial Administration is not allowed to evict anyone unless it is executing a court order.

Mr. Ruhiu: On a point of order, Mr. Speaker, Sir. This is not a general question because it is about

Embakasi. Could the Minister, please, assure this House that he is going to instruct the Provincial Administration in Nairobi not to evict squatters within Embakasi anymore?

Mr. Kalweo: Mr. Speaker, Sir, it depends on the circumstances, but the instructions are that they should not just evict anybody for the sake of it.

DESTRUCTION OF SCHOOL PROPERTY

Mr. Gitonga: Mr. Speaker, Sir, let me first of all protest that I have not received the written reply to this Question. I nevertheless would like to ask the Minister of State, Office of the President the following Question by Private Notice.

(a) Is the Minister aware that a private developer, who illegally acquired part of Kame Nursery School land, has burnt down the school buildings completely and about 200 nursery school children have been left without a classroom and are now learning under a tree?

(b) If the answer to "a" above is in the affirmative, what action has the Government taken against this person for destroying the school property?

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

(a) I am aware that the land in question really belongs to Mr. Stephen Waweru who, after a protracted dispute, obtained a court order to have the nursery school demolished.

(b) Arising from my answer to part "a" above, this part does not, therefore, arise.

Mr. Gitonga: Mr. Speaker, Sir, this is a very sad answer considering that a nursery school containing four classrooms has been razed to the ground and this land is clearly marked on the---

(Loud consultations)

Prof. Ouma: On a point of order, Mr. Speaker, Sir. We can hardly hear the Minister, either can we hear the questions, although we want to hear because that is why we are here.

Mr. Speaker: Order! Order! There is a corner out there that at best is excited, or worse, is trying to disrupt the proceedings. So, can you keep your excitement down?

Proceed!

Mr. Gitonga: Mr. Speaker, Sir, this is a very saddening answer because this land is clearly marked on the survey maps of Kenya as public utility land. Sometime ago, in June 1997, the headmaster of the school had written to the Director of Forestry. If I may be allowed to read out the reply by the Director of Forestry, it says:

"This scheme was part of the forest land because Kamae Scheme was excised off from the forest land. During the settlement, several plots were set aside for public utility for schools, trading centres, health centres *et cetera*. Your school should be allocated with one of these plots, otherwise we are not ready to excise any more forest land in the scheme."

Mr. Speaker, Sir, this part of the school compound is the one which is shown on this map which I will lay on this Table.

(Mr. Gitonga laid the map on the Table)

Mr. Speaker, Sir, therefore, Mr. Waweru is occupying this land illegally but, nevertheless, how could he be allowed to burn the school without any action being taken by the Government?

Mr. Kalweo: Mr. Speaker, Sir, in my reply, I said that Mr. Stephen Waweru was awarded the eviction order by the court. So, we have no alternative.

Mr. Gitau: Mr. Speaker, Sir, the Question by hon. Gitonga was: "Why was the school burnt down, noting that there is a shortage of schools?" Could the Minister answer the question properly and forget the issue of having been given the eviction order by the court since the court did not tell Mr. Waweru to burn down the school?

Mr. Kalweo: Mr. Speaker, Sir, I have no other answer because this matter was disputed in the court. Mr. Stephen Waweru is the rightful owner of this plot unless they can go back to Mr. Waweru and agree on what they should do in their own locality. But as far as I am concerned, I cannot issue any more orders above the court order.

Ms. Wanjiru: Mr. Speaker, Sir, is the Minister aware that Mr. Stephen Waweru is one of the councillors and is colluding with a former DC, Mr. P.G. Mwangi? They are going around with court orders, trying to evict legally allocated owners of the land and allocating themselves public land? In fact, we are victims of acts of this group. Can he investigate and bring a better answer to this House?

Mr. Kalweo: Mr. Speaker, Sir, that is correct. I will bring a better answer to the House.

Mr. Gitonga: Mr. Speaker, Sir, may I also inform the Minister that the Chairman of KANU, Githunguri sub-branch, is the one who has been given this land. But what I said is that this land is public utility land and it is clearly marked. When was Mr. Waweru allocated this land and by whom was the land allocated?

Mr. Kalweo: Mr. Speaker, Sir, I have already said that I will investigate this matter. The land was allocated by the District Land Registrar.

Mr. Gitonga: On a point of order, Mr. Speaker, Sir. The District Land Registrar does not allocate land because he has no power to do that. How could the Minister say that the District Land Registrar did allocate this land? Is he in order?

Mr. Speaker: Order the two of you! If it is going to be a contest as to the legality of allocation of land, maybe the court is the best remedy. But the Minister has promised to look into the matter and report back.

Next Question, Mr. Ojode.

TERMINATION OF MR. KICHIA'S LOAN

Mr. Ojode: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Could the Minister explain the circumstances that led to the termination of the loan extended to Mr. Kichia Ouma Collins of Moi University, Faculty of Technology, by the Higher Education Loans Board (HELB)?

(b) Is the Minister aware that Mr. Kichia who is a fourth year student has not been registered for the current semester for lack of Kshs25,700 withheld by the Board?

(c) What is the Minister doing to ensure that this student continues with his education without any hindrance?

The Assistant Minister for Education (Mr. Komora): Mr. Speaker, Sir, after the application forms for a loan for the academic year 1997/98 presented by Mr. Kichia Ouma Collins of Moi University, Serial Number 995, ID No.12598091, Admission No.PT003/93, were scrutinised during the processing by the HELB, he did not qualify for any loans based on the information on the forms. However, based on extra information that Mr. C.O Kichia provided in his appeal, he subsequently qualified for Kshs27,500, which will be sent to the Kenya Commercial Bank, Eldoret Branch. After processing of the appeals lodged, the loan will be ready for Mr. C.O Kichia to collect with effect from the 17th September 1997.

(Loud consultations)

Mr. Speaker: Order! Order, Members! We can hardly follow the proceedings.

Mr. Ojode: Thank you, Mr. Speaker, Sir. We have numerous cases of this nature and Mr. Collins Ouma gave the information which was needed and he did submit the same on other application forms. Could the Minister tell this House what this extra information is which they required, that was not given in the first application?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, although I have a similar Question on the issue, but I would like to ask a supplementary question to the Assistant Minister. Is the Assistant Minister aware that at Maseno University College, as I speak today, there are about 100 students who are out of the University College precisely because their loan applications have not been processed and the principal cannot accommodate them in the University College because this HELB and the bank cannot process this thing properly?

Mr. Komora: Mr. Speaker, Sir, I am not aware, but if the hon. Member provides me with the information, I will investigate.

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Thank you for recognising my point of order. Is the Assistant Minister not misleading the House by not telling this House the problem at Egerton University is one Vice-Chancellor, Prof. Kiptoon, who has mismanaged this institution in the way it is today? Is he not misleading the House by accepting that the problem is the Vice-Chancellor?

Mr. Speaker: Mr. Gatabaki, either you are not with us or you just want to pick on somebody. We are talking about Moi University not Egerton University. So, will you, please, in future, be sure you know what you are talking about?

Prof. Ouma: Mr. Speaker, Sir, this disqualification is hanging over the students' neck like an axe. Many students feel socio-economically insecure because they are not sure of completing their studies because once given the loan they do not know whether they will continue or not. Can the Assistant Minister give us an assurance that once a student has been given a higher education loan, he will be assured of completing his studies, because last week I had three students who, two, are in their final year; one is in the second year and they have no loan now and they cannot

continue? Can the Assistant Minister reassure them, through this House, that once given a loan, they will continue? Otherwise, why then eject them on the way? They have no way of getting money in the second, third or the last year, if they have been allowed in the first year to come in. Can we reassure them, once given, they will continue?

Mr. Komora: Mr. Speaker, Sir, I agree with the hon. Member that whoever is given a loan must be allowed to continue with the university education and this is what we are pursuing. I would like to assure the hon. Member that it is the policy of the Ministry to ensure that all those who qualify to go to the university are given admission to the university.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, during the time we were debating the Bill to set up the Board, the Minister assured us that nobody would be left out. They just wanted a way of recovering the money after the university education. What happened to that stand?

Mr. Komora: Mr. Speaker, Sir, the stand is still the same. When money is not available, sometimes we have problems.

Mr. Speaker: Next Question, Prof. Anyang'-Nyong'o.

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

Mr. Speaker: I think you are happy; the money has already been paid.

DELAY IN ALLOCATING HELB LOAN TO MR. OSIR

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Could the Minister explain why Mr. Robert Osir of the University of Nairobi, Faculty of Agriculture (No.A22/0144/92, has not received his money from the Higher Education Loans Board (HELB) since March, 1997?

(b) Is the Minister aware that the Kenya Commercial Bank (KCB), Kisumu West Branch, has denied having received any money from the Board to disburse to Mr. Osir?

(c) What is the Minister intending to do to ensure that Mr. Osir receives his money so that he can pay for his room and board and be able to sit for his examinations in September, 1997?

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

(a) The second semester allowance in respect of Mr. Robert Osir, a student at the University of Nairobi, No.A22/0144/92, amounting to Kshs8,500.00, was sent to the Kenya Commercial Bank, Kisumu branch, where Mr. R. Osir was expected to have collected the money at any time from 15th March, 1997.

(b) I am not aware.

(c) My Ministry will verify whether Mr. R. Osir did or did not receive his Kshs.8,500.00 allowance money from Kenya Commercial Bank, Kisumu branch, when the returns from the bank are processed, and thereafter take appropriate action.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, unfortunately, you do not have the advantage of having the written answer on your lap, but I who has the advantage will realise that the Minister has answered part "b" in part "c".

By saying that he is not aware, but going on to answer the same Question in part "c", I do not understand why the Assistant Minister is saying he is not aware because the answer he gave in part "c" is what actually he should give in part "b". That notwithstanding, I am really amazed how the HELB handles these loans. I do not understand why a student at the University of Nairobi, in the Faculty of Agriculture, in his second year, should have his loan sent to Kisumu.

Mr. Speaker, Sir, when we went to Makerere in the 1960s and the Kenya Government gave us bursaries, the money was sent to Standard Bank on the campus in the Main Hall, and we went and withdrew the money there. If the money had been sent to Kisumu or Kondewa, I would never have gone to college. So, I would want the Ministry to understand that it is better to administer this money efficiently. Let the HELB give the money to Barclays Bank here on Market Street, the Market Branch, or to a bank nearer the university. But to expect a student in Wajir going to Egerton University to collect his money in a bank in Wajir, is the highest level of inefficiency.

Mr. Speaker, Sir, I know for certain that if the Ministry was willing to establish whether Mr. Osir has received the money or not, since the money was due to be given on 15th March, 1997, and now it is September, they should have the information. And to tell this House that they are still going to establish whether the bank has made the returns or not is wrong by banking practices.

A bank makes the returns every month. So, I would seek your indulgence to ask the Assistant Minister to go back and produce to this House a better answer than this. I am not prepared to accept this as an answer to my Question.

Mr. Komora: Mr. Speaker, Sir, I agree with the hon. Member that it is inconvenient in some cases for

students to have accounts in their home districts but this is related to the identity of the student and original home with regard to the chiefs, district commissioners and people who are to verify that those are the true students who are getting the loans and they have to be processed that way. Notwithstanding what I have said, whatever can be done will be done to make things better. We will definitely do so.

In relation to the answer, I would like to assure the hon. Member that I am equally concerned that action must be taken right away to confirm the receipt or otherwise of the money.

Mr. Busolo: Mr. Speaker, Sir, a lot of questions have been raised regarding HELB. It does not make sense for students to get a loan in the first semester and not to get it in the second semester. In my research, I have found out that students from Murang'a have no problem. Why is it that students from North Eastern, Western and Nyanza provinces are the one who are having these problems?

Mr. Komora: Mr. Speaker, Sir, I am not aware of any preferences with regard to students from any district.

Mr. Farah: On a point of order, Mr. Speaker, Sir. The Assistant Minister is misleading the House because, if he checks the reports of Kenyatta University here, he will find that over 90 per cent of the students from North-Eastern Province got the minimum loan of Kshs3,000, while in excess of 70 per cent of the students from Murang'a District got the maximum - Kshs11,000. Why is this so? We are poor and living on famine relief, yet, they are rich!

Mr. Speaker: Order! Order, hon. Farah!

(Laughter)

Mr. Komora: Mr. Speaker, Sir, I am not aware of any discrimination against any district. If an hon. Member has a situation of that nature, I invite him to come and see me.

Prof. Anyang'-Nyong'o: Realising that this is a very urgent matter because this student has to sit his examinations this month, is it in order for the Assistant Minister not to give me a definite date when he will come back to this House with a definite answer as to whether this student is going to get this money, live in the university and then sit for his examinations, because the students are in the university to do examinations and get their degrees? Is the Assistant Minister going to come back with a definite answer that can help this student?

Mr. Komora: Mr. Speaker, Sir, by implication, the student is already assured of the money. What we are now checking is where the money is and he should get it immediately.

Mr. Speaker: Very well. Next Order.

POINT OF ORDER

MINISTERIAL STATEMENT SOUGHT: CHOLERA EPIDEMIC IN NYANZA

Mr. Mak'Onyango: Mr. Speaker, Sir, I rise on a point of order to request the Minister for Health to make a statement to the House regarding the state of cholera epidemic in Nyanza. We have heard conflicting reports as to the true state of this epidemic.

Hundreds of people are dying of cholera or cholera-related diseases and what we have heard of the major reports on this epidemic does not seem to give a clear picture of what is really happening. Can the Minister for Health get down to the root of this matter and then report back to the House what his Ministry is doing to, at least, contain the situation, because it does seem as if what so far has been done is wanting?

Can he take up this serious matter and come up with an answer to the problem?

(Applause)

The Minister for Health (Gen. Mulinge): Mr. Speaker, Sir, I will make a Ministerial Statement on Tuesday afternoon, next week.

Mr. Speaker: Very well. Next Order.

BILL

Second Reading

THE ELECTRIC POWER BILL

(The Minister for Energy on 10.9.97)

(Resumption of Debate interrupted on 11.9.97)

Mr. Speaker: Dr. Lwali-Oyondi was on the Floor. Would you like to continue?

Dr. Lwali-Oyondi: Thank you very much, Mr. Speaker, Sir. First of all, the Bill itself is quite verbose. It talks about very many small things using a lot of words, and the sentences are almost endless. Therefore, it makes the reading very frightening. For example, on page 936, Clause 28(2), that is one sentence and I do not want to read it because it will take nearly 10 minutes; a whole paragraph being a sentence. This is the look of things all over the Bill.

It is very verbose and quite confusing. I think the whole thing has been rather complicated and very hard on investors. They want an investor to generate electricity, put up transmission lines and distribute it to consumers. I think that is a rather tall order.

To start with, the Minister should have made it easier by just simply allowing people to generate electricity and feed it into the national grid. This, I think, is what most people do in advanced countries like Germany and so on, by generating the electricity, feeding it into the national grid and selling it as it were to a distributing company. That would be far easier than asking an investor to generate electricity, put down the transmission lines, step it down and distribute it to various people. So far, that is the impression this Bill gives, and if it is not so, then it should only be to sell electricity to the national grid and pay the investor promptly. That is all. But if I read through, I see that this investor is also supposed to lay down the transmission lines and even distribute it to the consumers. Unless I have the wrong Bill, this is exactly what it says.

Mr. Speaker, Sir, I wish to go through the Bill on the technical side. If I could draw the attention of the Minister through the Chair, to Clause 16(1) on page 929, it reads as follows:-

"Where the Board is of the opinion that the licensee is contravening a condition or requirement of his licence, it shall notify the Minister accordingly, and the Minister shall order the licensee to comply with the said condition and requirement".

If we have the Board, I do not see why the Minister should do the administrative job. For example, before the Dairy Board was liberalised, if it found somebody hawking milk, he was arrested, taken to the court and then charged him accordingly. In this case, it would appear that the Board which is technically equipped detects the mistakes and then writes to the Minister to unpopularise himself by effecting sanctions against the culprits. That is the most horrible thing the Minister should ever undertake because his public relations will be in jeopardy. It should be the responsibility of the Board to detect the mistakes and then take action to discipline the person who is contravening its rules.

Mr. Speaker, Sir, I wish also to draw the attention of the Minister to Clause 12(2) which states:-

"Licences to public electricity suppliers shall be issued for a term of not less than 30 years".

Mr. Speaker: Is it necessary for you to read it? I thought the Minister will take note of that. Why do you not refer to what you object to in the Bill?

Dr. Lwali-Oyondi: I will do that, Mr. Speaker, Sir. I wish to draw the attention of the Minister to Clause 16(2) which says that the Minister can impose fines. Here, again, they are talking of the Minister imposing civil fines. In my view, the Minister cannot impose fines which are charged on a daily basis. It looks quite draconian. Again here, the Minister is being called upon to do the dirty job which should be done by the Board.

Mr. Speaker, Sir, I also wish to draw his attention to Clause 17. Here, the Minister is being asked to revoke licences and yet, it is the Board which is supposed to do it. The Electricity Regulatory Board was supposed to relieve the Ministry of Energy from the problem of having to regulate electricity supply. But here, it is coming back to roost on the Minister and make him do most of the work that the Board should do. I do not think that is being fair to the Minister. The Board should be given full powers to work without reference to the Minister.

Mr. Speaker, Sir, the Minister's participation is required in Clause 18. Here, the investor is being asked to advertise that he wants to apply to be an investor in electric power generation, transmission and distribution. He is supposed to advertise that in all the newspapers and even the Kenya Gazette. I do not think that should be the work of the investor at all. He is a private man and has to do whatever he wants. I thought that it should be the work of the Minister to put a notice in the Kenya Gazette saying: "Mr. so-and-so wants to generate, transmit and distribute electricity accordingly. Is there anybody who is objecting to this?" I think that is what the Minister should advertise, so that the investor is saved from this self advertisement. It is just like when somebody wants to wed in a church; he takes the whole matter to the priest in his own parish and it is the parish priest who advertises that so-and-so wants to marry and if there is any objection, one has to let the priest know. In this case, it is like asking those who want to get

married to advertise themselves. I think this is unfair to the investor. I thought we were trying to court the investors and save them any embarrassment and, therefore, let the Board do all this work even if it means the investor has to pay for the advertisement.

Mr. Speaker, Sir, in this Bill, some terms which are not scientific in nature have been used. Words like "electric pressure" have been used. Normally in sciences, we talk of atmospheric pressure or water pressure. In electricity, we talk of voltage. That is a fairer way of referring to these terms instead of using the word pressure. It sounds very awkward and casual. Why do we not use a word that is a household thing like voltage. Everybody knows that in a normal household, we use 250 volts in Kenya and with about 13 amps. These are very normal terms and I think in this Bill, we should have the terms that are quite understandable to everybody. The voltage which is an expression of the electromotive volts for those who know about electricity should be the term used, so that everybody knows what it is talking about. The Minister also talks about tramways in his definition. I wish in this new era, we had trains powered by electricity from Kibera to the City Centre. If we make the investment atmosphere very conducive to investors, I am almost certain that we are going to have a lot of electricity generated by private people and, therefore, we hope the Ministry of Energy will liaise with the Ministry of Transport and Communications, so that we can have a quicker transport system using either trams which can be put on our existing roads or using trains *per se* from Thika, Kibera, Kabete and so on. We would save ourselves a lot of pollution and we would probably have a quicker transport system, even if we have not been able to have underground trains.

Mr. Speaker, Sir, Clause 32 of the Bill reads as follows:-

"Any licensee under this Act who is authorised by two or more distributing licences to supply electrical energy in two or more adjacent areas of supply may make application to the Minister for consolidation of such licences---"

Mr. Speaker, Sir, my quarrel is on the fact that somebody may apply for three or more licences and never do anything about it at all. In other words, he may hoard licences in order to sell them and by so doing, he becomes a broker who buys licences and sells them to other people at a fee for those other persons to install a generation plant. I think in this case, we should be able to give one licence at a go and see whether that person has generated electricity and whether he is doing very well. If one will have done that, then there should be no problem in giving him additional licences to continue generating or extending his powerline to that particular area. The idea is that, one should be issued with one licence and see how far one can go with it, before another one is issued to him. When we issue out licences to very many people, we are only trying to create brokers.

Clause 33 reads:

The licensees may, subject to the approval of the Board, enter into agreements to co-operate for any of the purposes of their licences, subject to the provisions of this Act; but the approval of the Board shall not be granted until the expiration of two months after public notice has been given, as provided for by Section 10, of the intention to enter into such agreement, together with the object thereof.

Mr. Speaker, Sir, if we---

Mr. Speaker: Order! Order! I think I had already told you---

Dr. Lwali-Oyondi: Yes, Mr. Speaker, Sir, this is---

Mr. Speaker: Order! I have already said that it takes a lot of time for hon. Members to read to the House, what each one of us can read for himself or herself. I think the best thing is for you to point out what you object to in that clause. That way, you will take less time.

Dr. Lwali-Oyondi: Thank you, Mr. Speaker, Sir, but this thing is quite verbose and sometimes even the Minister has no time to look at the Bill, and try to listen to me at the same time. So, sometimes it is good to try to---

Mr. Speaker: Order! Order! It is not your opinion that counts! It is that of the Chair, and, unfortunately, the Chair has already made a ruling!

Proceed!

Dr. Lwali-Oyondi: Thank you very much, Mr. Speaker, Sir. I was talking about oppressive rules where, if an investor wants to co-operate with another person in the business, he has to have the approval of the Board. That is appearing in clauses 33 and 34. I think this is unfair in that once you have given somebody a chance to do his business, what you will be waiting for is the product of his business. How he co-operates with the others and how he does everything should not be stifled by the Board. This is the era of liberalisation and I think we are going backwards if the investor has to seek the approval of the Board each time he wants to co-operate with another person. For example, as I have said before, I believe that to expect one person to generate or put overhead power transmission lines is asking a little bit too much from that person. Therefore, the people can co-operate to generate the power. There are others who are better in putting down transmission lines and extending power in the houses. Therefore, such co-operation with any other company should not be the business of the Board or the Minister to regulate. It

should be left free so that the person cannot have any impediment. We do not want the bureaucratic red tape to slow down the pace of development of electrical power supply in the country, by asking potential investors to go through Boards which do not meet at all, and which may be consisting of very busy people and might not have quorums. Sometimes, the Board may consist of politicians who have very strange behaviour once they are on the Chair. The moment you begin liaising with them before you do anything else, you will find yourself in a lot of trouble.

For example, the water supply system is in a mess because the Chairman of the National Water Conservation and Pipeline Corporation was a politician and he has employed all his relatives in the corporation. We are really in a mess in Nakuru area because of this. The people he has employed are not even able to do their jobs. If we shall insist on the Board's approval of any co-operation of the investor with another company, that will stifle the whole thing. Let us liberalise the sector and wait at the end of the line to see whether the electricity is flowing or not.

I do not want to take too long since there are other speakers who would like to contribute their suggestions and experiences to this Bill. But I would like to go to my local station, that is Nakuru. I am wondering why, for some unknown reason, when the geothermal plant at Lake Naivasha was set up, the Minister dismantled a very good support oil-powered station at Lanet. Because of that, we have really suffered electricity shortages. That power used to come on automatically, whenever the voltage went down to a certain level. We had no problem at all. But since it was taken away, and I do not know where the powerful generators were taken, we have really been in a lot of trouble. Since Nakuru is still quite a sizeable industrial area, the industries have suffered a lot of setbacks. I think we would be very grateful if the Minister returned the standby thermal station. This is because it used to supply electricity to the whole town, whenever there was a problem. I think it is high time the Minister did something of the sort, to assure us of getting electricity at all times.

[Mr. Speaker left the Chair]

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

Another problem that we have in the electricity supply is the power voltage surges. I have seen this in Nakuru and Nairobi. There are terrible fluctuations in the power supply. In fact, I have burnt my fax and damaged my telephone due to these power surges. I think it is high time the power technicians tried to harness this problem. If there are some capacitors or whatever they might know technically to regulate the power, they can help. They can also have fittings in the buildings so that we cannot damage many of our electrical installations and equipments due to power surges. Most people have suffered a lot of damage to their televisions, fridges and so on, due to power surges. It is high time somebody did something about it. I know that something can be done and I think the technicians can do it.

Lastly, the electricity supply in towns like Nakuru does not go to certain police posts. I am talking about a police post like Lanet, just opposite the army barracks. The people there use hurricane lamps which are very dirty and chimneys which have not been cleaned for the last two or three years. They hardly see and the whole place is very dark. We have had incidents where people have invaded police stations and murdered police officers. I think the Lanet Police Post is also in danger of being invaded by even people with knives. The policemen can be murdered because the whole place is dark, and the murderers can take the guns and ammunition. The same applies to Nakuru West Police Post. They also use hurricane lamps. The funny thing is that just across the road, a few yards away, there are power lines. I have never understood why they are not supplied with electricity.

Mr. Temporary Deputy Speaker, Sir, secondly, there are areas of very high population like Kawangware and others which the Kenya Power and Lighting Company should consider, even if it means putting a few powerful bulbs in such slum areas. In Nakuru, we have Kwa Ronda and Free Area which hold almost half of the population in that town. People are in a lot of trouble because of attacks by thugs at night. The area is all dark and it is holding about 50,000 to 60,000 people. At night, you can imagine what happens in these days of unemployment. People are mugged and killed at the end of the month. An assistant chief, a policeman and countless wananchi have been murdered in that darkness. I think in places where there is large concentration of wananchi, it is the duty of the Kenya Power and Lighting Company to light the streets.

Mr. Temporary Deputy Speaker, Sir, traffic lights in Nakuru, Nairobi, Mombasa and so on, are put in a way that is very unsuitable and prone to damage by cars either through accidents or by drunkards and learners. I think we should borrow a leaf from the South African system, whereby, traffic lights are suspended in the air and are, therefore, unlikely to be damaged by skidding vehicles, angry students and so on. They should be high up in air.

With those few remarks, I beg to support the Bill.

Mr. Murungi: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill. I think it is one of

the most important Bills that have been introduced in this House.

Mr. Temporary Deputy Speaker, Sir, electricity is one of the critical factors of development of any country. In fact, it is an essential pre-condition for development. It might be right to say: No electricity, no development. It is with this consideration in mind, that I would like to support this Bill with all my heart and soul.

Mr. Temporary Deputy Speaker, Sir, this is a very technical Bill. I am sure the reason why the majority of the Members are not here, is because they do not understand the technical language; the engineering jargon and physics that is contained in this Bill. So, they prefer to go and gossip in the Members' lobby or in the coffee house because they do not understand what is contained in this Bill. This is the reason why we have been asking this House to establish a legislative committee, which will carefully scrutinise all the Bills that are presented by the Government for debate, before they are debated on the Floor of the House. If there was a report from a technical committee, then Members would know the critical issues; the areas we should look at and the policy implications of this Bill to the Kenyan economy. As it is, there are very few Members who have read the 132 Clauses in the Bill. From the contributions, many are of a general nature. Members are talking about the high cost of electricity bills, because that is the level at which they understand the technical aspect of this Bill. I must confess that I too, do not understand all the aspects of this Bill; you know, I am a lawyer by profession.

Mr. Nthenge: But you are a senior lawyer!

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, I am a lawyer and a reasonably well educated Kenyan, but I need guidance from the technical experts as to what we mean by certain aspects of the Bill. I understand the broad objective of the Bill which is to liberalise the electric power sector by enabling private sector economic operations to enter the field of commercial generation of electric power. What I understand is that, we are breaking the monopoly of Kenya Power and Lighting Company in its control of the companies that generate electric power. I also believe that this also covers distribution and sale of electricity in this country.

Mr. Temporary Deputy Speaker, Sir, Kenyans have suffered a lot under the oppression of the monopoly of Kenya Power and Lighting Company and that is why we are paying exorbitant and exploitative bills, because we have nowhere else to turn to. With new entrants in the market, we expect competition. We expect Kenyans to be able to choose between Kenya Power and Lighting Company and other companies and purchase from the lowest prices in the market. I think the basic objective of this Bill is very good and it should be supported by Members from both sides of the House.

Mr. Temporary Deputy Speaker, Sir, I do not understand why it has taken Kenya almost 40 years after Independence to come up with this Bill now. We have been too complacent with defective Bills like the one we are replacing with this Bill. I do not think we have to wait for donors; we should not wait for the World Bank to come and force upon us a good Bill like this one. We should have imagined and brought up this Bill long before the World Bank came to mobilise us. I think we should have capacity within the Ministry and Kenya Power and Lighting Company, which should be able to do good things for Kenyans on the basis of protecting the broad interests of this country, and not merely acting because donors have told us to act. We should act in the interest of this country without waiting to be pressurised by anybody.

Mr. Temporary Deputy Speaker, Sir, I would like to confine my comments to Clause 130 which deals with the Rural Electrification Programme Fund. Clause 130 establishes a fund to be known as the Rural Electrification Programme Fund to support electrification of rural areas and other areas considered economically unviable for electrification by public electricity suppliers. Secondly, the Rural Electrification Programme Fund, in addition to receiving proceeds of electricity levy which is established under Clause 129, may also benefit from annual Exchequer budgetary support and from both donations and loans by local and external institutions.

Mr. Temporary Deputy Speaker, Sir, Clause 129 of the Bill imposes a 5 per cent levy on all consumers of electricity in this country to support the Rural Electrification Programme Fund. I think this is a very important provision considering that people live in darkness in most rural areas of this country. There is also no basic infrastructure for establishment of rural industries because of lack of electricity in those areas. So, our rural areas cannot develop, unless we sacrifice so that they can develop. I would like to urge the Minister to consider increasing the 5 per cent levy on all consumers. I urge the Minister to increase this five per cent levy to 10 per cent. I know that the elite in Nairobi, especially hon. Members, are going to complain. But just imagine how many people in the rural areas have only seen electricity in your house! I think we should take the rural electricity programme (REP) much more seriously than we have done in the past. I think when we talk about REP we should go beyond mere supply of power lines and transformers. This is what we have been doing in the past. We should identify the potential for generation of power on a small-scale basis in the rural areas.

Mr. Temporary Deputy Speaker, Sir, I am very happy that Mr. Mutitu is in the House. I have had occasion to discuss with him this matter. We, in Meru District, have many fast flowing rivers from Mount Kenya. We have a lot of potential for generation of hydro-electricity. I wrote to the Permanent Secretary sometime last year and asked

him to explore the possibility of permitting us to generate our own electricity from our water falls on a small-scale basis. The Permanent Secretary asked us to do a feasibility study and then report back to the Ministry in order to find out whether we could get any support from it.

We could not report back to the Ministry because when I went to the ground to try and implement the idea I found that we needed money to pay people to do the study. Wananchi had no money and so we were caught up in the cycle of poverty. I am appealing to the Ministry to sponsor feasibility studies for small-scale power generation projects even at village level in areas like mine, where we have fast flowing rivers. Apart from power generation, we should also consider increasing the income of some of our people in the rural areas by giving them licences to generate electricity on a free-enterprise basis. So, if there is one mwananchi who can tap the rivers next to his home, generate electricity and supply it to his location or sub-location we should be able to grant him a licence. We should not merely support Wazungu who can supply electricity to the whole country or to provinces or to towns. We should also consider the local private, or small-scale, investor as we consider licences for generation, supply and sale of power in the country.

As presently managed, the REP has been highly politicised. It is implemented in a very *ad hoc* and, I must say, haphazard manner. I have had occasion to be in one of the offices of the KPLC when one Assistant Minister came there to plead for funds for power in his small town. He was told that there were no funds, even though he is an Assistant Minister in this Government. Immediately after he left, a nominated Member of Parliament (MP) telephoned the same office and he was being told: "Yes, Sir. We shall be there next week". So, there was no money for the Assistant Minister but it was available for a nominated MP, who has not been elected by wananchi.

This is also the facility that KANU has used for campaigns in this country. We all recall the case of Kipipiri Constituency, where electric posts and power lines were sent there on the eve of the election. However, when hon. Githiomi won the election the KPLC mobilised its employees to go and collect the materials which it had poured in that area. We want some rationality in the implementation of the REP. We cannot always act on the basis that hon. Murungi is somebody's friend, or Minister so-and-so is so powerful or is close to Nyayo and, therefore, we have to supply electricity to him. There should be clear guidelines on how this REP Fund will be utilised. Otherwise, I will not support a situation where we rob wananchi, so that we can concentrate resources in the district of a Minister, or KANU Chairman So-and-so.

Mr. Temporary Deputy Speaker, Sir, apart from politicisation, the REP is run on a very inefficient basis. We come from Eastern Province but if we want a surveyor to come and assist wananchi who have contributed money to start a REP project we have to go to Nyeri in Central Province. Why is it so difficult to establish a KPLC office at our provincial headquarters in Embu? Even better still, why can we not go nearer the people and establish these offices at the district level? If we get more money we can go further down to the divisional level. I am saying that there is inefficiency because even after collecting wananchi's money and opening accounts for them, the services are not delivered. We have had cases where we have held Harambees for power projects. Two years ago we raised as much as Kshs800,000 and Kshs1 million. However, to date, nothing has happened.

I do not want to talk about specific examples because some of the cases are in the Minister's own constituency and wananchi are asking: "Now that the Minister for Energy is from our area, why are our projects not being implemented?". We know that the Minister does not implement his projects alone. I am happy that the Permanent Secretary and his staff are here. Could they, please, look into all the projects which wananchi started five or four or three years ago? The KPLC is sitting on wananchi's money without paying any interest to them! The company is just exploiting wananchi! So, I think there is need for us to look into that area. The question is one of delivery. What is holding up delivery of this service to wananchi, even after they have complied with the basic requirement given by the managers of the Fund?

Mr. Temporary Deputy Speaker, Sir, I have to say this because it is the complaint which we, hon. Members, get from our people. Wananchi say that the Rural Electrification Department is the most corrupt department in this Ministry! This department is the most corrupt department in this country. After they pay the 10 per cent, the surveyors have got to be mobilised by cash. Any group which has not bribed the surveyors can forget electricity. I think it is accurate to borrow the Biblical language that, this department is turning fast into a den of robbers.

The Minister for Energy (Mr. M'Mukindia): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to stop hon. Kiraitu Murungi from airing his own opinion, but I think he has made a categorical statement regarding certain actions within a department in the Kenya Power and Lighting Company (KPLC). I believe it is only fair for him to point out specific cases, which I promise to investigate if, in fact, any exist. Otherwise, he should withdraw his remarks and apologize.

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, I think the Minister does not understand the rules of this House. If I had mentioned the name of a specific officer and said that he is corrupt, then he would have requested me to substantiate. I have clearly told this House that, as a Member of Parliament, I have received numerous complaints

about corruption in that sector. I think, now that the Minister has been informed, it is upon him to set his machinery in motion and find out whether there is any corruption in this department or not.

Mr. Temporary Deputy Speaker, Sir, our people are tired of these demands of pounds of flesh. Even after we pay so much money under Section 129, and the fund is set up under Section 30; unless we eliminate corruption, all this money is going into people's pockets. It is going to build them fantastic houses; buy them big cars, but there will be no electricity. You can take that from me. I believe that the Minister has taken note of that. We also have cases where surveys have been done after all the processes have been completed. It takes one year, or even more, to provide transformers, posts and power lines. We would like the Ministry to investigate the reason why there are delays at that point. We do have cases where those who are supplying electricity forget that they are supplying it for consumption by the people.

Mr. Temporary Deputy Speaker, Sir, I have three markets in my constituency where power lines just pass over all the shops and there is no provision of electricity in any of the buildings. So, one asks what was going on in the mind of the person who was supplying that electricity. If you are supplying electricity in the markets, then the shops in the markets should be supplied with electricity. I would like the Permanent Secretary to take note of that; it is called Rubiri Market in Nkuene Division, South Imenti. I have had occasion to ask a Question in this House about that market. The power lines pass over the shops and they are of no use to the people there because they cannot sell in the evening because the market is in darkness. They cannot light their houses. So, one wonders whether they were supplying electricity to the trees, air or to who. What was the basic purpose of that project?

Mr. Temporary Deputy Speaker, Sir, we have other markets like Kinoro Market in my constituency and Kiango Market where there is electricity within 100 to 200 metres, but it has been impossible to connect those markets to the power line. Instead of starting new projects which cost a lot of money, why can we not spend a little money and connect these areas which are just adjacent to the markets?

Mr. Temporary Deputy Speaker, Sir, we have also heard that the World Bank and the European Union have provided funds for supplying coffee factories with electricity and the areas within a radius of 600 metres of the coffee factories. We would like to thank the World Bank for that project because it is going to open up more areas to electrification in this country and we would like the Minister to publish a list of all the factories which are going to benefit from this programme because although there has been talk about the programme for the last six months or so, wananchi in some areas of my constituency are still waiting. If there is a programme which is going to reach them; for example, next year, we would like to know it now so that they do not keep on pressurising us and telling us that they have been cheated and that these factories are not included in the list and what-have-you. We would like to know the extent of that programme; which factories would be covered and when, so that we can disseminate that information to wananchi.

With regard to EU funds, these are the same as coffee and tea STABEX funds which have been stashed in various local and foreign banks. It is now Kshs6 billion and it is banked in the Indo Suez Bank here, Standard Chartered Bank and Kenya Commercial Bank. This money was meant for electrification in coffee and tea growing areas but, for one reason or the another, the Government, since 1993, has decided to sit on this money. We would like the Minister, because he also comes from a tea and coffee growing area, to go and ask why this money is not being released so that it can support electrification of coffee and tea growing areas in this country.

Mr. Temporary Deputy Speaker, Sir, it is very embarrassing for our people to hear that banks have been making profits out of this money. Other people are making interest out of this money which the European taxpayers gave to the Kenyan Government so that it can benefit coffee and tea farmers in this country. This is a very high level of negligence on the part of the Government. If the money is not going to be released before the next General Elections, I assure you that, this will be a big campaign issue in coffee and tea growing areas. We shall tell the farmers what has happened. The coffee and tea farmers come from Opposition areas and we shall have no problem telling them that the only reason why the Government has refused to release this money is because the coffee and tea growing areas are in the Opposition zones and that is why there has been discrimination against them. If the Government is really fair to all the people, it is important that this money be released for electrification of the coffee and tea areas in the country.

Mr. Temporary Deputy Speaker, Sir, also the cost of rural electrification must be lowered. I have no problem with the Government taxing Peter to pay Paul. I do not mind if you tax the Nairobi elites by increasing this levy to 10 per cent and reduce the cost of rural electrification, because I represent small scale coffee and tea farmers and I know that if you ask them to pay a bill of Kshs200 per month, you will be taking their entire earnings for that month. So, we have to look for ways of providing rural electrification at very cheap rates.

Mr. Temporary Deputy Speaker, Sir, I had occasion to read a book about rural electrification in India and what was said in that book was that this programme in Punjab was launched without a lot of funfair. People imagined how they would forget using lamps and candles and how every home would be bright. But when an evaluation was

done, one year after the programme had been inaugurated, it was found that most of the people were still using lamps. Most of the people were not using electricity although it was available. A very curious phenomenon was also found. Electricity became a source of prestige.

The peasant farmers would want to install electricity, not so much for their use, but to show off to other people. When they received visitors, they would switch on electricity and immediately they left, they would switch it off. This book makes some analysis that these people did their own cost benefit analysis and found that it was cheaper to light their houses with kerosene lamps than with electricity. When they would have a small party at home or when there were visitors who needed to know that they were great people, they would switch on electricity. So, we should take these factors into account as we restructure our Rural Electrification Programme so that we do not provide electricity which is for ceremonial purposes in the rural areas. We should provide electricity which is within the reach and which can be consumed by the people.

With those few remarks, I beg to support.

Dr. Toweett: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to say one or two things in connection with this Bill.

I am a bit disturbed by what is contained at the end of the Bill. Under Clause 119 (1) it is stated:

"There is hereby established a Board to be known as the Electricity Regulatory Board".

As far as I am concerned, there is no Board established and if it is, I would like to know under what section. I do not know whether that was an error or what was happening?

*(The Minister for Energy gave
Dr. Toweett the Bill)*

The Minister is trying to show me that Part IV of the Bill, which I have, clearly indicates how the Board is established. No, there is no Board yet. We would like to know the members of the Board. We would like to know how many members will constitute this Board and where they will come from. As far as I am concerned, I would like to see at least a member from every province represented in this Board.

The Minister for Energy (Mr. M'Mukindia): It is under another section.

Dr. Toweett: Well, if it is under another section, it is not under Part IV of the Bill. I would like to find the whole thing under Part IV. I would like to see an explanation to this effect. The functions of the Board are given, but there is no explanation as to how the Board has been established. How were the members appointed?

Mr. Murungi: On a point of information, Mr. Temporary Deputy Speaker, Sir. If the speaker on the Floor could look at page 1019, there is a schedule which deals with the membership of the Board. It makes various provisions from Clauses 1, 2, 4 *et cetera*. So, unless he wants to move that schedule into the body of the Act, it is not correct to say that the Board is not provided for because it is provided for.

Dr. Toweett: Let me accept that the explanation is understood, but put in the wrong place.

Mr. Temporary Deputy Speaker, Sir, among the functions of the Board, it is said: "In the discharge of its functions, the Board shall ensure that no particular person or body is given undue preferences or subjected to any undue disadvantages".

This is very important because this is one way of encouraging corrupt practices. The Board is believed to be fair when discharging its functions, but there is no way of going back to check whether it has done its work properly or not. We hear a lot of complaints in different parts of Kenya about a lot of favouritism being practised in Ministries and other areas because of such vague clauses. If such a clause exists, there is no need of saying that a particular Ministry is full of people from one tribe. We have many other Boards functioning, but there is no way one can go back to check whether they are running smoothly or not. How will a Board ensure that no particular person or body is given undue preferences? This is where the problem is in this country. We entrust our Boards to do their work properly, but we do not go back to check how they do it.

The Public Accounts Committee used to be a very powerful body in the past. It used to discipline officers who had misappropriated public funds, but things have changed. The Committee has been weakened. It cannot discipline anybody any more. How are we going to discipline ourselves? This is what I am talking about. Just saying that the Board should not show favouritism, is not enough. Some people will be given money to favour other people. We have to be serious in this country. We have to appoint people who can tell us where things go wrong. Every one of us is complaining about corruption, tribalism, favouritism and so on, but we are not doing anything about it. We are just complaining in silence or among ourselves. We keep on complaining each and every day.

Mr. Temporary Deputy Speaker, Sir, how long are we going to complain without opening our mouths? We have got to do something about it. It is high time we mentioned sections, Ministries or departments where people of one tribe talk or consult in their language during even office hours with others. It is not good. So, in this clause, I can

say that the Minister should tell us how we are going to ensure that this Board that is to be established will be expected to carry out its functions well without favouritism or undue influence here and there.

Mr. Temporary Deputy Speaker, Sir, there is another clause which is worthy looking at. Surprisingly, if you go back to Clause 93 of this Bill--- Actually we should have been given a year to study this Bill because it is so voluminous. Here in Clause 93 it says as follows:

"Where any works belonging to the licensee are placed in or upon any premises, not being in the possession of the licensee for the purpose of supplying electrical energy under this Act or any licence, such works shall not be subject to distress or to the landlord's remedy for rent of the premises where the same may be, nor be taken to execution under the process of any court or any proceedings in bankruptcy against the person in whose possession the same may be."

Mr. Temporary Deputy Speaker, Sir, here my understanding is that if I have a building and the licensee puts his cables or wires above my building and then something wrong is done, I cannot resort to any course of action. I cannot complain and my problem will just be left like that. My building will get destroyed and yet the licensee or somebody else who has got the licence will carry out electrical repairs all over the place including over my house. If anything goes wrong, I cannot be compensated nor claim anything. I am banned from going to court. I mean is this what we expect in this country? Should we stop people from going to court or complain? Is this what we call democracy? If I have read it incorrectly, I need an explanation on that. Anybody on the earth nowadays should go to court if he is wronged and there should not be any law in this country which bans people of this country, who are citizens of Kenya or even foreigners who are in this country from, going to court. I mean to say that nobody should be banned from going to court. This is dictatorship in law.

What justification do we have to stop people from going to court to complain or to stop people from going to court to seek remedy? This is not a good law. This particular clause is not proper and this Bill should be thrown away because of that proviso alone. Who can justify that it is proper to stop people from going to court to seek remedy? This is madness of the first kind. I just cannot understand this. I wonder why the Minister has brought these things before us to stop us from complaining by going to court to seek remedy. Even if the Minister's house is affected, he will not under this law seek remedy from any court of law. I do not know. This is what has made me say that this Bill should be withdrawn and then be re-drafted if they want my support. At the moment I say that I am opposed to this Bill because of that clause. It cannot be passed and Kenyans must oppose it. All of us must oppose it.

With those few remarks, I strongly oppose this Bill.

Mr. Munyasia: Mr. Temporary Speaker, Sir, thank you for giving me a chance to contribute to this particular Bill.

First, I wish to say that I have noticed one serious omission in Clause 2, Interpretation. The Minister who is referred to so much in other clauses of this Bill is not defined. I would have wished that it was done for him as it has been done for the Permanent Secretary because under schedule 1 (1) (b), it says:

"The Permanent Secretary to the Ministry for the time being responsible for energy policy and development."

I wish that it had also been stated in the interpretation under Clause 2 that the Minister who is referred to in this Bill is the one who for the time being is in charge of the Ministry responsible for energy as they have done for the Permanent Secretary. I am saying this because I know that in practice, Ministers wield a lot of power in the areas where they come from. We have had clashes with them. For instance, you may find the Minister for Agriculture, Livestock Development and Marketing in a particular area is the reference point for any kind of development in a particular area. Such a Minister would even bar any fund raising activity in any school to take place and the heads of such schools would be saying that since the Minister has ruled against this they cannot do anything. So, when we ask them whether it is the Minister for Education who has ruled so, they say: "No, it is the Minister." That means that the man from that district regardless of the heads--- So, that is why in cases like this we should remove all ambivalence and ambiguity and say that: "It will be the Minister responsible for energy and whatever development related with it."

Mr. Temporary Deputy Speaker, Sir, Clause 20 says:

"Where in the opinion of the Minister, the supplier of electrical energy should be obtained from an electric power producer or a public electricity supplier and after investigations it is considered uneconomic or commercially expedient to provide for the necessary works as specified in that behalf, the Minister may with the consent of the National Assembly undertake in whole or in part the provision of any such works or of the funds necessary to defray the charges thereupon or may guarantee such payments upon such terms and conditions as the Minister may consider necessary and expedient."

Mr. Temporary Deputy Speaker, Sir, it is this particular clause that encourages me to support this Bill in spite

of its other shortfalls. I happen to come from a constituency that is the "darkest" in this Republic. It is the constituency which had been earmarked for benefits under the Rural Electrification Programme.

Mr. Temporary Deputy Speaker, Sir, in 1990, there were posts brought to Sirisia Constituency, there were lines demarcated and posts were placed at various stages along those lines. For example, Malakisi, Bokoli-Sirisia, Mayanja-Bisunu-Sirisia, Mayanja-Chwele-Tereli-Kimilili and then Chwele-Namwela-Sirisia, but nothing has been done about them. We have asked Questions here, but we have been told by the Minister that money will be allocated.

At first, I was told that Kshs87 million was required and they were looking for it. At least, some Kshs5 million had been found for 1995/96 Financial Year, but as I am speaking, nothing has been done along those lines. I am hoping that if other areas will be able to pay for their own lines that the Minister talked about, it is okay. This is a very poor area, an area where people are even unable to get loans even from KIE because KIE would prefer to give loans to areas where people can use simple machines that can use electricity and in my constituency that cannot be done--- So, it is a very poor area and I hope that the Minister will look with favour that particular constituency, and use this Clause 20, now to order, at least, the other areas will be looking after themselves, Sirisia should have these lines now erected and the supply may be given. I am hoping also we could then benefit from the funds that will be raised under Clause 130.

Mr. Temporary Deputy Speaker, Sir, I am still talking about the Board. I had agreed with the hon. Toweett that it needed to be specified who are going to be members of the Board. I propose that because of the tasks that are to be performed by this particular Board, especially under Clause 22 which says:-

"In considering a contract under section 19, the Board shall apply the following criteria. I am talking about the supply of electricity in poor area.

(a) that the rates or tariffs established in the agreement are just and reasonable..."

Mr. Temporary Deputy Speaker, Sir, it is because of this that I think it is necessary to qualify who are going to be members of this particular Board. If consumers are not represented, it will be very difficult, if we constituted a Board that is going to have members from those who are supplying or producing electricity because they will still be members of the private sector.

Mr. Temporary Deputy Speaker, Sir, the schedule is only talking about appointing some from the private sector, workers and manufacturers. I think it would be necessary to say, "No, the consumers must specifically be represented so that they can help also in determining the "reasonableness" or "justness" of the rates or tariffs that will be contained in those particular tariffs".

Mr. Temporary Deputy Speaker, Sir, my area has suffered and that is why I would support this particular Bill, that there should be many other people encouraged to produce power. In 1982, the Lake Basin Authority carried out studies under what they called water-catchment, conservation and river project study. They did recommend that on Teremi Falls on Kuywa river in Mount Elgon and Bungoma districts, and Webuye Falls on the border between Bungoma and Kakamega, electric power should be produced. I understand money was even found from the Scandinavian countries for this particular project. I do not know when the Government began dragging its feet on this. If it was now, I would have said that they considered that Bungoma District is an opposition area and it could be ignored, but in 1982, Bungoma District was the one area where the Minister who was there kept reassuring the President that, "if he cut veins of a Bungoma man he would find that everything was Nyayo". Then he would ask the people to smile for Nyayo and he would say, "look, they are even in good health and they love you very much".

We would have expected that those projects would have been implemented. But it is strange that money was diverted. I have not confirmed this, but if the Minister can find that this money was converted to the Turkwel Hydro-electric Power Project, Kerio Valley, then we can see that our people have suffered an injustice as a result of that diversion. It so happens that the Teremi falls that I was talking about are actually in my constituency. If power had been produced then and sold to the KPLC, I am sure that my people would have benefitted somewhere from this particular project. So, that is why I am happy that we are liberalising; encouraging many more people, those who have the capacity, and we are just telling them that in Bungoma there are potential falls for hydro-electric power generation. They are welcome to participate in this.

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

The Minister of State, Office of the President (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, I would like to make a few comments on the Electricity Regulatory Board. Electricity is a very important aspect of our development. It is the greatest input that we need to stir the development of this country. It is the only prime mover of the economy. If we are going to industrialise in this country, this is the area we must invest heavily and supply electricity so generously to the countryside.

Mr. Temporary Deputy Speaker, Sir, the electricity supply is not a new phenomenon in this country. Kenyans know electricity and they are used to it. The Rural Electrification Programme is a household name at the moment. Up to now, the Ministry has been regulating provision of electricity from generation, distribution and retail as it appears in from Clause 119 on page 1015. Clause 120 say:-

"The Board shall perform the function of regulating the generation, transmission and distribution of electric power in Kenya".

I think Kenyans should know that this is a powerful Board that is being created, and it must provide for guidance of this country, the proper format of the things that are required for a generator to fulfil before that generator can be licensed. It must also provide clearly what transmission and distribution entails so that when a generator applies for a licence, he has a clear format which will then be used as a yardstick for judging whether that generator has fulfilled the requirements that are needed. Up to now, we have had many times about the guidelines that the investors expect to be followed, for example, the World Bank and donor guidelines. But up to now, we find that those guidelines vary according to the customer and it is necessary that we have one yardstick for measuring every individual so that we can get uniformity and predictability. We can then ensure that there will be no any other influences that are brought to bear when a generator is applying, so that the licences can be issued expeditiously as soon as the generator has agreed or fulfilled all the requirements that are necessary. The same applies to the transmission of electricity.

Mr. Temporary Deputy Speaker, Sir, to do that one, they must also have tariffs as a target, so that if anybody can supply electricity at a particular tariff and that tariff is the one they consider to be the economic tariff, then that person should not be required to do any more other than to fulfil the other requirements that are provided for under this Bill. For example, the environmental, that is the quality of the work which again must be clearly stated. Otherwise, the whole object of the Bill will fail. Unless and until we get the right people to man this Board, people who are not biased and experienced. Also, people who are committed to serving Kenyans; people whose hearts are for Kenyans and somebody who does not answer any other person's call except to do what is good and transparent. So, when it comes to the appointment of the Board, I hope that those who will be appointed will be people of integrity who can work very hard and people who understand what it entails. It is so much easy to criticize, but it is so difficult to measure up to the standards that one brags about.

Mr. Temporary Deputy Speaker, Sir, I must congratulate the Ministry for the much they have done up to now and also for the production of this Bill, which I hope we will approve, so that the investors can then come. I would like to be persuaded to believe that the main purpose of this Electric Power Bill is to encourage the free flow of investment in this particular sector, so that the country can be supplied with more electricity than what can be provided under the present system.

I would like to comment on what my colleague, hon. Dr. Toweett, said about Clause 93. If you read Clause 93 very carefully, you will find that the interest of the licensee or the investor is safeguarded by stipulating clearly that any distress that is placed on any property will not affect the properties of the licensee. It will only affect the property of that individual and not of the licensee. If we do not have such clause, there will be no investor. They will be fearing that part of their investment can be expropriated through other people's hope. But I do not think that it will hamper any attempts to pursue other means.

Having been a Minister myself in this Ministry, I know how difficult it is and I know how much the demand for electricity is. I would, therefore, support this Bill fully so that the Ministry can supply the electricity that is demanded by our own people. I hope that once the Bill has been passed and becomes an Act of Parliament, all donors who have been willing to invest in this country will show by commitment that they are really for this country, and that, once the guidelines have been stipulated, there will be nothing more that will be given as an excuse for not investing in this particular industry.

With these few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support.

Mr. Nthenge: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I want to take very few minutes. Whenever a Bill is brought into this House, there is a purpose. It is our duty as elected leaders to find out what the Minister or the country wants in connection with that Bill. Once we identify that, we should then check whether it is good or bad for our country. If it is right, it will be wrong to oppose it for the sake of opposing; if it is bad, it is also wrong to support it for the sake of supporting.

We must grow above petty issues like who has done it, where does he come from, how does he look like, is he a member of a certain party and so on. Those attributes do not matter, but what matters is that we are elected leaders of the nation. It is a big honour. Unfortunately, some new Members do not seem to recognise that. There are people who have been trying to be Members of this House until they die of old age before they get that chance. It is a big honour bestowed to us by the electorate. Therefore, we must keep that dignity and superiority so that whatever we pass here is reasonable.

Mr. Temporary Deputy Speaker, Sir, I support this Bill because I think the Minister implementing it requires these amendments for the work to go on well and for the benefit of our nation. If I misunderstand it and I am shown where I erred, I will be sorry, but my intention is for the good of this nation.

Mr. Temporary Deputy Speaker, Sir, on the appointment of members of the Board, a lot of things have been going wrong in Kenya because of favouritism right from tribalism, nepotism and all the other issues which are bad.

Instead of considering the ability of the person, we start by asking what kind of a sister he has and appoint people to positions of responsibility because they are our relatives. We are not appointing our relatives in that case, but we are looking for persons with credibility and who can perform well. Therefore, my first point I would like to make on the appointment of the members of the Board, is that we must look for persons whether they are women or men, who can perform to the best. Kenya has got a lot of able people, but some of them are not "pushy", and the fact that you are not "pushy" does not mean that you are unable. The fact that I am "pushy", I may be "pushy", but still I am performing well. So, I would like the Board to consist of men and women of integrity, ability and understanding, so that we get a good performance.

Mr. Temporary Deputy Speaker, Sir, in the electricity sector right now, employment is based on favouritism. What is happening? Electric appliances are blowing up every now and then. When one goes to Buru Buru or any other area, one would hear of electric appliances that have blown up. Why is this so? This is because we are employing people who are under-qualified. People give preference to their sisters and other people depending on where they come from. Another factor which influences who should be employed is the relationship between those employing and those to be employed. These are points which should not be taken into consideration when we are employing somebody to give service. In Buru Buru, people have had their television sets blown up. Yesterday, I talked to somebody from KEMRI and he said that computers there have blown up. When such implements which are used by many people blow up, it amounts to a lot of wastage because those people cannot work and yet, they are supposed to be paid. So, I am trying to give you an example of how wrong people have been getting jobs. Those seeking jobs go to influential people who write notes for them and the employer does not want to get into trouble with such people and hence, they employ the people whom they are directed to employ. People should be tested first and those who qualify in the first stage should go to the second stage and in the third stage, we refine and get the best. By so doing we are not going to get into a situation where the Speaker will have to write to somebody outside there to inform him that the equipment in the National Assembly is out of order for such a person to come and check. Why did somebody who did not know how to handle electricity go there? He properly wanted some fuses, but such a person may not be in a position to use those fuses. So, I want the Board to have quality men and women.

Mr. Temporary Deputy Speaker, Sir, the Minister should also spend 90 per cent of his time on issues affecting the nation. Since 1962, we have had the habit whereby people in Government offices use the officers and facilities in Government to do their own things. This started in 1962 and if we do not correct it, God might curse us. Those people were employed not for anything else, but to serve the nation. They should be utilised well for the good of the nation. When we put all these officers and facilities into good use, then the end result will be a better life for all of us.

If the policemen are well paid, then criminals cannot terrorise people in the country. If the policemen are demoralised, then we will all suffer. So, I am appealing for long-term planning, and the short term desires, where people think of "I", should be ignored and we go for "we", so that we can build a good and strong nation for the good of our children and grandchildren and great grandchildren. Some of us have now got grandchildren. We have reached that age, but I did not have grandchildren when I came to this House first, when I was 30 years. I had only small children but my children are now big men. Even hon. Dr. Wameyo's children are big men but he stayed too long at Makerere doing his gynaecology studies and general medicine. Had he not done that, he would have produced a long time ago and his children would be working. In any case, they are even working right now.

Mr. Temporary Deputy Speaker, Sir, what I am saying is that we should dedicate our time for the national interests. We have very able Ministers and technocrats who have university degrees. Do not forget that when we got Uhuru, we had a big problem. Many of our top senior officers had only gone up to standard eight, but those who were able were given the chance. During the period of Africanisation, we had a big problem. We tried to Africanise, but we did not have Africans who could do the job. But on the contrary today, our graduates are looking for jobs. So, we should go for quality, ability and dedication. So, when the Minister is in his office, let him remember that he is being given a free driver, car, office, telephone and everything by the taxpayers to serve them. Once he starts to use the telephones in the office to conduct his own businesses, then he is not doing the job he was employed to do. Let us differentiate between private and national matters. Once a Member accepts to serve and is sworn in--- I have seen Members swear here and they think it is a joke. I have had to give bus fare many times because God can curse. Let us be serious because we swore to serve the nation and if we do not serve it well, human beings cannot do anything to you but the Almighty, God can. So, the Minister and his staff, particularly the senior ones like the Permanent Secretary--- The rest of the people work but under instructions. That is not their fault because they do what they can manage. Never laugh at somebody because he has a little brain. He never gave himself that little brain. If he had the chance, he would have taken the brain of a genius, but since God did not give him that, please, accept him. So, even if he is a sweeper, treat him well and let him feel that he is being respected. That person, be it a lady or man will feel wanted and appreciated by their bosses. When they have personal problems, they should be listened to and granted whatever they want because they are human beings. Do not chide such people by saying: "That one could not

even pass the Standard viii examination." It was not their wish to fail exams. It is because God gave some us bigger gifts than others. But God says all people are his and we should love others the way we love ourselves and therefore, do to them what you would like to be done to you. The Minister and the senior staff must remember that. They should organise affairs so that such people in the rural areas are treated properly. They should be provided with electricity. There are places in Kenya where electricity is big news. They have never seen it. We have been having electricity for years.

Mr. Speaker, Sir, I suggested in the early 1960s that all the rivers should be dammed, so that we could be able to produce electricity and enough water for irrigation and by so doing, we will produce more than we require and export to the rest of the world. At that time, nobody listened to me. They said I had good ideas, but they were not workable. They never gave me a chance to discuss with them. We can produce enough electricity for all the citizens of this country. They never asked me to discuss my ideas with them. We can produce enough electricity to give everybody. So, my point is that we should take our national duties more seriously than our personal duties. When you feel that you are interested in our own work, whether you are a lawyer, an engineer or a businessman like Mr. George Nthenge, you should resign and become a leader. But once you commit yourself to serve the public, and you are elected to serve the public, for heavens sake, offer your time.

Hon. Members have been known to give wrong information. When you go near the main door of the Attorney-General Chambers, there are so many people looking for their hon. Members. Why do you fear them if they voted for you? It means that you are not serving them well. You should meet them and tell them that the Government does not have money and it cannot perform certain functions. You should be honest. I have always been honest with them. Although they sometimes throw me out, they still elect me here. They throw me out because of my honesty. They have never thrown me out because of inefficiency or refusing to do their work. We should always remember that it is a big honour to be elected. When we started agitating for elections in 1957, when the first African was elected, many tried and died without becoming hon. Members. So, it is a big honour.

Mr. Temporary Deputy Speaker, Sir, when it comes to the technocrats, that is the learned people, they should remember that it is God who gave them the special gift of being intelligent to serve others, the same way that they would like to be served. Therefore, I am suggesting to the Minister to call his staff and tell them to work for our people, and God will pay them.

With those few remarks, I beg to support.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, in support of this Bill, I would like to say that a lot of emphasis has been paid on rural electrification. I realise that the electricity sector is being liberalised. Although we are liberalising, the question of the ordinary man must be kept in mind, especially in two respects. The first respect is the question of actually taking electricity to the rural areas. If this country is ever going to be an industrial country, and turn around its economy to be a fruitful country, electricity must be in the centre of it. It is important that for the rural areas to be profitable, and for us to stop the young people of this country from coming into the cities, it is important to pay a lot of attention to rural electrification. That cannot be underrated. Our young people are coming to the city because there are jobs. There are jobs in the city because we have power and industries in the city. Therefore, let us take electricity and industries to the rural areas.

Mr. Temporary Deputy Speaker, Sir, while we take electricity to the rural areas, it is also very important that those who are going to be consumers, must be protected. I agree with hon. Nthenge and those who said that the consumers' interests must be placed in the Bill. Therefore, it is important that the Board that is going to be selected, must have a consumer representative there, so that we can be able to know what affects the consumer is favourable. I know that the hon. Minister will go and look into that. He is one of the very efficient Ministers that I know of.

With regard to the question of billing in the electricity sector, it is not a very uncommon thing to find your bill being inflated by the power department. It goes into hundreds of thousands and when you complain, it is rectified. I think such errors should be minimised so that the ordinary man can be protected.

I know that the problem with rural electrification has been the question of funding. I think the question of raising 5 per cent will cater for extra funds. I hope that the funds will do the same thing that the Fuel Levy is doing for our country, to foster development in the rural areas.

While we are thinking about electricity, the generation of electricity has been liberalised. Everybody and anybody who has the capacity to generate electricity can do so, either to feed it into the national grid, or to use it for private purposes. Of course, when you feed it into the national grid, it is cheaper for the supplier if he gets it from the national grid. But while we are thinking of the generation of electricity, I hope the Ministry of Energy will actually pay more attention to the generation of renewable energy, particularly the use of solar systems. I visited a solar company in Australia and I think the Australian people have paid a lot of attention to the development of solar energy. We have a lot of capacity in this country to develop bio-gas as a way of developing our electricity supply.

I think that besides the rural electrification, it is also important to note that the rural areas would benefit more

from renewable sources of energy than even from rural electrification. A lot of views went to the rural areas where people are farming. We would encourage them to utilise what is actually going into waste. They should utilise the animal and human refuse, as I saw in Australia, to develop our own renewable sources of energy.

I do not think that wind has been harnessed a lot in this country. I think we should also utilise the wind as a way of harnessing our renewable sources of energy. While we are discussing about electricity, we are also discussing a matter that is in the Ministry of Energy. I hope that the Minister is paying attention to one particular fact that really affects the ordinary people and the economy of this country. The fact that the prices of oil have been liberalised is not a good justification for oil companies to raise the fuel prices to exorbitant levels. I think that there eventually must be a way in the laws of this country, to ensure that the people who are developing and selling oil in this country do not exaggerate their prices to the disadvantage of the consumers in Kenya.

Mr. Temporary Deputy Speaker, Sir, I do not intend to say a lot about electricity. I hope that rural electrification will become a very serious affair, now that we are giving the Department of Energy a new lease of life. We hope that they will take this mandate to actually develop electricity in every part of Kenya. Let us not make electricity a luxury because it is tied up with everything else, including the environment. If you take the electricity to the rural areas, we will not need to be cutting our trees any more. This is because we will have a new source of fuel, and new ways of cooking food. I think it is important that when we are enacting this law, we bear these things in mind.

With those few remarks, I beg to support.

Mr. Mak'Onyango: Thank you, Mr. Temporary Deputy Speaker, Sir, for according me this opportunity to contribute to this Bill.

First of all, I want to congratulate the Ministry for, at least, having made an attempt to liberalise this vital sector. I think there should be real and meaningful liberalisation of the electricity sector as a very important means that affects life in virtually every respect.

May I, first and foremost, underscore the importance of electricity as the single most important infrastructure for development. Kenya has already spoken of its desire to be an industrialised country by the year 2020. In order for that to be realised, we will have to develop reliable sources of energy. It is the energy that paves the way that attracts industrialisation. There is no way we are going to industrialise without energy.

Mr. Temporary Deputy Speaker, Sir, there is no way we are going to industrialise without electricity. This is where the Ministry concerned must be told that if, indeed, this country is going to achieve its objective of being industrialised by the year 2020, then, at least, 10 or so years before that, we should have achieved a higher degree of energy supply. Definite steps must be taken to strategize and ensure that this country has adequate sources of energy supply in order to be industrialised. The Minister must come up with ways and means of developing additional reliable sources of energy. We have relied on hydro electricity power which has become very expensive. This country should come up with other sources of energy that are relatively manageable or cheap to support industrialization.

Mr. Temporary Deputy Speaker, Sir, in defining "licence" and "licensee", it is very clear that the generation and supply of electricity is no longer going to be the preserve of large companies or organizations. Individuals with the capacity will this time round be allowed to participate. Some special fund that could go towards the facilitation of individuals getting involved should be established, because the more we will generate, the better it will be for us. That is only going to happen when Kenyans will be able to venture into electrification as a line of business. Some measures should be taken to enable individuals interested in this particular sector to get involved.

Mr. Temporary Deputy Speaker, Sir, Clause 16 states as follows:-

"Where the Board is of the opinion that a licensee is contravening a condition or requirement of its licence, it shall notify the Minister accordingly and the Minister shall order the licensee to comply with the said condition or requirements".

Mr. Temporary Deputy Speaker, Sir, I think this is a contradiction, because the Memorandum of Objects and Reasons of the Bill states very clearly that the objective of this Bill is to liberalize. I think, if we are going to liberalize and at the same time have so much Government control, we are not going to move ahead. Since the objective of this Bill is to liberalize this particular sector, I am of the view that all regulatory operations of the sector be entrusted to the Board, so that there is no direct Government involvement which can create some interference. There is also a contradiction, because the Chairman of the Board is still appointed by the President. If we are going to liberalize the Industry, there should be no direct Government involvement. The appointment of the Chairman of the Board should be a responsibility of the industry. I am sure it is capable of coming up with a very practical person who understands the industry and can bring about meaningful development. In order to remove these contradictions, the Minister should ensure that there is no Government interference.

Mr. Temporary Deputy Speaker, Sir, under the Memorandum of Objects and Reasons, there is also a clause that states:-

"The purpose of the Board is to remove direct Government involvement in the electric power sector".

For this to be realised, any direct Government involvement should be removed.

QUORUM

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House.

The Temporary Deputy Speaker (Mr. Rotino): Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Rotino): Order! We have a quorum now.

Proceed, Mr. Mak'Onyango.

Mr. Mak'Onyango: Mr. Temporary Deputy Speaker, Sir, I was referring the Minister to Clause 15, which states:-

"Where the Board is of the opinion that the licensee is contravening a condition or a requirement of his licence it shall notify the Minister accordingly and the Minister shall order the licensee to comply with the said condition or requirement".

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

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

When this provision is read in conjunction with the Memorandum of Objects and Reasons there is a contradiction. The Memorandum of Objects and Reasons states very clearly that the purpose of having the Board is to remove direct Government involvement in the electric power sub-sector. I would request the Minister to harmonise these provisions. Again, the schedule on page 1019 of the Bill states that the Chairman of the Board will be appointed by the President. The appointment of the Chairman by the President is against the intention of the Bill to liberalise the power industry. I think there is some contradiction here: If we are going to liberalise the sector, for goodness sake let us do that. We should not make some half-hearted efforts, or attempts, to liberalise the sector while at the same time we retain controls that we can very well do without.

I also want to take issue with Clause 121(f), which states:-

"The function of the Board shall be to approve electric power purchase contract and transmission and distribution service contract between and among electric power producers, public electricity suppliers and large retail customers".

If we are really liberalising the power sector I would think that we could very well do without many of these controls. The idea here should be able to attract as many investors, who have funds to invest in this particular sector, as possible. If we put so many controls this will not augur well for us in terms of getting potential investors. We should remove all these restrictions so that as many investors as possible are attracted to invest in this sector, as an important line of business. I would rather that this particular provision is removed because it will tend to keep away many of the people who would otherwise contribute to our electric power development.

Mr. Temporary Deputy Speaker, Sir, I want to appeal to the Ministry to make the Lake Basin Development Authority (LBDA), which is one of the regional development authorities in the country, an electricity undertaker. I am making this appeal in view of the fact that we have very many rivers that flow into Lake Victoria. These rivers are in the area of jurisdiction of the LBDA. If the Authority was allowed to operate as an electricity undertaker and, of course, given the necessary support and funding to enable it undertake the responsibility, I think it would be better placed to spearhead development in that region of our country. If the Authority implements several power generation projects it will generate its own funds for other forms of development in the area.

So, Mr. Temporary Deputy Speaker, Sir, I see electricity generation as a major source of funds for the LBDA.

With a bit of careful planning the Authority would stand a fairly good chance as an electricity undertaker. I think all that will be required is additional funds. Indeed, the Authority has already undertaken several researches in power generation and related projects. Therefore, with the researches already undertaken and a bit of facilitation the Authority would be able to venture into power generation. Indeed, the Sondu Miriu power plant, which is already on stream, should be entrusted to the Authority as a starting point. This will enable the Authority to start off pretty well

and generate its own funds. This will enable the Authority to attract funding from the World Bank and other bilateral donors for other forms of development in the power sector. It seems to me as if the LBDA has a very good chance of being an electricity undertaker.

We would also want to call on the Government to come up with a programme for harnessing water from the rivers that flow into Lake Victoria. Right now, all the rivers that feed the Lake come from Kenya and yet Kenya makes minimal use of the Lake.

Mr. Temporary Deputy Speaker, Sir, it is time that something was done to harness the river waters flowing into the Lake for hydro-electric generation. I would find it difficult to go a long way to buy the idea that has all along existed, whereby people in this country have tended to dismiss rivers flowing into Lake Victoria on the pretext that they were mostly floods and did not have the necessary falls and other factors that are required for hydro-electric generation. I think virtually every river flowing into Lake Victoria originates from some highland somewhere and I am sure that there is always a point, or several of them, that can be utilised in this direction. So, it is time the Government gave more attention to river waters going to waste in Lake Victoria and harnessed them for both electricity generation and of course for irrigation purposes because as you well know, times have come when normal agriculture is not going to help. We will need more of what we call irrigation agriculture and we have the potential there.

Mr. Temporary Deputy Speaker, Sir, with this Bill coming on stream, the most important thing that this Government can do is at least, to find ways of harnessing these rivers so that they just do not go to waste into the Lake.

The cost of installing electricity in this country is prohibitive. It is beyond the reach of most of our institutions and, of course, beyond the reach of many of the individuals that would like, at least, to make an attempt. I think some deliberate attempts should be made to find ways and means of either subsidising or, at least lowering the cost of installing electricity to enable as many people as possible to instal electricity. It is not surprising that many institutions like schools cannot afford to instal electricity because what is required is beyond the ability of some of these institutions. So, I would like to suggest that some kind of deliberate effort should be made in this particular area to enable as many people as possible to have access to electricity.

Mr. Temporary Deputy Speaker, Sir, some economic demands would work in favour of this arrangement because the more people you have consuming electricity, the more you are likely to raise in terms of revenue. So, I think the company and the Government should make some deliberate attempts to make sure that electricity becomes accessible to as many people as possible. For example, if you want to extend a line of electricity for a distance of about 10 kilometres, you will be required to pay a fortune and in most cases, you will find that what you are required to pay to extend electricity over such a distance is as much as you may be required to pay for the supply of electricity covering a distance two or three times longer. So, I think some kind of rationalisation needs to be undertaken to bring, at least, the cost of installing electricity within the reach of our people.

Also, I want to take a brief look at the rural electrification programme. With regard, especially, to my own area, we have Siaya Town with, of course, a little bit of electricity supply. We also have the rural electrification programme and the most populous part of the town which has been proposed for electrification for the last 10 years. One wonders why it has taken so long without realising this project. So, it is sad that the main residential area in Siaya Town has no electricity yet this project has been under consideration for the last ten years. I would like to ask the Minister concerned to tell us why it is taking so long.

In that respect, I also want to raise concern over the electrification for one of the secondary schools where, not long ago, we were very unfortunate to have some people raid the girls high school and did what no parent would really be happy to hear about. Arising from that incident, I think the Ministry or the Kenya Power and Lighting Company rightly decided to, at least, supply electricity to the school. So, some effort was made but to my surprise, although the posts were laid and some other works were done, the project seems to have stalled somewhere. I think that there were very good reasons for making that decision to take electricity to Hawinga Girls High School. For goodness sake, let us have this project completed so that those girls can learn in peace. Ever since that attack took place three or four years ago, I think, they are still scared and something like electricity would act as a source of assurance. So, I would really appreciate if that could be done.

Mr. Temporary Deputy Speaker, Sir, let me move a bit to rationing. Rationing remains a big problem and I think that the very consumers--- We have a situation here whereby somebody is biting the very hand that feeds him. The industries which consume electricity, and on whom you rely, are being affected very badly. Production, employment and other activities are affected in many companies just because of rationing. One may say that it is due to natural calamities and there is nothing we can do. Now, there is something we can do about it and this is why I am saying that if somebody cared to dam those rivers in Nyanza which end up emptying all their waters into Lake Victoria--- I am sure if dams were constructed on those rivers to preserve the water, there would be enough water for generating electricity during dry periods. Not just rivers in Nyanza, we also have rivers elsewhere and I am sure that with a bit of damming, we can be able to address or take care of the situation. So, I think something must be done to

put an end to rationing which is seriously affecting industry in this country. It is seriously affecting even domestic consumers because at the time you need electricity most, that is the time it is taken away from you. In the process, in the modern age of computers or information age, where you need as many of these modern technologies as possible, I think a lot of these facilities are affected through frequent interruptions. So, it would really help people in this country if something was done to ensure that we have as little interruption as possible. We have had too many of them and I think too many people have suffered as a result.

Mr. Temporary Deputy Speaker, Sir, I want to take issue with the Kenya Power and Lighting Company. This is a company that was at one time a show case of efficiency in this country but is no more because, as one hon. Member pointed out here, it has become a source of unnecessary extra taxation to the consumers. This is because too often, I think the bills are inflated without justification. I remember, not too long ago, we had a case in a flat where I stay where we were each being asked to pay up to Kshs100,000 for electricity we did not consume. When we finally went to the company to get some explanation as to what was happening, I am sorry, no explanation was forthcoming, and I personally wrote on behalf of the residents but it took almost a year before an explanation came.

When it came, it did so long after we had paid big sums of money that we could have avoided paying. I remember paying some Kshs2,000 or Kshs3,000 which was over and above what was actually required. After a year or so, they were able to come and say that they had since rectified my consumption and all I owed them was Kshs129, as opposed to Kshs6,000 that I had paid. So, there is something terribly wrong with the Kenya Power and Lighting company and somebody somewhere has to come and answer to the problems facing the consumers. So, many consumers are victims of this excessive taxation and I think we have to put an end to it. If our friend, who is in charge, is more interested in Harambees and other things, somebody else who is prepared to serve Kenyans should take up that appointment and serve them diligently.

With those few remarks, I beg to support.

Mr. Ogeka: Thank you, Mr. Temporary Deputy Speaker, Sir. In contributing on this important Bill before this House, I wish to put the following comments on record. First, the discussion on this particular subject would have been more detailed if we had utilized all the available machineries in this House to look into, discuss and bring to this House what has been held between the technocrats and the political wing. There was dire need for the Parliamentary Committees and the committee relating to transport and communications or the energy sector to, at least, prior to the printing of the blue paper which we have before us, have sat down with the Ministry's technocrats and talked to each other instead of waiting for a time when they would talk at them. There are very valuable contributions one can make on this document. We need to talk with each other, compare and discuss points and bring them to the House. Some of us are more educated and, therefore, in a position to discuss factors for and against the Bill. All these can now be adequately addressed and presented to this House.

The major purpose of this Bill is to make electricity supply more efficient and at the lowest cost possible. Being one of what appears to be our basic needs, it is going to be the biggest source of energy in this country. If it is supplied efficiently and at a cost that the consumer can afford, we shall be doing our country a lot of good, both environmentally and in terms of reforestation. It is an area that would further make us realise the already expected transformation of this country into an industrialized nation. Without energy, which is accessible to everybody, our dream of industrializing this country by the year 2020, will be unachievable. Therefore, this subject, at this particular moment, becomes very important. Further to that, the very Ministry of Energy has learnt from past experience that it is not necessary to merely call for liberalization. Liberalization *per se* may not save much, unless control mechanisms are put in place.

Mr. Temporary Deputy Speaker, Sir, it is very important to explore the benefits that the wananchi and the country at large would realise after liberalising the industry. We have ended up burning our fingers in the fuel sector because it has now gone out of control. It behaves in the worst arrogant manner. Therefore, liberalisation alone without exploring and closing all the avenues which would give way to exploitation may not be an answer as such. I, therefore, feel that it is important to take liberalisation as a subject, challenge or something that must be exhaustively looked into.

Mr. Temporary Deputy Speaker, Sir, I will now turn to this matter whose major aim, to me, is to make the sector more efficient first and foremost. Secondly, at least, the consumer should afford electricity and thirdly, it should be accessible to as many people in this country as possible. I would base my presentation to this august House on three major dimensions: Efficiency, lowest costs as much as possible and accessibility to all people. If this is the case, then first I will look at the personnel whom we will look upon to implement this Bill if it becomes an Act, after we have discussed it.

First of all, we should look at Clause 108 which is related to Clause 119 which talks about the Electricity Regulatory Board. First, I think the Electricity Regulatory Board will be giving us a half cake. It will only be thriving on what is already in place. However, I believe that if we could take care of what is already in place, it would be much more important again to look further and develop other alternatives or the dormant areas where we can possibly

generate energy.

Mr. Temporary Deputy Speaker, Sir, I, therefore, wish to put it before this House that instead of having a board to be called Electricity Regulatory Board, it would serve a wider purpose if we could call it Electricity Exploratory and Regulatory Board. The Board will therefore look into the exploration areas where electricity can be generated. I believe that we would not be going into electricity rationing if we had explored and utilised the idle sources of energy. Even with regard to hydroelectricity, we have a number of natural resources from where we can tap electricity, but unfortunately we have not done so. It would, therefore serve the purpose to look into ways and means of exploring those possibilities: Tapping electricity and then regulating what we already have in place. Therefore, the board should be responsible for the exploration and the regulation of the utilisation of electricity. The Board should be put in place immediately. Definitely, it should be comprised of people whose integrity and technical knowhow cannot be doubted. According to Clause 108, the Minister is given power to delegate some of the Board duties or to appoint an officer to do this work. According to Clause 125, the Minister is given powers to deputise a special officer to do certain functions.

Mr. Temporary Deputy Speaker, Sir, Clause 125, says:-

"The Minister may deputise a special officer or in his discretion establish a committee (to be known as the Licensing Officer or a Licensing Committee, as the case may be)...".

Mr. Temporary Deputy Speaker, Sir, the licensing committee will be looking at various other items including, economically, "the law of oligopoly" and an area of operation where the licensee would be capable of breaking. We will be controlling too much crowding in an area and it is part and parcel of the Board. The Board should be able to discuss it. It does not break a bone, if the Board, without giving the final license, presenting their recommendations to the Minister with its technical experts to make the decision to issue the license. It would be redundant and undermining the authority of the Board to have then a group in place which will be considering licensing the licensee ignoring consultations of the Board. Let it be upon the Board, as a body to regulate, explore, discuss and set part of the sub-committee to be looking into matters of licensing.

Mr. Temporary Deputy Speaker, Sir, I will move on to Clause 119. It is talking of the Electricity Regulatory Board. In looking at the schedule, first, it talks of the President appointing the Chairman of the Board. From the experience, there have been a lot of conflicts of interests on the Presidential appointees. The President is empowered to appoint the Cabinet and will, therefore, be appointing the Minister for Energy. Under the Minister for Energy, the President has furthermore appointed the Chairman of the Electricity Exploratory and Regulatory Board which is under the Ministry of Energy.

Mr. Temporary Deputy Speaker, Sir, with the confidence the President will be having in the Minister for Energy, it will be very adequate to empower the Minister within the defined requirements of what conditions must be satisfied in the appointment of the chairman of the Board. It carries weight in terms of control and respect in the Minister to be able to control the Board because the appointment of the chief of the Board is of his making. In certain ways where we have had some members or heads of the parastatals appointed by the President, they tend to insubordinate the Ministries under which they fall. Let us empower and have the confidence in the Minister for Energy to be able to appoint the chairman of the Electricity, Exploratory and Regulatory Board. He will then be accountable to the Minister who, in turn, is accountable to the Cabinet. I think protocol, respect, flow of information and the chain of command will be observed, rather than "jumping the queue" and making the President bend so low, having appointed the Minister in whom he has entrusted the Ministry's responsibility, and come in to appoint the Board members.

Mr. Temporary Deputy Speaker, Sir, still on the appointment, we have talked of the academic file of the kind of persons we want in the Board, but we have left out the moral, honesty, social and general conduct of the person we want. It will be failing the purpose if the kind of person we want to put in this responsibility has a criminal record. Dishonesty or squandered or misbehaved in a previous employment should be a quality that disqualifies whoever will be responsible as the chairman of this Board and not only the chairman, but it should also be a quality that disqualifies whoever will be appointed to serve in the Board. Lately, the country, being the one in which we work, we will die in and our children will continue, we have failed various institutions with reputable records by transferring the people who have mismanaged them from one institution to the another. In order that we take care of such shortcomings in future, it must be made duly clear that if you offend and prove to be dishonest in one sector, you are already putting a "red label" before you and the country cannot risk to give you any more opportunity to shoulder the public responsibility as a head or a member of the Board. But this tendency of pulling down an institution which is worthy and from there, you get rewarded by being appointed into another one, is a matter that is worth looking into and, if possible, stop it in totality. Whoever works must know that today's work will be the qualification of tomorrow's appointment. Otherwise, if left loose, although very well accounted for in Article 119 of the Schedule, it has been stipulated very carefully the kind of members who will be appointed to the Board.

"The members of the Board shall comprise persons with a university degree or its equivalent and not less than 15 years practical experience in matters related to industry, finance, economics, engineering, energy or law and shall consist of the following as a person..."

He may have all these qualifications, but his records may be as big as pulling down the Kenya National Assurance Company because of bad management. I do not think we will be doing our country justice if we can reward people whose failures are very distinct and still rewarding them with further opportunities to lead this country.

I have confirmed in Article 125 that the licensing committee may not be necessary. The licensing officer could be for matters of co-ordinating the respective activities of the licensee. Finally, Article 122 talks about the funding of the Board through a levy imposed by the Minister. A levy imposed by the Minister has been left loose, unlike in Section 129 where we are talking of electricity sales levy and has been specifically earmarked at not more than 5 per cent to avoid arbitrary decisions by the Minister, either influenced by the Board whose credit worthiness in terms of transparency and accountability might have gone out of hand, and, therefore, passing that weakness to the consumer.

Mr. Temporary Deputy Speaker, Sir, I wish to say that Clause 122(1) which gives the Minister a free hand to levy some funds for the running of the Board, should be definite and within a given percentage, within which we can surcharge the consumers. Finally, it is the consumers who are going to pay. Leaving it open-ended, would empower the Minister to levy or impose any taxation on the consumer to run the Board, and that would be very risky. If he needs more than what has been offered in the Act, he can come back and seek the mandate of this House to increase it beyond the given percentage. Otherwise, we have a responsibility to avoid that risk and set up a ceiling. So, Section 122(1) reads as follows:-

"The funding of the Board shall be obtained through a levy which the Minister may impose on electricity sales for that purpose."

I might not have read it word for word as it appears in the Bill, but from what I have observed, it is not as clear as electricity sales levy on page 1018 section 129, which says:

"The Minister may impose a levy of up to 5 per cent on all electricity consumed in the country, the proceeds of which shall go into the rural electrification programme fund set up under section 130 of this Act."

This is very, very clear and a matter that should henceforth be effected. I do not think we need to entrust rural electrification to be run on the basis of Harambee. Let us give rural electrification a priority as we go to solicit for donor funding. Let us generate some funds locally. We should also make it explicitly clear that the Board should be named the "Electricity Exploratory and Regulatory Board." I will give the example of the Kenya Sugar Authority where they have allowed for the Sugar Development Fund levy of upto 5 per cent. The 5 per cent is divided into: Cane Development, Factory Rehabilitation and the Management of the Kenya Sugar Authority which takes only 0.5 per cent or about 1 per cent. Similarly, the Board is not a profit-making organisation and needs some administrative responsibility and it should be utilising a bare minimum of the taxpayers' money. But if we leave it open ended, I think they are going to run it on a luxurious basis.

In conclusion, I would like to say that for electricity to be accessible to everybody, we have to explore ways and means of reducing barriers. One of the biggest barriers is taxation on transformers. I think we should come up with a bare minimum of the number of consumers whom we require in an area for any size of transformer and the number of customers in an area should be a guarantee that a transformer can be installed in that area. But now, the condition is that if I want to instal power, and I am in the area, I will have to pay for the transformer. I think this has been a little bit too unkind and limiting, and not allowing electricity to reach the people. So, accessibility is jeopardised. There is a big barrier. Let us go to the rural areas and allow those who are staying near where the power is passing to explore. We should send questionnaires and find out those who want to utilise the power. Let us make sure that with the number of people that exist and are potential consumers, we should be able to supply the transformers. Currently, it is a barrier to many would-be consumers. Equally, we shall be considering the public consumers, whose benefit we know the nation enjoys, like the schools, health centres and the would-be industrial investors. Once they are there, part of the package that we should give to facilitate investments in the rural areas, should be the availability of the power supply.

Finally, I want to touch on the value of money investment programme. The value of money investment programme should look at the utility value and the turnover. If you have to spend Kshs50 million in a project, what is it that you should incorporate in the project, to get the maximum returns? We are supposed to benefit from the investment.

Let me quickly mention something about River Miriu-Magwagwa Phase One, which has left part of the damming of River Miriu uncompleted. We would have had optimum benefits. I use the word "optimum" in terms of giving the best you want socially and economically, in a given project. So, where the value of money invested in

terms of the benefit that it would reap would have to go beyond a single Ministry, let us go ahead and do exactly that. So, the future research and feasibility studies should look into this. I believe that from one particular item that we shall be looking into to invest, we should have an Inter-Ministerial Co-ordinating Team to carry out review in tapping electricity, and at the same time, control the water that we can utilise. Otherwise, our country will soon be incapable of utilising the natural resources, which so many countries take pride in, particularly water.

Really, we should be ashamed of feeding all the people living along the River Nile, using water from our abundant catchment area, which we utilise the least. When the Ministry of Energy goes to River Miriu, they look at the tapping of the fall in a simple way. But they should look at it in a complex form, together with all the benefits that can be accrued. From that particular point, I am quite sure that energy, being what it is, that is multi-complex, the transformer for any of the economic system we can get, we shall be able to generate multi-functional beneficial activities, in any one particular area. So, we should go with one stone and kill as many birds as possible.

Otherwise, the Bill is very timely, and more time should be availed for it to be looked into thoroughly. I wish I had the opportunity to share in the Parliamentary Committee on this Bill, prior to its coming to this House. I believe I would have understood it much better, and our contributions would have been higher than finding it in a pigeon hole, and coming to comment on it on first sight before this House.

Otherwise, I very sincerely and competently, with a lot of confidence, support that the Bill is timely. Thank you.

Mrs. Nyamato: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute towards this very important Bill. Electricity is no longer a luxury; it is a necessity if we have to increase the production of our jua kali artisans. It is time for the Ministry of Energy to consider having electricity in all market places in the country, so that the jua kali artisans who are in self-employment may be able to produce more tools, and make a living from whatever they are producing, as some of them cannot manufacture anything because of lack of electricity. The development of River Miriu Power Project should be taken care of and the Ministry should give it priority, to be able to supply electricity to market places in Nyanza, Western Province and parts of Rift Valley, especially around Kericho.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ndotto): Order! I am afraid you will have to continue tomorrow, hon. Nyamato.

Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 17th September, 1997, at 9.00 a.m.

The House rose at 6.30 p.m.