

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 5th November, 1998

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of Moi University for the year ended 30th June, 1995 and the certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of University of Nairobi for the year ended 30th June, 1996, and the certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Jomo Kenyatta Foundation for the year ended 30th June, 1996, and the certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Maseno University College for the year ended 30th June, 1995, and the certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Education and Human
Resource Development (Mr. Awori) on behalf
of the Minister for Education and Human
Resource Development)*

Annual Report and Accounts of Kerio Valley Development Authority for the year ended 30th June, 1995, and the certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Coast Development Authority for the year ended 30th June, 1995, and the certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Pambazuko Development Company Limited for the four months ending 30th June, 1993, and the certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Ewaso Ng'iro South Development Authority for the year ended 30th June, 1995, and the certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of Ewaso- Ng'iro South Development Authority for the year ended 30th June, 1996, and the certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Education and
Human Resource Development (Mr. Awori) on
behalf of the Minister for Rural Development)*

ORAL ANSWERS TO QUESTIONS

Question No.635

SHOOTING OF MR. ONDIEK

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

(a) whether he is aware that a senior employee of the Ministry of Health in Siaya District, Mr. Isaya Agumba Ondiek, was shot dead in cold blood by police officers during the night of Sunday 25th January, 1998;

(b) if the answer to "a" is in the affirmative, what are the circumstances that led to the murder; and

(c) what steps he has taken to have the culprits arrested and brought to book.

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

(a) I am aware that Mr. Isaya Agumba Ondiek was shot dead by police officers following a night robbery.

(b) On the night of the 25th January, 1998, a gang of eight men armed with rungun and simis attacked and robbed the owner of Alum Bar and Restaurant. He rushed to report at Kombewa Police Patrol Base. He was accompanied to the scene by two police officers from where they used a private vehicle to chase the thugs who had escaped in an unmarked Nissan matatu and a motorcycle registration No. GK Y288 Honda. The police caught up with the motorcycle after about three kilometres with a passenger believed to be one of the robbers. The rider was stopped but he refused. They fired one round as a warning but since he could not stop, police shot to immobilise the rider, but he died instantly after being hit by the bullet.

(c) An inquest file No.4/98 has been opened and investigations are going on.

Mr. Sungu: Mr. Speaker, Sir, I am really perturbed by the answer that has been given by the hon. Assistant Minister. The late Isaya Agumba Ondiek was a senior Public Health Officer based in Siaya. At the time of this incident, he had gone to distribute cholera drugs in Bondo and had then ridden all the way to Kombewa on his way to Kisumu, which is my home district. He decided to have a drink, and while he was having his drink, robbers struck at the bar and then, he took off in pursuit of the robbers in a GK motor cycle.

Mr. Speaker: Hon. Sungu, that is a very interesting story, but not at this rate.

Mr. Sungu: Mr. Speaker, Sir, the question I am asking is; why has it taken so long for the Office of the President to carry out investigations into this matter, noting that I had in fact, asked the Office of the President to investigate this matter way back in March, 1998 and up-to-date, no reply has been given to me or to the family despite the fact that there are young children and a widow, who have since been suffering because they have lost their only breadwinner?

Mr. Sunkuli: Mr. Speaker, Sir, as you realise, the incident actually took place on the 25th of January, this year; the number of the file is No.4/98. That means it must have been placed before a magistrate quite early in the year. I do not have the exact date on which the matter was taken before the magistrate. But I just want to urge the hon. Member to bear with us because in a matter like this, it is prudent that it be investigated properly. If it has been taken before a magistrate, the facts are going to come out from the witnesses and it could well be that his facts are correct.

Mr. Sungu: Thank you very much, Mr. Speaker, Sir. I know that other Members had something to say but to me it is very, very important, this being my only first Question in this House, since the beginning of my Parliamentary career.

Mr. Speaker: It is not my fault.

Mr. Sungu: Mr. Speaker, Sir, the main issue that I am raising here is the fact that, the hon. Assistant Minister is cheating that Mr. Isaya Agumba was a suspect in this robbery. How on earth can somebody use a Government vehicle to commit a robbery in a place like that? Could the hon. Assistant Minister at least, give facts that can be considered reasonable and truthful in this respect?

Mr. Sunkuli: Mr. Speaker, Sir, I have not said that this man was a suspect. I said that the circumstances under which he was killed were, following a night robbery and the true facts are that this matter has been placed before a magistrate and I am sure the hon. Member will be able to ask some of his constituents to appear before the magistrate to give evidence.

Question No.262

MURDER OF COUNCILLOR NJUI

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

(a) why Thika Police have not arrested the suspected killers of the late Councillor-elect for Juja Ward, Mr. Joseph Njui Mwaniki, despite being informed of whom they are; and,

(b) whether he could promise the House that the suspected killers will be arrested and charged with the murder of the late councillor.

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

(a) Five suspected killers of the late Councillor-elect for Juja Ward, Mr. Joseph Njui Mwaniki were arrested.

(b) Mrs. Teresia Wairimu Kuria is being held as one of the suspects for the murder of Joseph Njui Mwaniki.

(c) In view of my reply to "b", part c of this Question does not arise.

Hon. Members: Where is "c"?

Mr. Speaker: There is no "c". What is not arising?

Mr. Sunkuli: Mr. Speaker, Sir, part "c" must have been omitted.

Mr. Speaker: It is not there!

Mr. Ndicho: Mr. Speaker, Sir, could he tell us what is not arising before I ask a supplementary question?

Mr. Sunkuli: Mr. Speaker, Sir, sorry, I did not refer to the Order Paper but the original Question asked: "Could the Attorney-General promise the House that the suspected killers will be arrested and charged with the murder of the late councillor?".

Mr. Speaker: That was deleted before it came! Proceed!

Mr. Ndicho: Mr. Speaker, Sir, I think I am confused because that part "c" which was deleted was very crucial to me. However, the Assistant Minister has told this House that five people were arrested and that only Teresia Wairimu Kuria is currently locked up by the police as the suspected killer. The truth of the matter is that, this lady Teresia Wairimu Kuria told the police who killed this councillor and even after this lady informed the police who were the killers, some of the suspects were seen hovering around Thika Police Station.

Mr. Speaker: Could you ask your question now please? I think that is a matter that can help the court.

Mr. Ndicho: Mr. Speaker, Sir, could the Assistant Minister tell this House why the four suspected killers were released and the fifth suspect remained in the police cells?

Mr. Sunkuli: Mr. Speaker, Sir, actually the five of them were not all arrested at the same time. The four were: Esther Nduta Wainaina who was arrested on 16th February 1998 and was released on 10th March 1998; Cosmas Njoroge Kibor alias Tushwa who was arrested on 21st February 1998 and released on--- I do not have the exact date here. Francis Njoroge Ndung'u was arrested on 10th February and released on 12th March and Francis Kinuthia Thumbi was arrested on 24th February and released on 26th February.

Mr. Speaker, Sir, the reason why these people were released was because upon investigations, there was no sufficient evidence to keep them in the cells. The police, however, arrived at the conclusion that the rightful person to charge in this matter was Teresia Wairimu who was arrested on 16th February, 1998, and has been charged with murder under File No.10 of 1998.

Mr. Ndicho: Mr. Speaker, Sir, this is a case where somebody was killed. The person that the Assistant Minister has named as the first person to be arrested, Mr. Wainaina, is the person who contested the Juja civic seat on a KANU ticket. The second suspect, Mr. Kinuthia Thumbi, contested on a SAFINA ticket and then Joseph B. Mwaniki contested on a DP ticket and won. After he won this seat, these two people warned this councillor that, they will make sure that---

Mr. Speaker: Order, Mr. Ndicho!

Mr. Ndicho: Mr. Speaker, Sir, it is very important!

Mr. Speaker: Order! It may be very important. You have just heard the Assistant Minister say that, one suspect is already charged with the murder of Mr. Njui. What you are telling the House, as I mentioned to you earlier, could be very, very important evidence in the case against this lady. I do not think you should be giving us evidence. Ask the Assistant Minister the question. If you have useful evidence, avail yourself to that court or to the police.

Mr. Ndicho: Mr. Speaker, Sir, this is the highest court. However---

Mr. Speaker: Order! Order, Mr. Ndicho! This is Parliament. This is not a court.

Mr. Ndicho: Mr. Speaker, Sir, I do not want to argue with the Chair but I remember one time you warned me that, this is a court that can also sentence me. It is on that basis that---

Mr. Speaker: Well, I do not want to exercise my powers that far. Ask your question.

Mr. Ndicho: Mr. Speaker, Sir, I was saying that despite these two people warning this councillor that they were going to make sure that he is not sworn in and that he was going to be killed, he was in fact killed. Now, this woman, Teresia Wairimu Kuria, could not have killed this councillor alone and she indeed named these people as the people who killed this councillor. In view of that, what is the Government going to do about these two people? In fact, Kinuthia Thumbi was re-elected as the councillor. What is the Government going to do because this woman named the killers?

Mr. Speaker: Mr. Ndicho, you must ask your question!

Mr. Ndicho: Mr. Speaker, Sir, since this woman provided the police with the names of the actual killers

what is the Government going to do about these two killers who were later released by the police after bribing them?

Mr. Sunkuli: Mr. Speaker, Sir, originally, the Government arrested these persons who had contested with the deceased in the last elections as suspects. However, the mere fact that they contested with the deceased was not enough to make them the killers. When the Government went to the bottom of the problem, we arrested this lady, Teresia Wairimu and there is nothing else the Government will do apart from waiting for the outcome of the case.

Mr. Wamae: Mr. Speaker, Sir, is the hon. Assistant Minister satisfied that this lady alone killed this councillor?

Mr. Speaker: Are we trying her here? Order! May I just ask the House whether if there is a case against an individual in court awaiting trial, it is fair that we try that person here? Mr. Matu Wamae, what is your reaction here?

Mr. Wamae: Mr. Speaker, Sir, doubts arise as to what the Assistant Minister is saying; that, out of four people who have been arrested by police, they found that it is only this lady who has been charged with murder.

Mr. Speaker: But I am asking you a very practical question. Here is a person who is already charged in court with murder. Mr. Matu Wamae, is it right that we should try that person here?

Mr. Wamae: Mr. Speaker, Sir, we are seeking information here.

Mr. Speaker: No. You keep away from the facts of that particular case. You can ask about those ones who were not charged. Mr. Mwenje!

Mr. Mwenje: On a point of order, Mr. Speaker, Sir. There is a cover-up and a real syndicate in this matter. A brother to this councillor was also killed in similar circumstances, but the killers were not taken to court. It is very clear that the people who were arrested are the ones who actually killed the councillor. But because of some dubious ways of doing things at Thika, the killers were never taken to court. So, could the Assistant Minister ensure that those four people are taken back to court and charged together with the lady, so that the truth of the matter comes out? This is the second of such cases to happen to the same family.

Mr. Sunkuli: Mr. Speaker, Sir, I do not know why hon. Mwenje is afraid of the truth. The truth will come out of the trial of this lady.

Mr. Speaker: Final question, Mr. Ndicho!

Mr. Ndicho: Mr. Speaker, Sir, a postmortem was conducted on the body of this councillor. The postmortem analysis revealed that the deceased's head was cracked, probably after he was hit several times with a blunt object. Could the Assistant Minister convince the House that this woman alone---

Mr. Speaker: No, I will not allow him to do that. That is for the court to find out.

Mr. Ndicho: Mr. Speaker, Sir, I do not know why you are being so strict on this Question.

Mr. Speaker: Order! Order! Now, may I tell you, Mr. Ndicho, why I am strict about this issue? It boils down to the rule of *sub judice*. There is a case which is awaiting the decision of a competent court. It is unfair for this House to prejudice the outcome of that case. I think you should have gotten this much earlier, when I was giving guidance to Mr. Matu Wamae. We should not go to the merits of whether or not a woman can break the skull of a man. That is a question of fact, which should be determined by the court. We cannot conclusively say that a woman cannot kill a man because that is a matter to be decided by the court. So, can you keep away from this particular one, who is charged? Ask anything about those whom you said were not charged.

Mr. Ndicho: It is okay, Mr. Speaker, Sir. So, my point is that this councillor was killed in February, 1998. Now, eight months have passed. If the police truly know that the lady is the one who killed the councillor, why has it taken eight to nine months for the woman to be hanged at Kamiti Prison then?

(Laughter)

Mr. Sunkuli: Mr. Speaker, Sir, I think the real question should be why it has taken the hon. Member eight months to ask the Question. The lady was arrested on 16th February, 1998.

Mr. Ndicho: Mr. Speaker, Sir, you must protect me against that insinuation. I filed this Question immediately we were sworn in. It is not my responsibility to put it on the day's Order Paper. I just found it on today's Order Paper.

Mr. Speaker: Actually, you are not too late to ask your Question.

Mr. Ndicho: Tell this to that man!

Mr. Speaker: Order, Mr. Ndicho! We do not have men here. We have hon. Members.

Mr. Ndicho: Mr. Speaker, Sir, actually, the accused in this matter, Ms Teresia Wairimu, was arrested on

16th February, 1998.

Mr. Speaker: Mr. Ndubai's Question!

Question No.639

CITIZENSHIP OF MR. AJAY SHAH

Is Mr. Ndubai not there? We will come back to it. Next Question, Mr. Norman Nyagah!

Question No.181

RELOCATION OF WAKULIMA MARKET

Mr. N. Nyagah asked the Minister for Local Authorities:-

(a) what plans, if any, there are to move the Wakulima-Mincing Lane Wholesale Market along Haile Selassie Avenue to a site out of the City Centre; and,

(b) whether he could explain why a site along Outer Ring Road designated for this project has not been developed.

The Assistant Minister for Local Authorities (Mr. Sasura): Mr. Speaker, Sir, I beg to reply.

(a) The Nairobi City Council has plans in very advanced stages to have the Wakulima-Mincing Lane Wholesale Market along Haile Selassie Avenue moved to the proposed Fruits and Vegetable Market in Dandora along Outer Ring Road.

(b) The project development is already in progress. The first phase, which involves feasibility investigation of the market facilities and collecting and processing of fruits and vegetables demand and supply situation, was completed in May, 1998. The second phase, which involves the technical conception and design of the wholesale infrastructure in connection with the investment cost and financial analysis and scenario, is still in progress and is expected to be finalised in March, 1999, culminating in the report on the execution of the project. The third phase will be the actual execution of the project.

Mr. N. Nyagah: Mr. Speaker, Sir, I would like to thank the Assistant Minister for that answer. May I ask him to ensure that the plot on which the market will be built next year is not grabbed by the land grabbers in Nairobi? I would also like to find out from the Assistant Minister whether there are any plans under way to construct other markets in Kawangware and Githurai to decongest this particular market, which serves three million people.

Mr. Sasura: Mr. Speaker, Sir, I would like to assure my hon. colleague that, that plot, on which development is in progress, is in safe hands. I would like to also inform him that there are plans to expand markets elsewhere to decongest the City.

Mr. Mwenje: Mr. Speaker, Sir, the said plot is not in Dandora, but in Umoja. We should correct that appropriately.

Mr. Speaker, Sir, it is important that we move this market to the new site. But could the Assistant Minister tell the House the total amount of money budgeted for this project, and the precise date when the project will be completed?

Mr. Sasura: Mr. Speaker, Sir, the estimated total cost is DM24.4 million.

Mr. Anyona: Mr. Speaker, Sir, Wakulima-Mincing Lane Market is as old as the struggle for the Independence of this Republic. It serves all the environs of the City. What is the wisdom of the Ministry of Local Authorities in transferring a facility like that to one end of the City, thus making it more expensive for other users of that market? What concrete plans are there to decentralise it totally so that people in other areas could also get services at their convenience?

Mr. Sasura: Mr. Speaker, Sir, this is both a wholesale and retail market. In relocating it, the idea is just to separate the wholesale and retail business of the market.

Mr. N. Nyagah: Thank you, Mr. Speaker, Sir. I hope that the area the Assistant Minister is talking about is that which lies between Kariobangi South Fly-Over and Kariobangi South Flats. The question I would like to ask the him is: What are the plans for the present Wakulima-Mincing Lane Market once it has been moved to the new site? Would the Ministry consider decongesting Ziwani and Gikomba Markets, so that people can live in habitable situations at Wakulima-Mincing Lane once the whole process is over?

Mr. Sasura: Mr. Speaker, Sir, I said very clearly that there are other plans to decongest the markets in

the areas the hon. Member has mentioned. However, I will not specifically say at this stage what we will do with specific markets.

Mr. Nyanja: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to---

Mr. Speaker: Order! You stood on a point of order?

Mr. Nyanja: Yes, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House that this plot is in safe hands when I know for sure that the original acreage was 40 acres and now it is less than 20 acres? Every year five acres are taken away. I was a consultant for this market and another one in Kisumu. Could he tell the truth? Is he in order to say that the plot is in safe hands? It has been eaten!

Mr. Speaker: How do you eat a plot, Mr. Nyanja?

(Laughter)

Mr. Sasura: Thank you very much, Mr. Speaker, Sir. We all know that we do not eat plots here. But, as I said, the plot is in safe hands and, that is why the project is in progress.

Mr. Speaker: Next Question, Mr. Lawrence Sifuna.

Question No. 143

COMPLETION OF MALABA-KOCHOLIA
WATER PROJECT

Mr. Munyasia on behalf of **Mr. Sifuna**, asked the Minister for Water Resources:-

- (a) what happened to Malaba-Kocholia Water Project which was started 15 years ago to serve the people of West Bukusu Location; and,
- (b) when the project will be completed.

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

(a) The Malaba-Kocholia Water Supply Project which was started in 1982 to serve the people of West Bukusu Location, comprising 14 per cent of the supply area, is still being implemented with budgetary allocations.

(b) It is not possible to give the completion date of the project because it will all depend on how soon the required budget will be made available.

Mr. Munyasia: Mr. Speaker, Sir, it would appear as if this is an on-going project and yet, it was started in 1982. He says it will be completed by budgetary allocation. How much has been budgeted [**Mr. Munyasia**] for that project during this financial year?

Mr. Chanzu: Mr. Speaker, Sir, this financial year, the project has been allocated K£30,000.

Mr. Ochilo: Thank you, Mr. Speaker, Sir. This Government is known for starting projects and not completing them. I am assuming that when this project was started, adequate funds were set aside for it. Can the hon. Assistant Minister tell us what happened to the funds that were set aside for this project? Who "ate" those funds?

Mr. Speaker: How do you "eat" funds?

Mr. Ochilo: Mr. Speaker, Sir, by spending them.

Mr. Chanzu: Mr. Speaker, Sir, the funds were not sufficient for the project.

Mr. Munyasia: Mr. Speaker, Sir, can the Assistant Minister tell us what they intend to do with the K£10,000 during this financial year? What in particular is this K£10,000 going to do on that water project?

Mr. Chanzu: Mr. Speaker, Sir, we visited the project in September and identified aspects which can be completed in this financial year. That is what is being worked on.

Mr. Shaaban: On a point of order, Mr. Speaker, Sir. The project has been going on for the last 15 years. Could the Assistant Minister tell this House what is the percentage completion of that project?

Mr. Chanzu: Mr. Speaker, Sir, of the main components of the work, there is substantial completion which has been achieved.

Mr. Munyasia: Mr. Speaker, Sir, the Assistant Minister has not answered the question that I asked him. I asked him to tell this House specifically what the K£10,000 is going to do and he is just saying that he visited the area. So, can he tell us what specifically this money is going to do, to buy pipes, to dig trenches or what?

Hon. Members: K£30,000!

Mr. Chanzu: Mr. Speaker, Sir, I have said that we visited the site and identified the areas which need to be attended to and this is around the in-take where some work will be done with that amount of money.

Mr. Speaker: Next Question, Mr. George Anyona.

Question No.524

COMPLETION OF KISII-CHEMOSIT ROAD

Mr. Anyona asked the Minister for Public Works and Housing:-

(a) if he is aware that construction work on the Kisii-Chemosit Road (C21) has stalled yet again since March, 1998; and,

(b) if the answer to "a" is in the affirmative, if he could inform the House the total amount of money allocated for the completion of the road; the amount of money already spent on the road; the reason for the stalling of the construction work; when it will start again and be completed.

Mr. Speaker: Is there any one here from the Ministry of Public Works and Housing?

Mr. Otula: On a point of order, Mr. Speaker, Sir. There are many Questions relating to the Ministry of Public Works and Housing. I would like to ask whether the Ministry is in order to avoid answering Questions in Parliament because we have reached a stage where we may ask whether it is necessary to have the Ministry of Public Works and Housing because we always ask them Questions on roads and they do not do anything about them.

Mr. Speaker: Well, they should have those Questions answered. Next Question, Mr. Maoka Maore.

Question No.338

COST OF MOBILE CELLULAR PHONES

Mr. Maore asked the Minister for Transport and Communications:-

(a) if he is aware that mobile/cellular phone services provided by the Kenya Posts and Telecommunications Corporation are the most expensive in the world;

(b) if the answer to "a" is in the affirmative, what the current cost of a new set/unit of mobile phone, installation, connection fees and deposit amount required is; and,

(c) why there is a shortage of lines.

The Assistant Minister for Transport and Communications (Mr. Obure): Mr. Speaker, Sir, I beg to reply.

(a) Mobile phone services provided by the KPTC are not among the most expensive in the world. The cost of the services is comparable with other countries and is even cheaper in some areas.

(b) The cost of a new set of mobile telephone varies from vendor to vendor. They, however, range between Kshs30,000 and Kshs60,000 depending on the type of set and source. The KPTC does not control the prices of mobile telephone sets as these are sold in the liberalised market. The cost of installation, connection fees and deposit for mobile telephone also varies depending on whether the mobile is Enhanced Total Access Communication System (ETACS) or Global Mobile System (GMS).

Mr. Speaker, Sir, I have been asked to give details of costs and I want to start with type A which is the ETACS.

Mr. Speaker: How many are they?

The Assistant Minister for Transport and Communications (Mr. Obure): They are two types, Mr. Speaker, Sir.

Mr. Speaker: Okay, very well.

The Assistant Minister for Transport and Communications (Mr. Obure): Mr. Speaker, Sir, in the case of the ETACS, the tariffs are as follows:-

<u>ETACS</u>	<u>Kshs. Cts</u>
Deposit (refundable)	54,700.00
Connection fee	415.30
Rate of charge	28.00 per minute
Monthly access fee	415.00

Digital Global Mobile System (GSM) Service

	<u>Kshs. Cts</u>
Connection fee including S.M. Card	29,997.60
Initial prepayment fee	20,000.00
Consumption fee for business accounts	21.00 per minute on average Consumption fee for personal accounts (light users)
	28.00

(c) The shortage of lines is as a result of a limited network capacity. This is mainly experienced in the ETACS which serve major towns in this country. There are lines available on the GSM network, but the network coverage is only limited to Nairobi and its environs. However, there are plans for network roll out to Mombasa and other business centres in this country. There are also plans to increase the capacity to 20,000 lines.

Mr. Maore: Mr. Speaker, Sir, the answer that the Assistant Minister has given indicates that for the ETACS, a Kenyan will need Kshs86,167 to acquire and start using it, and for the GSM, Kshs78,000 plus the consumption fee. He has said that the cost of the Kenyan service is comparable to other countries and it is sometimes cheaper. That is totally untrue, because for example, in Uganda, the same set of the GSM going under 075, Erickson Company in conjunction with MTN, the South African Franchise of the network, a citizen will go with only Kshs1,800 with his equipment and get the number the same day. This facility is supposed to be available in a liberalised market. Why is the Assistant Minister allowing the cartel at the KPTC to continue with the tradition of the current Minister for Water Resources when the entire world is free and very much free?

Mr. Obure: Mr. Speaker, Sir, it is true that the cost of mobile telephone service in this country is higher than it should be, although I do not agree that it is the highest in the world.

It is true that the cost of mobile telephone services is higher than it should be, although I do not agree with the figures. If I am allowed, I will give comparison figures of Kenya and other countries including Uganda. As you know, we are in the process of liberalising this sector. I want to assure this House that, once the liberalisation measures are fully implemented, it is our intention in the Ministry to license additional cellular operators. With the increased volume of business, we expect that the unit cost will come down because of the economics of scale. I think that is what Kenyans can look forward to. It is our intention to encourage the reduction of cost of using mobile phones, hopefully, in the very near future.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. The only condition necessary for the Government to license a parallel agency to provide mobile services is an enactment of liberalisation measures passed by Parliament. This was done in the month of July, 1998. The Global Mobile Services system (GMS) in Uganda by the parallel provider totally cost an equivalent Kshs.1,800. You just walk in, and you will be connected to a cellular service. Can the Assistant Minister tell this House why, after we have done all that was needed to be done legislatively, since July, the Government remains ambiguous telling us about "liberalisation coming"? Can he also mention other countries in this region which offer more expensive cellular services than Kenya?

Mr. Obure: Mr. Speaker, Sir, I did make the statement that the various measures to liberalise this sector are under way at the moment. We are glad that this House passed the necessary legislation. But, as I said, and I will say it again, the preparations are under way. The necessary groundwork must be laid before implementing the full measures.

In respect to the specific question raised by the hon. Member for Kimilili, I would like to say that, if you check the cost of providing these services in Morocco, the cost is, of course, much higher than---

Hon. Members: Talk of Uganda, not Morocco!

Mr. Obure: Mr. Speaker, Sir, obviously they are not interested in Morocco---

Mr. Speaker: Well, they are interested in the countries around them like Tanzania and Uganda.

(Applause)

Mr. Obure: Okay, fine. I have all the costs of this service in this region. I am trying to look for the relevant costs. For example, in Ghana---

(Laughter)

Mr. Speaker: Talk of the East African countries.

Mr. Obure: Mr. Speaker, Sir, in Kenya, the installation charge is \$500, approximately; Kshs30,000. In Uganda, the installation cost is exactly \$500.

An hon. Member: Which Uganda is he talking about?

Mr. Obure: I am talking about the Republic of Uganda; our neighbour. The monthly cost in Kenya is \$33, in Uganda it is \$38---

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Assistant Minister, who is normally a very respectable and dignified person, to deliberately mislead this House when for the GSM service in Uganda which is managed by MTN, its total cost for such service is Kshs1,800 equivalent to Ushs36,000 in Uganda? There are no installations, type-approval and no costs. So, is it in order for him to mislead this House by quoting the more expensive Government offered service when the parallel service, the GSM of Uganda, offers at Ushs36,000 with no other costs incurred?

Mr. Obure: Mr. Speaker, Sir, I was asked to give a comparison of the costs of providing this service in Kenya and Uganda. I did that by using the figures which have been given to me. I have no reason to doubt the figures which have been given to me.

Mr. Speaker: Well, the very last question. Mr. Shidie?

Mr. Shidie: Mr. Speaker, Sir, it is a known fact that the mobile telephones are used by market women in Tanzania. They are also used by students in South Africa while in Kenya they are only used by the affluent society.

An hon. Member: Hopeless society!

Mr. Shidie: I say so, because we want the Minister to reduce the fees. As he told us, it stands now at Kshs.54,000. If he reduces the fees, the cost will be low. So, I think the question is very simple. Let him just reduce the price and it will be affordable to every Kenyan.

Mr. Obure: Mr. Speaker, Sir, I am very sympathetic with the kind of sentiments expressed by hon. Shidie. My Ministry is committed to encouraging the full liberalisation of this sector. There would be a lot of investments coming after the liberalisation. We expect that following the resultant rule of supply and demand, the cost would inevitably come down very soon.

Mr. Speaker: Very well, the last question, Mr. Maore?

Mr. Maore: Thank you, Mr. Speaker, Sir, for that generous gesture. Can the Assistant Minister explain to this House why a Kenyan should suffer by subsidising Kshs10,000 for the type-approval costs for KPTC except only to pay for the money stolen by the directors?

Mr. Obure: Mr. Speaker, Sir, I am not sure whether I got the question asked. It is a bit loaded; could he please repeat the question?

Mr. Speaker: Order, Mr. Maore! As I give you the Floor, I expect you to obey the rules of the House. Your last statement is certainly out of order. So, can you debate within the rules?

Mr. Maore: Mr. Speaker, Sir, I thought it would be only against the rules if it involves hon. Members. But, I was not pointing fingers at anybody.

Mr. Speaker: You said that directors have stolen.

Mr. Maore: Mr. Speaker, Sir, I would like to repeat the question for the Assistant Minister. If, for example, a customer wants to use the Ericsson or GSM type of equipment here, he or she has to pay the KPTC Kshs10,000 for the "type-approval costs". Why should it be so?

Mr. Obure: Mr. Speaker, Sir, we all know that has been the case. This is precisely why this House took a lot of time to debate the new Bill so that this kind of situation can be removed. There will be many operators, and as I said, inevitably the cost will come down.

Question No.514

INSPECTION OF MOMBASA - NAIROBI RAILWAY LINE

Mr. Mwakiringo asked the Minister for Transport and Communications:-

- (a) what steps he is taking to ensure that the railway line between Nairobi and Mombasa, which was adversely affected by the recent *El Nino* induced rains is inspected for any structural damages and repaired to avert accidents; and,
- (b) what further steps he is considering to take to enhance the services provided by the train service to the passengers.

The Assistant Minister for Transport and Communications (Mr. Obure): Mr. Speaker, Sir, I beg to reply.

(a) Following the *El Nino* rains and its effects on the railway line between Nairobi and Mombasa, Kenya Railways Corporation continues to carry out necessary remedial measures on the line. Such remedial measures

include inspections and repair of bridges and culverts to ensure their hydraulic and structural adequacy.

(b) The following steps are being taken to enhance train service to passengers so as to attract more customers. One, the provision of clean modern coaches. The coaches are cleaned by a private professional cleaning firm. Train timetables have been adjusted to guarantee convenient passenger departure and arrival times. Food served to passengers on board is offered at what we believe to be affordable prices. The high standard passenger service is made possible by the introduction of a travelling train captain whose sole responsibility is to ensure passenger comfort.

Mr. Mwakiringo: Mr. Speaker, Sir, the inspections he has talked about are normally carried out. Is he aware that due to the *El Nino* rains, the soils have become soft and cannot resist the weight of the train and, therefore, there is a lot of discomfort when you are travelling? Is he aware that those repairs have not been carried out upto now? Some of the specific areas affected are between Mtito Andei and Voi and between Mtito Andei and Kiboko.

Mr. Obure: Mr. Speaker, Sir, the *El Nino* rains did a lot of damage on the rail lines, especially between Nairobi and Mombasa, but I want to assure the hon. Member that the Kenya Railways engineers are constantly on that route to inspect the rail line to make sure that it is safe for use by the public. The section between Ngata and Darajani in particular, has been reinforced and repair work has been carried out on that section. Further repairs have also been carried out between Embakasi and Marimbeti and also the area around Kibwezi Station.

Mr. Mwiraria: Mr. Speaker, Sir, could the Assistant Minister tell the House the reasons why our railway system has been mortgaged to users? What I mean is that, at the moment, locomotives and wagons are being handed over to companies to repair and maintain so that they can use them exclusively for themselves. Could the Assistant Minister tell us why this has been allowed to happen?

Mr. Obure: Mr. Speaker, Sir, it makes more business sense to do so. In particular, I take the example of the Magadi Soda. They are customers of the Kenya Railways Corporation and they require a lot of trains on a regular basis to be able to move products from there to Mombasa. An arrangement was reached between Magadi Soda and the Kenya Railways so that they can provide the capital for the maintenance of these wagons and it is working out very well. We think it is a good arrangement and the Kenya Railways Corporation has been encouraged to do that to other users. It makes more sense.

Question No.449

SIZE OF LAND ALLOCATED TO WANG'URU RESEARCH FARM

Mr. Nderitu asked the Minister for Research and Technology, what is the acreage, plot and title deed number of the land set aside in 1960 under the "Native Land Trust Ordinance" for Wang'uru Research Farm.

The Assistant Minister for Research and Technology (Mr. Kiangoi): Mr. Speaker, Sir, I beg to reply.

Initially, the Kenya Agricultural Research Institute had a total of 200 acres set aside for research purposes at Wang'uru. However, the institute has no title deed for that land and, therefore, the issue of plot numbers does not arise.

Mr. Nderitu: Mr. Speaker, Sir, I would like to know whether it is Trust Land, Government land or what is it?

Mr. Kiangoi: Mr. Speaker, Sir, it was Trust Land reserved for research purposes.

Ms. Karua: If it is Trust Land, then it must be registered in the name of Kirinyaga County Council. Could you confirm that? And if so, it must have an LR Number. What is the LR Number?

Mr. Kiangoi: Mr. Speaker, Sir, in the records of Kirinyaga County Council it is shown as reserved for research and it is commonly referred to as Plot No.137 but not registered.

Mr. Nderitu: Mr. Speaker, Sir, it is becoming pathetic. It is very, very pathetic! If an answer from the Minister's office comes into this House and it is garbage and lies---

Mr. Speaker: Order, Mr. Nderitu! When you are called to order, you sit down immediately! Whenever you are called to order, you must resume your seat. I do not think you are doing yourself any good at all by using such uncalled-for harsh language in this House. I do not think you are doing yourself any good; leave alone the House. I think it is better if you became civil in your language. If you expect to be respected, respect others!

Mr. Kiangoi: I wonder if he has actually withdrawn and apologised to me. I do not know what he is calling "garbage".

Mr. Speaker: Order, Mr. Nderitu! Will you withdraw those words and apologise to the House?

Mr. Nderitu: With due respect, I withdraw and apologise to the House. That land has been allocated and title deeds have been issued to the owners. Even Government houses have been allocated to individuals. Can he confirm that? If he cannot, can he check with Kirinyaga Land Registry and come back to this House with a proper answer? This is Kenya. Why do we have untruths brought into the House? I would like to defend this country as well.

Mr. Kiangoi: Mr. Speaker, Sir, I am also concerned about the country. The land is still being occupied by KARI. It is research land but recently, survey was going on for purposes of issuing a title deed to KARI. That is my position and if the Member has different information, then he should lay that information on the Table of the House.

Question No.471

STATUS OF STANDING COMMITTEE ON HUMAN RIGHTS

Ms. Karua asked the Attorney-General:-

(a) under what provisions of the law the Standing Committee on Rights was established; and,

(b) how much money the said Committee has spent so far and from which Vote.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to reply.

(a) The Committee was appointed by the President in the exercise of the Executive authority vested in him by the Constitution of Kenya.

(b) Since its appointment, the Standing Committee on Human Rights has spent Kshs28,709,227.70. The expenditure is incurred under Vote R25 - Office of the Attorney-General, expenditure Item No.0-872-000-300X-Standing Committee on Human Rights(K).

Ms. Karua: Mr. Speaker, Sir, the Attorney-General knows, as I well as I do, the provisions of the Constitution which empower the President to appoint the Standing Committee on Human Rights. The only section in the Constitution that refers to the Executive Authority of the Government, which is vested in the President, is Section 23. That Executive Authority has to be exercised in accordance with the law. The Attorney-General knows very well that he is now preparing to bring a Bill to this House to legitimise this Committee. Could he confirm, therefore, to this House that the Committee is extra-legal and it was appointed through no mandate given by the Constitution? Could he also confirm that at the time this Committee was appointed, this Parliament had not voted any money for it? Is the Kshs28 million being charged to the Budget we just passed this year or is it unauthorised expenditure relating to the period this Committee was formed and when this Parliament had not authorised any single penny to be spent by that Committee?

Mr. Wako: Mr. Speaker, Sir, Parliament had authorised that expenditure, as per the Vote which I have just mentioned. As far as the Executive authority is concerned, the President has the power to constitute any committee or appoint any person who will assist him in the exercise of his power.

Ms. Karua: Which power?

Mr. Wako: Mr. Speaker, Sir, under the Executive powers conferred under Section 23 of the Constitution, the President can appoint any committee or any person to assist him in the exercise of this power. He did appoint this committee to ensure that the public servants do not infringe on people's rights. That is a legitimate power. I do agree with the hon. Member that the appointment of that committee was the first step. The second step in the development process is to put this committee on a more independent and firm footing hence I shall soon be bringing to this Parliament a Bill to set up this committee. Even more important, I do hope and I said that when I launched this particular Standing Committee on Human Rights, that during the current Constitution review process, a committee or a commission of this nature will be mentioned in the Constitution so that it becomes a constitutional commission.

Ms. Karua: Mr. Speaker, Sir, the Attorney-General knows, as well as I do, that the Constitution is the supreme law in this country. If there is no specific provision in the Constitution that empowers the President to appoint this Committee, then it is a committee that is outside the law. Secondly, we have been debating the abuse of unauthorised expenditure by the Government without the authorization of this House. Could the Attorney-General advise the President that he cannot rule by decree or appoint a committee without specific provisions of the law and he cannot authorise expenditure? What is that expenditure that has totalled to Kshs28 million? Does it cover the salaries, allowances and lunches of the members of that committee? We are misusing public money. Could the Attorney-General tell us whether this will stop?

Mr. Wako: Mr. Speaker, Sir, as I said earlier on, Parliament has approved the expenditure. Part of that money, that has been spent by this Committee, is from donors. But this Committee has spent money which is properly voted by this Parliament under the Vote of the Office of the Attorney-General.

Mr. Speaker: Next Question.

Mr. Kiunjuri: Mr. Speaker, Sir, I have been instructed to ask this Question on behalf of Mr. Ndubai.

Mr. Speaker: Very well. By the way, where were you the first time round? Mr. Kiunjuri, I think you better be honest to the Chair because I will find out soon whether you had instructions when Mr. Ndubai comes. Where were you when I called this Question for the first time?

Mr. Kiunjuri: Mr. Speaker, Sir, I was not in the House when you called out the Question for the first time. I apologise for coming late.

Mr. Speaker: Very well.

Question No.639

CITIZENSHIP OF MR. AJAY SHAH

Mr. Kiunjuri, on behalf of **Mr. Ndubai,** asked the Minister of State, Office of the President:-

(a) what the status of the citizenship of the Executive Chairman of Trust Bank (Under Statutory Management) Mr. Ajay Shah is;

(b) if he is aware that the said Ajay Shah is holding three nationalities namely, Indian, Kenyan and British contrary to the Laws of Kenya; and,

(c) if the answer to "b" is in the affirmative, what action he is taking to correct this anomaly.

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

(a) The Executive Chairman of Trust Bank, Mr. Ajay Shah, is a citizen of Kenya.

(b) I am not aware.

(c) In view of my reply to "b", part "c" does not arise.

Mr. Kiunjuri: Mr. Speaker, Sir, it is true that he is a citizen of Kenya. But at the same time, we should not forget that Mr. Shah came to Kenya in the early 1980s. He worked on a work permit earning only Kshs3,000.

Mr. Speaker: Order! Mr. Kiunjuri, look at the question if you know what you are asking. The Question is: Is Mr. Shah a citizen of three countries or not? That is what you should ask.

Mr. Kiunjuri: Mr. Speaker, Sir, it is true that he is a citizen of Kenya as well as a citizen of the other two countries. With the influence of the late Kariuki Chotara, Mr. Shah managed to acquire Kenyan citizenship. Could the Assistant Minister table the documents to show that he forfeited his other citizenship of the other countries to the Kenya Government before he was issued with the Kenyan citizenship?

Mr. Sunkuli: Mr. Speaker, Sir, Mr. Ajay Shah acquired citizenship of this country on 1st December, 1986. Prior to that he was a holder of Indian citizenship. After he had fulfilled the conditions as requisite to acquiring Kenyan citizenship, he was consequently issued with one. The hon. Member has, in fact, conceded that Mr. Shah is a citizen of Kenya. He is not a citizen of any other country.

Mr. Sambu: On a point of order, Mr. Speaker, Sir. The Assistant Minister has been asked to specifically produce the cancelled Indian Passport to prove that Mr. Ajay Shah actually surrendered his Indian citizenship. The Assistant Minister is misleading the House! Let him table the documents.

Mr. Speaker: Mr. Sambu, I am sure you have had occasion to answer Questions yourself. Look at this Question. It does not ask the Assistant Minister to produce any passport---

An hon. Member: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! One thing I am not going to have is this attitude of some hon. Members, all the time, trying to become Speaker from the Back Bench. There can only be one Speaker at a time! We must respect the Chair. It is the rulings of the Chair that regulate debates in this House. I have said the relevant Question is: What is the status of the citizenship of the Executive Chairman of Trust Bank (Under Statutory Management) Mr. Ajay Shah? The Minister is not being asked to produce the passport. Mr. Sunkuli, would you like to respond?

Mr. Sunkuli: Yes, Mr. Speaker, Sir. Once a person acquires the citizenship of Kenya, the procedure is that his former passport is cancelled. The cancellation of that passport means that if, indeed, it had expired, it is just cancelled and not withdrawn because it is of no function at all. He can keep it in his archive or the Government can keep it in its archives.

Mr. Munyao: Mr. Speaker, Sir, the passport we are talking about is an Indian passport and it was not

issued to Mr. Ajay Shah by the Kenyan Government. If it was issued to him by the Kenyan Government then the expired passport is in the file of the Immigration Department. If the Assistant Minister is saying the truth, could he promise this House that he will produce that passport here? Otherwise, we will assume that the other passport is still being used by Mr. Shah.

Mr. Sunkuli: Mr. Speaker, Sir, the Secretary-General of the Democratic Party of Kenya (DP), whom we respect, should actually ask me to bring the letter of renunciation of the Indian citizenship. This is the material document in the file in this regard.

Mr. Parpai: Mr. Speaker, Sir, we are not actually asking the Assistant Minister to cancel the passport. We are asking him whether that citizen renounced the citizenship of the other country. This is because if the passport has expired he can renew it.

Mr. Sunkuli: Mr. Speaker, Sir, indeed, that is the appropriate question because under international law, a person who acquires citizenship of another country must renounce his former citizenship. Mr. Ajay Shah has by letter renounced his Indian citizenship.

Mr. Wamalwa: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister really in order to mislead this House by saying that under international law once one acquires the citizenship of one country one renounces his former citizenship? There are some countries that allow a dual-citizenship. It is quite possible that in this case Mr. Ajay Shah has retained his citizenship of another country while he again enjoys the citizenship of Kenya. If that passport could be tabled in this House, it would clear the air.

Mr. Sunkuli: Mr. Speaker, Sir, Kenya is not one of those countries that permit dual- citizenship. I must confirm here that my learned friend must know that India also does not accept dual-citizenship. I have the letter of renunciation and I can produce it in this House.

Mr. Speaker: Last question, Mr. Kiunjuri!

Mr. Kiunjuri: Mr. Speaker, Sir, could the Assistant Minister confirm that Mr. Shah came to this country on a work permit in 1986 as he said, and that at that time he earned Kshs3,000 but today he is multi-billionaire? This means that he has acquired all his wealth through dubious manner.

Mr. Sunkuli: Mr. Speaker, Sir, I do not want to debate the morality of Mr. Ajay Shah, or to confirm or deny that he was earning Kshs3,000 at that time, because he was not at any time an employee of the Government of Kenya.

Question No.524

COMPLETION OF KISII-CHEMOSIT ROAD

Mr. Anyona asked the Minister for Public Works and Housing:-

(a) whether he is aware that construction work on the Kisii-Chemosit Road (C21) has stalled again since March, 1998; and,

(b) if the answer to "a" above is in the affirmative, whether he could inform the House the total amount of money allocated for the completion of the road, the amount of money already spent on the road, the reason for the stalling of the construction work and when it will start again and be completed.

The Minister for Public Works and Housing (Mr. Kones): Mr. Speaker, Sir, I beg to apologise for coming late. However, I wish to seek the indulgence of the Chair to have this Question deferred until Thursday next week.

Mr. Speaker: What is your reaction, Mr. Anyona?

Mr. Anyona: Mr. Speaker, Sir, already I have two other Questions which have been deferred because of the inability of the Ministers to answer them properly. So, this is the third one. There is a written answer from the Minister. What reason does he have for seeking further deferment of this Question? If he has a good reason I will accept it.

The Minister for Public Works and Housing (Mr. Kones): Mr. Speaker, Sir, you will realise that this Question will take a lot of Government money. I would like to go and consult fully with the Treasury so that when I come back to this House I will have the authority to actually confirm or deny that work on the road in question will continue.

Mr. Speaker: Very well. I will defer it to Tuesday next week. Will that be okay, Mr. Kones?

The Minister for Public Works and Housing (Mr. Kones): Mr. Speaker, Sir, I request that the Question to be deferred until Thursday next week, because I will have to make some consultation with the Treasury.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. The other Question on Karura Forest will be asked on Thursday next week

Hon. Members: It does not matter!

Mr. Speaker: Order! It does not matter, hon. Anyona. Who has said that the Question on Karura Forest will take a whole day?

(Laughter)

This Question is deferred to Thursday next week.

(Question deferred)

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. I think hon. Anyona is asking whether an hon. Member can ask two Questions on the same day.

Mr. Speaker: Yes, if I so direct, and now I do so direct.

Mr. Ndicho: Then that is very good, Mr. Speaker, Sir.

QUESTIONS BY PRIVATE NOTICE

DUMPING OF IMPORTED SUGAR

(Mr. Achola) to ask the Minister for Finance:-

(a) Is the Minister aware that both transit sugar and untaxed imported sugar continue to be dumped into the local market despite Government's assurance that these practices would be curtailed?

(b) If the answer to "a" is in the affirmative, could the Minister name the importers involved and indicate the amount of sugar so irregularly diverted and/or imported between January and August, 1998?

(c) In view of the apparent inability to stop the dumping of imported sugar into the local market and notwithstanding World Trade Organisation regulations, could the Minister consider imposing a complete ban on sugar importation (including transit) and allow only the Kenya Sugar Authority to import quantities enough to satisfy the domestic deficit?

(Question deferred)

DISCRIMINATION BY HIGHER EDUCATION LOANS BOARD

(Mr. Otula) to ask the Minister for Education and Human Resources Development:-

(a) Is the Minister aware that the Higher Education Loans Board (HELB) gives loan on discriminative basis?

(b) Is he further aware that most University Students from Nyanza Province do not benefit from the said loans?

(c) If the answers to "a" and "b" are in the affirmative, could the Minister give details of students from each District in the Province who applied for the loans in the years 1996/97 and who benefitted from the same?

(Question deferred)

COMMUNICATION FROM THE CHAIR

UNSATISFACTORY SUBSTANTIATION: KTDA TEA BAGS TENDER

Mr. Speaker: Hon. Members, I have the following communication to make. On Tuesday, 27.10.98, the hon. Member for Mumias, Mr. Osundwa, in the course of deliberation on a Question by Private Notice, concerning the buying of tea sacks made from imported paper and the issuing of a tender for 3 million bags, whose specification demand imported paper by the Kenya Tea Development Authority (KTDA), asked by the hon. Member for Webuye, hon. Kombo, to the Minister for Agriculture, made the following allegation:

"Mr. Speaker, Sir, we are not satisfied with the answer given by the Assistant Minister. It is common knowledge that the lowest bidder in this case was not given the tender in favour of East African Packaging Industry, because of the interest of three people who were getting commissions in this tender, and I will go ahead and name them. The first recipient of this Commission is Mr. E.G. Karanja who takes Kshs15 per bag, the second is a European called Mr. Sandersone - Kshs10 per bag and the wife of Finance Minister, hon. Nyachae - Kshs5 per bag. So, is the Assistant Minister in order to mislead this House when we know that the reason for refusing to give the tender to the lowest bidder was because of selfish interest?"

He was immediately challenged, under Standing Order No.76, to substantiate his claim; by the Minister for Finance, Mr. Nyachae. Mr. Osundwa was unable to make the substantiation then and I ordered that he does so the following day, Wednesday, 28.10.98.

The Question was in the meantime deferred to the said date. On Wednesday, 28.10.98, in the afternoon when the Question was called the Minister for Agriculture, Mr. Mudavadi, rose and stated as follows:

"Mr. Speaker, Sir, before I give the formal reply to the hon. Member and to the House, I would like to set something straight, because the perception created through the debate yesterday, and also through what has come out in the print media, has cast a lot of negative light on the person of Mrs. Nyachae, who, to the best of our knowledge and the records that we have in the Ministry of Agriculture and at the KTDA, has not in anyway involved herself in whatever manner in the question of tenders. So, I think it is important that when we make allegations on the Floor of this House, we are able to make them in a very clear manner. Before I respond to that Question I would like to call upon the hon. Member who made these remarks, and this hon. Osundwa, to either substantiate or withdraw them and apologise."

The Chair acceded to the Minister's request and availed the opportunity to Mr. Osundwa to substantiate his claims. The hon. Member persistently refused to offer any substantiation leading to his suspension pursuant to the Standing Orders, but with a further order that on his return to the House he would be required to substantiate his claims. On 3.11.98, the hon. Member was again called upon to substantiate his claims. He responded as follows:

"Thank you, Mr. Speaker, Sir. First of all, I must apologise. When you called me, I had gone to take a telephone call from my constituent. I must say this: I did not have the benefit of listening to the Minister for Agriculture's reply to the Question as asked by hon. Kombo, and which, actually, was the basis of my substantiation of the claims that I had made here. However, I am happy that the tender in dispute has now been cancelled as confirmed by the Minister, which in itself is a substantiation that things were not right in that tender. I am happy about that. I have three papers here. I will lay them on the Table of the House for your own judgement. One is the tender analysis form which clearly shows that the lowest tenderer was not given this tender, but the East African Packaging Industries (EAPI) won the tender. If you look at the tender report, it mentions Mr. Karanja, Mr. Sanderson, Mr. John Small and Mrs. G. Nyachae. All this information is contained in the documents that I am going to lay on the Table".

Upon the documents being laid on the Table, I invited all hon. Members to peruse them. I promised to do the same, after which I would communicate to the House; whether or not those documents offered satisfactory substantiation. I now wish to make my findings after perusing all the documents.

FINDING NUMBER ONE

The papers indicating the names of Mr. E. Karanja, Mr. C. Sanderson, J. Small and Mrs. G. Nyachae bore no letterheads, address or name of the author. Indeed, the hon. Member himself did not give the House any clue of the author, or how he came by them. Some of them bore a scribbling of an unknown person, presumably, a signature. As matters stand now, the House does not know the author of these papers, or the authenticity of the authorship. At best, they could be described as only anonymous.

FINDING NUMBER TWO

The papers on tender analysis do not contain the names of any of the four persons adversely mentioned.

FINDING NUMBER THREE

Some person, or persons conveniently, erased vital information as indicated in the copies of telefaxes by one J.N.C., dated 15th and 28th of October. The reason for such erasure remains a mystery to this date.

FINDING NUMBER FOUR

Other unsigned papers raise issues on the general management or mismanagement of the KTDA.

FINDING NUMBER FIVE

The 25 companies on tender analysis sheet (a) are purported to have participated in the tender. This may very well have been the case. However, there is nothing on the face of the document, or given a supplementary evidence, to suggest that Mrs. Grace Nyachae is a shareholder of these companies. Even if there was such evidence, I know of no law that outlaws the placing of a tender by a person when there is an invitation to do so. An impropriety can only be raised as the tender has been awarded to the highest or higher bidders in preference to lower ones without justifiable circumstances.

Hon. Members, the Member was required to substantiate his claims; that:

"It is common knowledge that the lowest bidder in this case, was not given the tender in favour of the EAPI because of the influence of three people, who are getting commissions in this tender, and I will go ahead and name them".

He did mention all of them as I had said earlier. Apart from the papers that I have referred to earlier, and found to be unauthenticated, nothing else helps hon. Osundwa in his claims. Some of the information contained in the papers laid on the Table are extracts from *The Star* newspaper of the 17th of October, 1998. Under the provisions of Standing Order No.37(2), extracts from newspapers are not admissible in this House as substantiation. As I have ruled in another occasion from the Chair, on the 10th of November, 1993, on a similar type of papers laid by the Member for Juja, I consider the papers tabled by the Member for Mumias as contemptuous of this House, and a gross abuse of privilege. This behaviour lowers the integrity of this House, and must be curtailed at all costs. Parliament must never be turned into a place of vendetta, witch-hunting or destruction of the reputation of Members, or indeed, defenceless members of the public. I expect this House to stand in unison in maintaining order, dignity and decorum of this very solemn institution. It is entirely in your hands. To do otherwise is to invite the harshest judgement of history.

Under the circumstances, I am not satisfied that the hon. Member has substantiated his allegations against one Mrs. Grace Nyachae as required of him under Standing Order No.76, which provides as follows:-

"A Member shall be responsible for the accuracy of any facts which he alleges to be true, and may be required to substantiate any such facts, or to withdraw his allegations with suitable apologise if Mr. Speaker so requires".

I, therefore, order and direct the Member for Mumias, hon. Wycliff Osundwa, to withdraw his allegations and apologise to the House. I do not know whether hon. Osundwa is here, but if he is, he is directed accordingly.

Mr. Osundwa: Thank you very much, Mr. Speaker, Sir. I received these documents and had reasons---

Mr. Speaker: Order, hon. Osundwa! You may be new in the House, but you are advised by the Chair that it is in your own interest to listen very carefully to what the Chair has said. I had given you an opportunity to make your substantiation. You did and I have now made my ruling. My ruling is simple. It is very, very simple! It is that I order and direct that you withdraw your allegations and apologise to the House. That is all that is required of you. There are no further explanations. Just stand there and withdraw and apologise to the House and that is it.

Mr. Osundwa: Thank you very much, Mr. Speaker, Sir. What I wanted to say is that I have already suffered expulsion from this House because of this Question. That means that I have been punished enough.

Mr. Speaker, Sir, I am pleading that you allow me just a minute to say one thing or two.

Mr. Speaker: Order! No, you will not! I have already made my ruling. In fact, in my view, you may have suffered, but I can assure you, hon. Osundwa, that you have subjected this House, and a lot of people outside this House, to a lot of anguish. This House has lost dignity as a result of your utterances. I have already said that it is contemptuous to do so. I am not going to entertain any further arguments on this, hon. Osundwa. You are ordered to withdraw and apologise to the House. If you do not want to withdraw and apologise, say so. Just say: "I do not want to withdraw and apologise". It is so simple.

Mr. Osundwa: Mr. Speaker, Sir, withdrawing means that I will be legitimising the massive theft taking place in KTDA and in the sugar industry. I will not be a party to that. My conscience tells me---

Mr. Speaker: Very well. So, in essence you do not want to withdraw. Now if you do not want to withdraw, I think I also have to apply the rules. If a Member has been ordered by the Chair to comply with the ruling of the Chair and that Member refuses to comply, then that is the disorderliness. That being disorderly conduct, under Standing Orders No.88, you will be excluded from sitting of this House for today. So, Mr. Osundwa you will now leave.

(Mr. Osundwa withdrew from the Chamber)

Mr. Anyona: On a point of order, Mr. Speaker, Sir. This is a very grave matter for the House and for the country. I think it is important that the House shows equal concern in handling it. You have properly stated that it is upon this House to maintain its dignity, integrity, the immunities and privileges it is accorded so that it can transact the business of this nation. As far as our procedures go in the House, this process comes to an end. But very serious matters remain unanswered. One of the issues, as you have stated, is that there has been contempt of the House. There has been a breach of the privileges of Members. Rules cannot be adequately addressed even by apology.

Mr. Speaker: What do you want?

Mr. Anyona: I am coming to that, Mr. Speaker, Sir.

Mr. Speaker: You had better do so because I want to go to something else.

Mr. Anyona: Bear with me. The second thing I was going to say is this: Hon. Osundwa has stated that it will be against his conscience to withdraw and apologise for matters he believes to be true. At the same time, the reputation of other Kenyans is said to have been injured. Is it really adequate to leave this matter here? I was going to propose that under the provisions of Standing Order No.45(i) or any other provisions in the Standing Orders, a Select Committee of this House should be set up to go into these matters; to exonerate hon. Osundwa and other people, and to restore the dignity of the House.

Thank you.

Mr. Speaker: May I say this: First of all, once I have dealt with a Member, that is enough. I do not think we should return to it. But one thing I must say is this: If hon. Members listen very carefully and I wish to repeat; the integrity of this House is being constantly undermined by Members who recklessly make statements knowing them to be untrue. I am really shocked because when I am calling upon Members to stand in unison to defend the integrity of this House, that an hon. Member found by the Chair to have made unsubstantiated allegations which the Chair has found to be in fact, contemptuous of the House, can another Member find it fit to, in fact, laud the conduct of that Member? It is really something I do not understand. As I have said, you are inviting the harshest judgement in history.

I do not think it is fair that this House must allow itself to be cheated in this kind of thing. With all that, hon. Members, I think, Mr. Osundwa has been dealt with by the Chair under the current provisions of the law. If those are not adequate, it is something that the House can look into because it may very well become a habit for Members to stand here and malign the names of others just to get to the headlines, knowing very well that the maligned person, when ultimately vindicated, will not get the same kind of coverage. They just make that kind of thing to destroy others for many varied reasons. I am saying this honestly, if that is the kind of House that Members want to create, I do not think I would like to preside over that House. So, that should end the matter of Mr. Osundwa now.

Mr. N. Nyagah: On a point of order, Mr. Speaker, Sir. Whereas I have absolutely no problem whatsoever with the ruling that you have made and quite rightly so, we all want to be part and parcel of a Parliament that is dignified. I would like to ask the Chair whether the records as presented form part and parcel of our material.

Mr. Speaker: I beg you pardon?

Mr. N. Nyagah: I am asking whether those documents can be expunged from the records of the House so that we do not look at them in the future.

Mr. Speaker: To be very honest with you, hon. Members, the issue raised by hon. Nyagah did cross my mind slightly last night when I was writing this ruling. But something else crossed my mind that made me leave it then without a decision. Here is a ruling I have made and it is referring to certain documents that I have said are unauthenticated and if I say they be expunged, then where does my ruling hang? So, because of that, I have to leave them there because I have already said they are not worth the paper on which they are written. That is good enough.

Mr. Obwocha: On a point of order, Mr. Speaker, Sir. I am the one who raised this matter and I am happy that you have given me a chance to make a comment. When you requested Members to look at those

documents, I was one of those who looked at the documents quite closely. I only want to make one remark that may have, escaped your attention. In the original allegations by Mr. Osundwa, he said that Karanja was getting Kshs15; Sanderson Kshs10 and Mrs. G. Nyachae Kshs5. But the documents he tabled say that Mrs. Nyachae was getting Kshs10 instead of the Kshs5 which he had mentioned originally. In which case this document that he tabled was an afterthought and a forgery. I want to make that observation.

(Loud consultations)

Mr. Speaker: Order! Order! Hon. Members, you can see the danger here. When the Chair has made a ruling, the matter must rest there. If we continue to debate upon it, what reason do we have for doing that? Am I being asked to re-write my ruling?

Hon. Members: No!

Mr. Speaker: Can I just say that what Mr. Obwocha has said is true. There is no doubt about it. The original allegation mentioned Kshs5 and the paper indicates Kshs10. By the way the paper, I do not call it a document, although it has no name of the writer, it is dated Saturday, 17th October. I did not want to go into all those details because it is really flogging a dead horse and I do not want to flog a dead horse.

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

Mr. Speaker: Order! I made a decision on 10th, October, 1993, which is five years ago.

Mr. Ndicho: I was named!

Mr. Speaker: Order! Where the Member--- I am not saying Mr. Ndicho. By the way, I did not say, Mr. Ndicho, I said the Member for Juja---

Mr. Ndicho: I am still the Member for Juja!

Mr. Speaker: So, I am referring to a previous decision.

(Mr. Ndicho stood up in his place)

Order! What is it?

Mr. Ndicho: Thank you very much, Mr. Speaker, Sir. I, indeed, remember very well that after that incident, I was very new in this House, like hon. Osundwa. You called me to your office, you counselled me and told me that this is not the way things go. I sought your forgiveness and you forgave me. I am now shocked that after forgiving me and telling me that, "that matter is now finished", five years down the line, again, you are referring to the matter. I thought it was over. So, I am praying kindly that you expunge the name of the Member for Juja from that statement. Please!

(Laughter)

Mr. Speaker: Order! I agree with hon. Ndicho. You know he did a similar thing and he was actually named and was sent away for three days. It is true, I called him and we talked about it and it was over. But the only problem is, and this is why I am reminding the House; anything that happens here becomes part of the records and there is nothing we can do to run away from the records.

An hon. Member: He is an authority!

Mr. Speaker: So, now you are an authority of authenticated papers. Mr. Wamalwa!

Mr. Wamalwa: Mr. Speaker, Sir, I do thank you for giving me the opportunity to make a remark concerning this unfortunate comedy of errors surrounding this case.

Mr. Speaker, Sir, I do agree with you entirely that people must be careful about what they say, in case they besmirch the names of other Members or people not in this House or whole communities not in this House. In the course of this unfortunate incident, the Minister for Finance, Mr. Nyachae, stood up here and alleged a Luhya conspiracy involving hon. Kombo, somebody in the KTDA, a journalist called Mr. Okwemba and all that. Now that this matter has come to an end, I think it is important that the name of the Luhya community be cleared because Luhyas are not conspiracy people. Luhyas are peace loving people, they are the only community in this country that votes for every party and for---

(Laughter)

An hon. Member: They denied you the presidency!

Mr. Wamalwa: I think it is only fair that the Minister for Finance, who actually enjoys the reputation of being a friend of Luhyas, also withdraws that unfortunate remark and apologizes to the whole community.

(Applause)

Mr. Speaker: Order! I think I agree entirely with the suggestions by hon. Wamalwa. I think it was wrong for the Minister for Finance to, first of all, say that the question was hatched rather than--- I think Mr. Kombo protested. I do invite Mr. Nyachae, not only to--- Well, you must withdraw the remark against Mr. Kombo, Mr. Osundwa and generally, the Luhyas.

The Minister for Finance (Mr. Nyachae): Mr. Speaker, Sir, I note with appreciation the sentiments expressed very well by hon. Wamalwa. I never intended to besmirch the Luhyas. That is why, at that time, when I was very emotional--- Indeed, I was, because to mention a member of my family in this House, instead of fighting me, as a politician, is a very emotional thing. So, at that time I was trying to be careful because I used the word "caucus". Then, while talking about that caucus of four people, I found that they were all Luhyas, that is why the word came in. So, if I have offended the Luhya community, I never intended to offend them. I intended to hit very hard at those four people who I happen to know where they come from. I apologize to the Luhyas.

Mr. Speaker: Very well. Next Order. Order! I think there are three Ministers who had indicated to me that they have Ministerial Statements to make. But hon. Members, normally we begin business at 3.30 p.m.. We are almost an hour late. But since I had made a commitment the other day to encourage Ministers to address the House rather than funerals, I will forfeit 15 minutes and give them a chance. Mr. Madoka!

MINISTERIAL STATEMENTS

BAN ON MIRAA TRANSPORTATION BY ROAD

The Minister of State, Office of the President (Maj. Madoka): Thank you, Mr. Speaker, Sir. I wish to make a Ministerial Statement on the ban of transportation of *miraa* by road within Garissa District as requested by hon. Maore. The ban on the transportation of *miraa* by road within Garissa District, by the District Security Committee, was prompted by numerous incidents of insecurity in the area. Rivalry among the *miraa* traders has led to a cut-throat competition---

(Several hon. Members stood up and started walking out)

Mr. Speaker: Order! Order! Order, Minister! Order! I am sure when hon. Munyao asked that Ministers give Ministerial Statements, it was intended for the audience of the House. So, can all those hon. Members who wish to withdraw, please do so quietly and again in a dignified manner? Proceed.

The Minister of State, Office of the President (Maj. Madoka): Thank you, Mr. Speaker, Sir. I will continue. Rivalry among the *miraa* traders has led to a cut-throat competition within the area whereby, rival traders have hired armed bandits who operate within the area to protect their interests. These bandits are also used in attacking vehicles transporting *miraa* belonging to rival groups and sometimes to escort the *miraa*. Consequently, incidents of clashes between them have occurred leading to losses in life and property. The bandit owners are not in full control of them and hence they regularly stray into manyattas attacking innocent civilians, not to mention the attacks on travellers who include civil servants undertaking development activities in the area.

After the District Security Committee (DSC), Garissa, banned the transportation of *miraa* by road within the district, the bandits vowed to attack any vehicle including PSV vehicles transporting *miraa* by road, irrespective of whether they are under police escort or not, especially along the Nairobi-Mwingi-Garissa Highway. This threat was not to be taken lightly. Hence, a joint District Security Committee meeting of Garissa and Mwingi Districts was convened along the common border. It was resolved, in the meeting that the ban be supported and reinforced in those districts. Each district is operating within its area of jurisdiction in the enforcement of this order. At no time has there been any attempt of conspiracy between the Garissa DSC and aircraft owners to create an illegal cartel as alleged. The ban is fully supported by the local Members of Parliament and other local leaders. As for those arrested for defying the order within Garissa District, they appeared before court. Records are available, if required.

HARASSMENT OF MR. KALEMBE

Mr. Speaker, Sir, the second Ministerial Statement is in answer to hon. Munyao's question as to why the Chairman, Makueni County Council, has been trailed and harassed by police since the death of Prof. Sumbi.

On 18th October, 1998, police in Makueni received information that the Makueni County Council Chairman, Mr. Kalembe Ndile, was inciting members of the public to participate in an illegal demonstration and had blocked the main Mombasa-Nairobi Highway at Mbui Nzau. He was allegedly doing so, in protest that public utility land in Makueni District had been grabbed by senior Government officials. The police, acting on the information, proceeded to the scene. Upon arrival, they found the said councillor with a group of about 200 people armed with rungs and other offensive weapons, demonstrating and causing obstruction on the road. The police were in riot gear. On seeing the police, most of the crowd dispersed and ran away. But a few brave ones remained with the said Kalembe Ndile. They started shouting insults and threatening the police officers while at a distance. They were also taking photographs of the police. The police decided to use diplomacy in handling the situation, and sent Inspector George Murithi to proceed and talk with the County Council Chairman, Mr. Kalembe Ndile, who was the leader, with a view to finding out his problem and advising him accordingly. Surprisingly, when the inspector approached him, the Chairman hit the inspector with an iron rod on the left foot. He fell down. The Chairman, assisted by a councillor named Musembi, and his supporters, ran away. The Chairman and councillor Musembi boarded the Chairman's vehicle which was parked at a distance and drove off. The injured inspector was rushed to Kibwezi Health Centre where he was treated and discharged. His P3 form was later filled by the doctor who classified the injury as harm. The police started looking for the assailant; Mr. Kalembe Ndile, who had gone into hiding. He was arrested on 31st October, 1998, at Machinery Trading Centre following a tip-off and subsequently charged before court with assaulting the police inspector. Police Case file No.433/284/98 and court file No.355/98 are relevant. The accused is out on court bond and the case is due for mention on 13th November, 1998, when a hearing date may be fixed. The whole incident is not related to anything that might have happened at Prof. Sumbi's funeral. Nobody is harassing the Chairman. He was only being looked for, in connection with the assault case which is now already before the court.

Mr. Speaker: Mr. Munyao, be very brief. You can see we have taken an hour already. If it is a grave matter, I am not likely to suspend the business of the House for this matter. You can keep that in mind. I can say, on Tuesday, I will avail you five minutes to seek clarification because, now it is 4.30 p.m. and the Business of this House must continue.

Mrs. Ngilu: It is alright!

Mr. Speaker: So, can you defer it to next week?

Mr. Munyao: No, Mr. Speaker, Sir!

Mr. Speaker: Alright, go ahead!

Mr. Munyao: Mr. Speaker, Sir, I do appreciate your advice, but because this fellow is suffering, and the country and Ukambani respect the Minister who has given the Statement, it is important that he gets the truth of this matter, so that wherever it comes, it would be quite okay.

Mr. Speaker, Sir, on 9th October, during the funeral of the late Prof. Sumbi, the Chairman of the County Council, Mr. Kalembe was given time as an elected leader to say a word. That is the time he exposed the grabbing of land specifically by the Provincial Administration along Mombasa Road and a few other areas. The Ministerial Statement the Minister is reading, was written by the same people who are punishing this Chairman. Hon. Madoka is a Minister today, and tomorrow he may be subjected to this. So, I would like him to take all this information its totality. The same day, even before the President left the area, there was an attempt to arrest Mr. Kalembe.

Mrs. Ngilu: He was arrested!

Mr. Munyao: Mr. Speaker, Sir, on 11th, Mr. Kalembe was again harassed in Makindu, at an area called Kavete. On Saturday, 17th October, Mr. Kalembe was made to issue a statement in Makindu. Now, on 18th---

Mr. Speaker: You have to be brief now. I cannot go beyond 4.30 p.m.

Mr. Munyao: Mr. Speaker, Sir, on 18th October, Mr. Kalembe went to photograph these people who were not prohibited to be photographed, because they were there defending this---

Mr. Speaker: So, what do you want of him, now?

Mr. Munyao: Mr. Speaker, Sir, we are going against our own laws. This is very crucial, because the Government is the one which makes people lose confidence in it. This man was acting on a court order. There was a court order issued on 10th October, so that he may not be arrested.

Mr. Speaker: Will you now finish!

Mr. Munyao: Mr. Speaker, Sir, he has now been arrested. Could the Minister seriously reconsider the information he has, because he has totally been misguided by the same people and stop the embarrassment by the Provincial Administration who have all along been disturbing this man? It is crucial that the Minister must come out and stop this.

Mr. Speaker: Very well, Mr. Munyao!

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, the information I have given is from the 18th of October and that is what I have got. In the light of what he has given me, I would appreciate if he gives me those earlier dates when the Chairman was arrested and then I will take it up.

Mr. Speaker: Very well! Next Order!

(Several hon. Members stood up in their places)

Order! I am not going to go any one minute beyond this. Next Order!

Mrs. Ngilu: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mrs. Ngilu!

Mrs. Ngilu: But you said you are---

Mr. Speaker: Order! Order! If anyone of you wants to raise this matter by way of a Question, I am prepared to give it to you in spite of the Ministerial Statement given. But I am not going to go beyond 4.30 p.m.

(Several hon. Members stood up in their places)

Order all of you! Order! Order, Mr. Maore! Can you not keep order? If you want to know when, go to him! Order, Mr. Attorney-General! Order! I am now going---

Mrs. Ngilu: Mr. Speaker, Sir, I think this Minister is lying.

Mr. Speaker: Order! Mrs. Ngilu, I do not want to bring ladies to order. But I do not think that is a right thing to say of another hon. Member. I think you must keep order in the House.

The Minister of State, Office of the President (Maj. Madoka): She must apologise!

Mr. Speaker: Next Order!

The Minister of State, Office of the President (Maj. Madoka): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: You are out of order! Any further interference now will be---

The Minister of State, Office of the President (Maj. Madoka): On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Order, Mr. Minister! I am not going to have any further points of order here.

BILL

Second Reading

THE LOCAL AUTHORITIES TRANSFER FUND BILL

(The Minister for Finance on 21.10.98)

(Resumption of Debate interrupted on 4.11.98)

Mr. Speaker: Who was on the Floor? Mr. Marrimoi?

The Assistant Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Marrimoi): Thank you, Mr. Speaker, Sir, for allowing me to continue with my contribution.

Mr. Speaker, Sir, a lot is being done in urban areas. The rural county councils ought to be assisted. I say so because my own council, Marakwet County Council--- The whole of the district has no urban or town council. My request is that for the county councils to benefit from the Fund, they should be considered for elevation to urban councils. I am requesting the Ministry to upgrade Kapsowar, which is our district headquarters, to an urban council.

(Mr. Speaker left the Chair)

(The Temporary Deputy Speaker)

(*Mr. Imanyara*) took the Chair)

Kapcherop and Tot townships, which are also coming up, should be elevated to town councils. I am saying so because the *El Nino* induced rains affected most rural county councils. The infrastructure has been damaged, so that the collection of taxes from the markets has been very difficult. I wish to commend the Minister for doing a good job---

(*Loud Consultations*)

Mr. Murathe: On a point of order, Mr. Temporary Deputy Speaker, Sir. What is going on down there?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Order, Mr. Attorney-General! Order, Mr. Nyachae and Mr. Wako! I am addressing that group there; Mr. Wako, Mr. Nyachae and company! Will you please consult in low tones to enable Members to participate?

The Assistant Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Marrimoi): Mr. Temporary Deputy Speaker, Sir, I am saying that the Minister for Local Authorities ought to be congratulated for the good work he is doing. I am very sure that if the Fund which we are discussing will be provided to the Ministry, they will do a good job with it. I am happy that the Ministry is doing good work now. So, I am very sure the funds will go a long way in assisting our county councils. We know very well that in rural areas--- I am concentrating on rural areas because councillors from the rural areas are having a lot of difficulties getting their salaries because they rely on the funds from the Ministry headquarters. This should be looked into because the Ministry concerned is relying on the Treasury. So, I am very sure if the funds become available things will run smoothly in the county councils.

Mr. Temporary Deputy Speaker, Sir, most parts of my county councils are covered by forests. Three-quarters of the Marakwet County Council is covered by very useful forests. It is a water catchment area. The source of the rivers which supply water to the local authorities in Western Kenya, Uasing Gishu and Trans-Nzoia; all those rivers originate from my county council. I am requesting the Ministry to set aside some percentage of the funds collected from the water rates from the various councils to go back to the County Council of Marakwet so that it can be used to conserve those very important forests. It will assist a lot because that is our natural resource. Other councils also rely on their natural resources, like wildlife *et cetera*. We will be very happy, as a community, if the funds will be set aside and taken back to those areas. For example, there is a water supply from Cheparaa Dam to Eldoret Municipality. They get a lot of money out of the revenue. So, for the sake of conserving the forests, it would be advisable if they would set aside some money and send it back to our County Council's department of environment.

Mr. Temporary Deputy Speaker, Sir, touching on roads, we were really hit very hard by the *El Nino* rains. It is very difficult for the council officer to reach the market centres to collect their revenue. I am also requesting the Minister, if possible, to send out some bulldozers or graders to go and assist those areas because the poor condition of the roads is hindering the collection of the revenue.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I support the Motion.

Mr. Mwiraria: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Motion, even though I feel it is really a half measure. The local authorities in Kenya have been rendered almost impotent and this is a very small measure being taken now by the Minister for Finance to give some funding to the local authorities from income tax. Many of us will remember the good old days when the county councils and municipal councils used to be self-financing; when they had their own sources of revenue; when they did not require any financial assistance from the Central Government. In those days, the local authorities used to offer health services, the Municipal Council of Nairobi had a lot of clinics, hospitals and so on. They used to offer funds for the construction of roads, they used to build and equip schools, build and maintain roads. But today, they can hardly pay the salaries of their employees and the councillors.

Mr. Temporary Deputy Speaker, Sir, this Bill will offer only a drop in the ocean, in making the county councils viable once more. I would urge that the Government examines the possibility of making the local authorities self-financing once more. They should think of sources of revenue which will be left entirely to the local authorities, so that they can raise adequate funds to maintain the services which are expected of them. We would like stronger local authorities which are financially viable and which can stand on their two feet without depending on Government stipends as is proposed to be done here.

Mr. Temporary Deputy Speaker, Sir, the impotence of the local authorities is something which has been caused deliberately by the Central Government. It is something which I really cannot know what the historical reasons were because as I said, when some of us went to school, we were financed by county council bursaries.

These bursaries are no longer available to children from poor families. So, what I am saying, in simple terms, is that instead of having a small fund to support the local authorities, the Government should review the entire taxation system. That is, to authorise the local authorities and municipalities to collect certain taxes which they will maintain, retain and use for offering services at the local level and I have mentioned health services, education, roads, water and sewerage services. All these services would be offered at the local level because those are the people who know where there is real need for them. There is no point trying to maintain roads in municipalities from Nairobi or trying to maintain roads in the county councils from Nairobi. It would be much better if the money was voted and given to the county councils to spend.

Mr. Temporary Deputy Speaker, Sir, the Memorandum of Objects and Reasons here states:

"The object of the Bill is to establish the Local Authorities Transfer Fund to facilitate the disbursement of certain funds to local authorities to supplement the financing of the services and facilities they are required to provide under the Local Government Act".

To be candid, today, most of the local authorities are not able to provide any services that they are required to provide, under the Local Government Act. This is because the Ministry of Local Authorities has taken away all the powers from our councillors. In fact, the local authorities are treated by the Ministry the way classmasters treat their children at school. There are circulars for instance, barring councils from meetings or even mayors and the chairmen from going to their offices except on two days a week. There are regulations which have taken away the powers of the councils to allocate land within their areas. There are regulations which in fact, have taken water which used to belong to the municipalities and handed it over to the water authority, whatever they call this body in the Ministry of Water Resources. If the Government really wants the local authorities to operate effectively, they should stop having half-measures. Let us go back to a position where we give the mandate to the local authorities to carry out the work without being guided by the hands of the Ministry of Local Authorities.

Mr. Temporary Deputy Speaker, Sir, the other issue that I think I need to mention is that of appointment of chief officers of the local authorities. Most of them and in fact, all of them are appointed by the Ministry of Local Authorities and they, therefore, have absolutely no respect for the councils that they work for. They, therefore, do things with impunity. They disobey them and I will just give one example to illustrate what I am saying. The Ministry of Lands and Settlement, and I do not see any representative here, established what they call plot allocation committees. These committees are supposed to comprise of the DC as the chairman, the Lands Officer, the Physical Planning Officer, the Clerk to a local authority, the Mayor and the Chairman. In the example that I have which is that of Meru, the mayor and the chairman have never attended the meetings of this authority. Even the clerks themselves are not required for quorum purposes. So, what we have is a situation in which all the public land including public toilets, places set aside for expansion of water projects, the area set aside for sewerage ponds, road reserves, public parks where people are supposed to rest, car parks and bus parks have been allocated. In Meru, we are going through an impossible situation because it is only now that, we are discovering there is not a square inch of public land left anywhere. All the land has been illegally allocated by this small clique, the plots allocation committee, which has no local person on it and when the land is allocated, the small caucus allocates the land to itself and its relatives and then, they sell it back to the local people. Now, the people who are going to suffer are the local people who have bought this land genuinely, believing that it has been properly allocated.

Mr. Temporary Deputy Speaker, Sir, I think the tendency by us, as a Parliament, of approving half-measures, should come to an end, so that we really give a complete re-think on what should happen to the local authorities. Either we go the *majimbo* way and give everybody powers to do their own things, and I see hon. Shariff Nassir is getting very excited, or we empower the local authorities financially, so that they are able to stand on their two feet. The hon. Minister, I think, notices that we are no longer shy of talking about *majimbo*. This is because we think the local people can look after themselves better than the Central Government here in Nairobi, can look after the people out there locally.

Mr. Temporary Deputy Speaker, Sir, having said all that, I want to thank the Minister for at least, thinking of assisting in a small way, the local authorities. I do hope that, perhaps next year when he brings the next budget, it will be perhaps ten times this amount of the percentage that he is talking of here of income tax, that we will be asked to give to the local authorities, so that they can give what I consider to be very, very critical services.

Mr. Temporary Deputy Speaker, Sir, in summary, this is a good gesture, but is not sufficient. We need to give local authorities more money to empower them financially, so that they can do the work for which they have been elected. At the moment, councillors are puppets of no use to the people.

With those few remarks, I beg to support.

The Assistant Minister for Education and Human Resource Development (Mr. Awori): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to also make a few remarks.

Mr. Temporary Deputy Speaker, Sir, the Bill before the House is long overdue. It requires the support of us all. Indeed, it has received support right across the party lines. It has provided an opportunity to Members of Parliament to ventilate their feelings, particularly about the misdeeds of many councils, their personnel and the councillors involved. So far, I think we have received more misdeeds than good deeds from the councils. The councils happen to have only one objective, namely, to plunder, waste resources, and do everything that should not be done. They have been very short of services. They have not given serious services to wananchi.

The story is the same everywhere, whether they are big ones like the Nairobi City Council, or town councils, or county councils. We hear of the bad things local authorities do almost everyday. This is not done by the councils' officers alone. Immediately councillors are elected, they think of how to make money for themselves. It does not occur to them that they are supposed to look for sources of revenue that will enable them to give the services they have been elected to provide. During the campaign period, councillors, like Members of Parliament, go out with their manifestos and tell wananchi what they believe they can do for them. In many cases, we give a long list of promises. Unfortunately, as soon as the councillors are sworn in, the first thing they think of is how to make money for themselves. Indeed, they make money at the expense of the services they are supposed to give to wananchi. No wonder that most local authorities are very broke.

With good administration, local authorities can prosper as they, indeed, did in the colonial days. I can remember very clearly that in the 1940s and 1950s, North Nyanza County Council had so much funds that some of the money was put in a reserves account in the Bank of England. It is in fact on record that the council had its surpluses deposited in a bank outside this country. Even older local authorities like Kiambu County Council used to have so much funds that it was not difficult for it to grant bursaries to the few students who ventured for education outside this country.

Mr. Temporary Deputy Speaker, Sir, I would like to thank the Ministry of Local Authorities for bringing this Bill before this House. The Bill provides a mechanism for giving local authorities guaranteed income. Five per cent of Government revenue is a good amount of money. If used properly, the money will go a very long way in improving the provision of service by local authorities. However, I would like to ask the Ministry to warn councils strongly and advise them that the Fund should not necessarily be the only source of the money they will need. They should be reminded that the Fund will only supplement their sources of income. Also, they must remember that the Fund should be used to give wananchi services. It should not be used entirely for paying salaries to officers, or allowances to councillors. In the past, local roads used to be maintained by county councils, which did a commendable job. Admittedly, there may not have been many vehicles in the rural areas at that time. Nevertheless, the few vehicles that used to be there enjoyed good roads, and I would like to see the same thing happen now. I am sure that in due course, the Minister for Local Authorities, and the Minister for Public Works and Housing, will get together and ensure they share responsibilities as far as road maintenance is concerned. If the money is well husbanded, I am sure that local authorities will take good care of our roads. We know that communication in the rural areas is right now very difficult. Peasant farmers find it difficult to take their crops to the markets simply because there are no roads. We would now like to ensure that these roads are not only opened, but are also maintained to help sustain the economic well-being of rural areas.

Mr. Temporary Deputy Speaker, Sir, the authorities must find their own ways of obtaining revenue, which will be used for paying salaries to officers, and allowances to councillors. It is possible for them to do this. They have very many sources of revenue. However, this can only be done by honest and hard-working personnel, who are also dedicated to their work. They should be personnel who really understand their responsibilities. They must be well-educated, so that they can study and understand the Local Authorities Act, and so that each and everyone of them can understand one's responsibilities.

Sincerely, I believe that councillors should have similar qualifications and they must be dedicated to give service. In order to do this, it is necessary that we must have minimum requirements for those who are standing as councillors. Members coming into this House are required to have a certain minimum educational standard. Right now, anybody can stand as a councillor and be elected. All he or she needs is to have the gift of the tongue and so long as he or she can move people, he or she can be elected. But when he or she has been elected because of not having education and, therefore, not understanding what his or her responsibilities are, they are unable to serve properly.

Mr. Temporary Deputy Speaker, Sir, we have stated our goal, that we should achieve the newly industrialised status by the year 2020. If we have to achieve that goal, the way forward is urbanisation. I am a greater believer in urbanisation and we should all encourage the formation of urban settlements. It is easier to administer a closely-knit community than a vast area. For example, we know the difficulties that are found in areas as vast as North-Eastern Province. If you have to give national identity cards in an area like North-Eastern Province, it is always a problem because the area is so vast. If you want to encourage adult education in a vast

area, it is difficult. If on the other hand, you have many people staying closely together; it is very much easier to give them services. It is easier to create jobs in a community that is staying together. It is also easier to provide infrastructure in a community that is closely together. But we have to guard ourselves against creating sprawling slums. It is necessary when we talk of urbanisation to ensure that we take into consideration seriously physical planning. This must be a priority when we are planning for communities staying together.

Mr. Temporary Deputy Speaker, Sir, we have to think of the infrastructure that makes life comfortable. If we look at all the county councils, town councils and municipal councils; you find that around the country there is no planning. We are creating great slums and when you have slums, you are not able to give proper services. You cannot have a healthy society. It is difficult to give medical facilities and to have security and safety. For instance, sprawling slums like Kibera or Mathare, whenever there is fire in those areas, it is difficult for a fire engine to reach where it is required because there are no roads. There are no places for water. If there is a serious crime, it is difficult to get a vehicle with security officers to the various places. It is, therefore, necessary to put physical planning as a priority. We have to plan roads and sewages properly. We have to separate areas where we can set up industries from areas where there will have to be residential houses. We have got to take cognisance of the environmental problem and the only way we can do that is by having physical planning as a priority.

Mr. Temporary Deputy Speaker, Sir, Nairobi, which a lot of people have discussed is probably the worst case of physical planning. I know that Nairobi, historically, was a colonial town which was not intended even to grow to the size it has grown. It was a town racially divided between areas where the Europeans, Asians, Arabs and Africans were staying. It was intended to have a population of not more than about 200,000. We are suffering right now from that lack of foresight and proper planning. There is no proper sewage in Nairobi. There is no storm drainage in Nairobi. Many times, in cycles of about five or 10 years; whenever we have unusual rains, we have floods. These floods in Nairobi account for destruction of property, deaths and a lot of suffering. Nairobi should have been planned to have proper sewages in the same way you find old cities around the world. The sewages we talk about in Nairobi are no sewages, they are little drains. In a city where the population is expanding there should be a sewage. It should be an area where you can almost drive through a little vehicle. This allows floods or heavy rains to pass through. I do not know why we have not taken a leaf from old cities like Vienna, London, New York or anywhere. What are we waiting for? This is about time that we rectified the mistakes that were made sometime back.

Mr. Temporary Deputy Speaker, Sir, many speakers here dwelt a great deal on Nairobi. Quite rightly so, because Nairobi is our capital and many of us who represent rural constituencies still find ourselves living in Nairobi and, therefore, it is important to us. But Nairobi has lost its old glory because, again, we have not paid attention to proper planning. Everywhere you find garbage. I have failed to understand why we are unable to move garbage. The people who work for the City Council are the same people who were there sometime back when Nairobi used to be the City in the Sun; the green city. Where have we failed? I think it is due to lack of direction and leadership. I would like to question the current City councillors and the elected administration in Nairobi. I think it is high time they took their jobs seriously. Perhaps, because of this Bill and with the amount of money that they are going to receive, they will be able to remember the kind of service that they should give and, therefore, get on to it.

We used to attract many tourists, and they used to speak very highly of this town. We can still find these tourists. We have been blessed with a very temperate climate. Nairobi is neither too hot nor too cold. The investors would be happy to come and invest their money here. Many people would like to come and set up their investment capital in Nairobi. We need to create an enabling environment to attract these people. I am sure if five per cent of the taxes collected is given to Nairobi, they should be able to regain the lost glory.

Mr. Temporary Deputy Speaker, Sir, in the rural areas, I know that both the county and town councils can be self-sustaining and, therefore, they should be able to give services. However, because of what I have mentioned earlier, the quality of both the personnel and councillors, this may not be possible. For instance, if I take my own little home, the Funyula County Council, it was created about a year ago. Instead of the councillors looking for proper sources of revenue, in order to render services to wananchi, the first thing they thought of was to create little plots which they should sell to get money for themselves. After that, they went around the shopping areas and created *kiosks* in the mistaken belief that they will be earning them some rates which will bring them revenue. These *kiosks* are right in front of shops, and therefore, they reduce the profitability of the shops. The shops which would pay high rates are now not able to pay the rates, and at the same time, the *kiosks* are not doing anything. It is a great pity that we find this situation happening. We need to educate them; we need the Ministry to start now organising seminars and establish training centres for the current councillors so that they can understand what their responsibilities are. I do believe that if there can be improvement in the administration of the Local Authorities, we will see a situation where, in the rural areas, they will replace provincial administration. When

they do so, then, people will be properly represented and we will not have, in the rural areas or anywhere else people who have been merely appointed taking interests in or administering services in the area. We need these seminars to train and instill honesty among the personnel and councillors in order to help eradicate corruption.

Mr. Temporary Deputy Speaker, Sir, almost every speaker who has spoken here decried the corruption that goes on; the selling of the council properties and other various things. In the same spirit which the Ministry has brought this Bill, in order to give services to wananchi in the local authorities, I wish to ask them to organise training and seminars for the councillors and officers.

Mr. Temporary Deputy Speaker, Sir, with those few remarks I do support the Bill.

Mr. Ochilo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make a few remarks on this very important Bill. I stand here to oppose this Bill. The reason is not that I disagree entirely with its spirit. The spirit of this Bill is very noble. We know that local authorities are in dire need of funds to enable them to offer services to Kenyans who are affected by these local authorities. But, we on this side of the House, have not been given any role to play in advising, in terms of use or disbursement of these funds. This Bill, to say the least, intends to defraud the Opposition. I am saying so because the Committee which will be advising the Minister for Finance on how funds in respect of this Bill will be disbursed, does not include any personality or any view from the Opposition. The practice which this Government has had is to appoint loyal people and sycophants of this Government.

(Applause)

The Minister for Finance has given himself a very central role in exercising the powers pursuant to this Bill. In fact, the Minister has even invaded another Ministry, the Local Authorities. We in the Opposition, at this time when there is an acrimonious difference between us and the Government side, are not comfortable with this kind of arrangement. They should have included persons proposed by hon. Members of the Opposition so that we do not have funds distributed to areas which are known to be pro-Government, and areas which are anti-Government, or are believed to be anti-Government, are denied funds.

(Applause)

Mr. Odoyo: On a point of information, Mr. Temporary Deputy Speaker, Sir.

Mr. Temporary Deputy Speaker (Mr. Imanyara): Mr. Ochilo, you want to be informed?

Mr. Ochilo: Yes, I accept the information.

Mr. Odoyo: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to inform my fellow colleague, that, as a member of the Finance, Trade and Economic Committee, we had recommended that the chairman of this particular Fund be a person who is not a public officer. Therefore, most of the sentiments he is expressing have been discussed in the Committee. So, I support him and beg that he continues.

Mr. Ochilo: Thank you very much for that wonderful piece of information.

Mr. Temporary Deputy Speaker, Sir, if I am allowed to continue, these funds, even if they are injected in the local authorities, as we all want them to be, so that we are served properly, they will still be handled by the same "hyenas" appointed by the Government. By the word "hyena", I mean the chief officers who are well known for stealing money from these local authorities. This is like giving medicine to a mother who is mad but the medicine is intended for the child. The mad mother would take the medicine and not give it to the child. Until the elected leaders, by that mean I mean the councillors, are given powers to veto or influence the disbursement of these funds, once they reach the councils, even these additional funds will disappear. We know Nairobi City Council is a wealthy council as compared to other areas which do not have sources of revenue, yet the Council is unable to offer services to the residents of Nairobi.

The Council is unable to offer services to the residents of Nairobi and the reason why this is happening is because we have "hyenas" there. So, we are trying to add funds and if legislation is brought to curtail the activities of these people---

Mr. I. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is referring to officers as "hyenas". I wonder whether this is in order.

The Temporary Deputy Speaker (Mr. Imanyara): He is not in order.

Mr. Ochilo: Mr. Temporary Deputy Speaker, Sir, I am using imagery. If my friend on the other side learnt literature, or had occasion to go to school, he would be aware that, that is imagery.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ochilo, you cannot refer to officers of the local

authorities as "hyenas". You may use the word metaphorically with images, but you cannot say that you are referring to officers of the councils as hyenas. That is not the language I would allow. So, you must withdraw that reference to hyenas in relation to the officers of the local authorities.

Mr. Ochilo: Mr. Temporary Deputy Speaker, Sir, I am very sorry if my imagery has offended some people. I withdraw and apologise to the people who think that they are adversely affected.

Mr. Temporary Deputy Speaker, Sir, the proposal is that five per cent of the entire tax should be put in this Fund that will be accessed by the local authorities. I have heard deliberations in this House concerning this Bill. The rationale that was used to arrive at five per cent is not stated. Why it is not 50 per cent or 10 per cent, is not indicated. To what extent five per cent is adequate is not indicated. We know that local authorities need a lot of money because there are more people at the grassroots than there are in Nairobi or in this House. These are the Kenyans who are desperate for services that were offered by these local authorities at the time of Independence. We know of countries where they offer an equivalence of this. For instance, America offers services like education, health and jurisdiction to deal with criminal matters. Those countries have what we call proper budgets for the people that are within and are affected by these local authorities.

If the five per cent is not rationalised or based on some logic, it may be far from adequate. It may amount to an underdose and this again may not help the people that we believe we are trying to help by bringing this Bill to the House. These local authorities are not evenly distributed. There are certain places that have more urban councils, town councils and county councils than others. At the end of it all, when funds will be disbursed to these places, you will find that these places that have been lucky to have more town councils than others, are likely to get more funds than other places. Again, this is a failure on the part of the person who drafted this Bill.

As I had indicated earlier, I did not intend to say so much about this Bill because my colleagues have spoken about it. But I am opposing this Bill - not its spirit - but because its drafting shows that it was done by an amateur and the intention is suspect; because it is allowing the Ministry of Finance to invade the local authorities. It is also excluding the participation of Opposition parties, the civil societies and religious groups.

With those remarks, I beg to oppose this Bill.

Mr. I. Ruto: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Bill.

Mr. Temporary Deputy Speaker, Sir, this particular Bill is most welcome at this time. It has come a time when the local authorities are having a lot of problems in meeting their obligations to the local populations. The local authorities have always survived on resources that cannot be relied on. At the moment, in various local authorities, they have had to rely on collections from the local markets. They have had to levy heavy taxes in form of licences to kiosk operators, shopkeepers and even Jua Kali shades. I hope this particular gesture from the Ministry of Finance will help the local authorities to salvage themselves from the problems they are facing and, in fact, I want to propose that the salaries for councillors ought to come directly from this Fund. I say this because I am aware of several local authorities where councillors have had to go without any pay for months. The current setup has tended to push the councillors into becoming beggars. They have had to rely on chief officers and some of the councillors have had to befriend them so that they can be allocated plots and can maintain themselves.

The councillors play a very major role in their places. They assist the Members of Parliament and the administration by being motivators of development. They help various local primary schools, nursery schools, dips and even in the payment of school fees. These councillors are always at home and for reasons which I have not been able to comprehend, they have been left out completely and they have been asked to survive on the local authorities. Effectively, all the local authorities are now unable to provide services like water and grading of roads in certain areas. They have been completely ignored because the little that is received is paid to these councillors in terms of allowances.

Mr. Temporary Deputy Speaker, Sir, I want to associate myself with those who have raised serious objections to the current set up of the various local authorities. The chief officers have tended to bestow on themselves too much power to the total exclusion of those who have actually been elected by the people. The chief officers are kings unto themselves and I think we should move forward and even amend the current regulations which require that these officers be appointed at the headquarters. I wonder how the Ministry headquarters can convince us that they are actually conversant with everything that goes on in every local authority in this country more than those who are elected and are based in those areas.

The role of the Provincial Administration has also been wanting. The District Commissioners have become intimidating. They actually intimidate those councillors into making decisions which are not necessarily in conformity with the interests of the local communities. These DCs have taken over the role of running the local authorities. The chairmen and mayors of various authorities have very little to do in their local authorities. You will find many of them hovering around the DC's office for advice. Most of our local authorities are actually

managed from the office of the district commissioners.

I want to indicate here that the clerk of a county council should be locally employed and the councillors should be empowered. A few minutes ago, hon. Mwiraria was advocating for *majimboism*. But I strongly believe that if we had a process of devolution of power and we empowered our local authorities, then the pressure for *majimboism* would immediately die.

(Applause)

I am saying this because it is a pity that the Permanent Secretaries in the Central Government do not understand what goes on in the rural areas of this country. The process of disseminating information, from the Central Government to rural areas, is so long and cumbersome. The bureaucratic arrangements of sending information from the grassroots to the headquarters in Nairobi is in itself cumbersome and does not ensure smooth flow of information. It is convoluted because every officer, right from the grassroots level to the head office, wants to consolidate his own power. As a result, services are not rendered to our people.

Mr. Temporary Deputy Speaker, Sir, I am foresee a situation whereby the chairmen of local authorities, in future, will be elected by the electorate and not by the councillors. This should be done. The election of chairmen of local authorities should be pegged on minimum standards of education, performance and ability to deliver services to our people. At the moment, chairmen of local authorities are elected by their fellow councillors without taking into consideration their qualifications and ability to deliver or serve their local authorities effectively. They usually elected along very petty considerations which are not necessarily the same as those of the electorate.

Mr. Temporary Deputy Speaker, Sir, I think the five per cent allocation of income tax to local authorities is not enough. I would propose that we increase that amount. If we cannot increase it right now, I suggest that in the next Budget, we should increase it to 20 per cent. The role of Central Government in local authorities should be checked by strengthening the local authorities. I expect to see a situation whereby even the police will be answerable to local authorities. There is a lot of influence from the Central Government and sometimes from within the police hierarchies; to the extent that services are not rendered. Local authorities are ineffective. I strongly believe that devolution of power is the solution to the problems faced by local authorities. These local authorities should be strengthened and their functions defined. I would also suggest that the local authorities be employing teachers in future, if it will possible.

I would also like to indicate that the planning in the local authorities is not very effective. If you visit any local authority, at the moment, you will be surprised to find that they do not even have a forward plan for the next ten years. The few plots which were reserved for expansion of various services within the local authorities have all been grabbed. The grabbing of those plots has been done by the local DCs in cahoots with the clerks of the local authorities. It is a pity to find that when the councils are dissolved prior to general elections, clerks of various local authorities do allocate plots to themselves, relatives and friends.

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

Mr. Kariuki: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to express my views on this Bill.

First of all, I would like to look at the Bill itself. Let me start by looking at clause 4 of the Bill that talks about the disbursement of funds. I think it is important here to indicate whether these funds will be used for recurrent or development expenditures; and maybe, give proportions as to what should go to what area. If this money will be spent on consumption only and not development expenditure, then I think we may be treading on very slippery grounds where funds will only be used to hire personnel to work in those local authorities. If it is possible, these funds should be used for a specific purpose. If possible, maybe, more of it should go to capital expenditure in terms of infrastructural development; provision of water, roads, sewerage systems and so on. I would propose that about 75 per cent of those funds should go towards capital expenditure and about 25 per cent on recurrent expenditure so that we do not become a spending nation whereby we are just handing money from the Consolidated Fund to the local authorities.

More importantly, we should set up a project funding basis. In other words, the local authorities should come up with projects for consideration, so that they are then in turn financed purely on the basis of merit of those projects other than just sending a blanket cheque for general expenditure to local authorities. In fact, more precisely, I think the local authorities should be requested to present budgets to indicate how they will spent that money.

Mr. Temporary Deputy Speaker, Sir, instead of talking about five per cent of income tax to be remitted to local authorities, we should be talking about a budget presented and a range of an amount between five to ten per

cent to be withdrawn from the Income Tax to the local authorities. The trend of giving money to the local authorities can lead to very dangerous developments within the local authorities if they do not have targeted projects. If we give them money without considering their projects, then in the process, we will leave them to be more corrupt and find ways of how they can access this money which has come from the blues and which they never expected. I would propose that, that aspect of facilitation of money to reach the local authorities for targeted projects should be considered.

The next thing I want to raise is that before these funds are disbursed, there should be in place, a system of monitoring and controlling those funds. I am not sure whether all these local authorities are capable and have the right people to manage them. Maybe, there should be special training for them so that by the time we disburse these funds, local authorities will have a system in place which can help them address how they can spend it. Currently, the local authorities are ill-equipped in terms of human resources and their personnel is not adequately trained. Some of them just leave schools and universities and they have neither the training nor the orientation to know what is expected of them. I think that is a very important thing to do in finance management so that officers who are going to control these funds will be well equipped to manage them properly.

Mr. Temporary Deputy Speaker, Sir, looking at clause 5, which talks about five per cent, I think it is important that, that five per cent be there for a spell of time. Maybe, in the first year. But thereafter, we should be guided in terms of the actual expenditure and projects that each council will have initiated.

Mr. Temporary Deputy Speaker, Sir, I do not think that the five per cent has been conveniently put across the House, so that we can see how the figure was arrived at. How much money are we talking about? We really ought to be guided as to how much this money will amount to and then we can see whether it makes sense. It maybe too little or too much. We ought to have justification as to how this five percent was arrived at. There may be prudence in either reducing or increasing it. For the time being, we are totally in the dark, and we do not know how the Minister arrived at this "magical" figure. The Minister should justify it to this House, so that we can see how he arrived at it.

On clause 6(i), he is talking about payment being made as the committee will specify. In other words there is no transparent criteria which can be followed to establish how this money will be distributed. This issue has been raised here by hon. Members repeatedly. It is important for us to impress on the Minister that there ought to be transparency in the distribution of the money. We do not want to hear some areas complaining later that they are not getting any of this money while others are getting huge sums of it. We are all Kenyans and we should all be treated in as a reasonable and a fair way as possible. The Government should be very transparent when disbursing this money to various local authorities. If possible, the criteria should be based on the population of the local authorities or the municipalities involved. The size and resourcefulness of a local authority should also be taken into account. I am sorry to say that some of the county councils are just nice spenders, and yet they do not provide essential services to their residents. Some of them should be scrapped altogether, so that we can have a few but well managed local authorities. Where they do not justify their existence they should be merged up so that we can have economies of large scale, otherwise, we will end up having too many local authorities which will be very expensive to run.

Mr. Temporary Deputy Speaker, Sir, clause 7 talks about receipts, savings and accruals. The fact that the balances will be retained should enable us to ask ourselves: For how long will they be retained? For example, we cannot have a council being given money to retain and not to spend. That is poor management. If at all they have excess money, it should be stated that within a certain period that money will be returned back to the Consolidated Fund, if it was not used. I would like to say that if a council is not spending the money and it does not require it, it has no business holding it for many years. I think there should be a specific period of time within which surplus funds will be returned to the Consolidated Fund. I would like to propose that they should be held in the local authorities for upto 18 months after the end of the financial year. Such a provision will force local authorities to spend the money rather than deposit it in bank accounts.

As for the Advisory Committee, I concur with my colleague that it ought to be headed by an hon. Member from this side of the House. We are more prudent when it comes to scrutiny of public funds. We would like to ensure that this Government does not end up spending this money in a careless manner. This is because we are taxpayers, and we want to ensure that our money is well spent. I think the watchdogs come from this side of the House. The "watchdog" Chairman should be from this side of the House and should not be a Permanent Secretary (PS), or his crony. If this not done, we will end up having this money mismanaged. When we are talking about representation, it is important for us to be, first of all, gender sensitive. We must also have religious representation because this country lacks people of integrity. Since bishops and other clergymen are nearer to God, then they should be more honest than the people on the other side of the House, who happen to be very ungodly.

Mr. Temporary Deputy Speaker, Sir, the other group that ought to be considered are the NGOs. We have

39 NGOs that are very close to the people and they should be considered when talking about representation. We have bodies like the Kenya Medical Association (KMA), or NGOs like the Kenya Child Welfare Association and those that serve the disabled people. These NGOs should be adequately and properly represented in the Committee.

Clause 9(b), talks about proper books of accounts being maintained. There must be a time frame within which those books must be presented. This is specified here. But more importantly, do these local authorities carry out internal audit? This Government does not have an internal audit units. In fact, this unit was scrapped so as to facilitate corruption. We should put in place an internal audit system, and no money should be spent until the internal auditor, plus the other officers, authorises the expenditure. There ought to be proper authorisation of payment. In some of the county councils, only the chairman or the Clerk to the county council endorses payments. The two of them can easily get away with misuse of millions of shillings. Therefore, we are saying that there should be more people in the vetting process so that the whole process of disbursement of this money can be done as fairly as possible. So, more people should be put in the process of vetting and authorisation. If that is done then corruption will be minimised and there will be more rightful spending in various areas.

Mr. Temporary Deputy Speaker, Sir, in clause 10, the Minister is given blanket power to make regulations generally on whatever he wants. These general provisions are very dangerous: The Minister is given a lot of power to do what he wants. I think once the regulations are made, they should be brought to this House so that we can scrutinise them. This is because there has been a lot of misuse of other pieces of enactment which authorise Ministers to make regulations as and when they want without making consultations. Some of them end up contradicting the essence of the parent Act. Therefore, it is important that when any regulations and rules are made they should be brought here for vetting so that we can ensure the thrust of an Act is complied with.

This money will be distributed to local authorities, which have certain problems. I happen to have been a Commissioner in the former City Commission for three years, and my experience there was a very bad one. Generally, local authorities are very simple institutions to manage, but this is made difficult by the fact that the Local Government Act has not been reviewed for a long time. As a result, excessive powers have been given to chief officers, who can do outrageous things without action being taken against them. Unfortunately, they liaise with the officials of the Ministry, like the PS and Deputy Secretaries, to do outrageous things. These people are letting down the Government by endorsing criminal activities that are taking place within the local authorities.

Mr. Temporary Deputy Speaker, Sir, allocation of land is done with the approval of the PS in the Ministry of Local Authorities. The Commissioner of Lands cannot issue a title deed for a piece of land until he gets an okay from the PS. The Permanent Secretaries are endorsing outrageous things to take place in the local authorities. In Nairobi City, we have heard about outright theft by chief officers of the Nairobi City Council. It is said that some officers have allocated themselves property worth Kshs3 billion. This is a criminal act. Those people ought to be locked up in Kamithi Maximum Security Prison. They should not be allowed to move freely in the City or anywhere else. The officers commit the offences out there while the Minister watches without taking any action against them. What is he doing? He is letting the President down by endorsing those atrocities. The Ministers should also be locked up, if at all they are seen to be endorsing such things. Those officers are known and no action is being taken against them! The Minister is just gazing at us without taking any action. He is asking us to vote more money for his Ministry.

Before we move on to endorse this Bill, we ought to ask ourselves: Why should we give Nairobi City Council more money? I know it has about Kshs3 billion in outstanding rates not paid by the Government and its Departments. Why does it not ask the Government and its organisations to pay up those rates and this money will not be necessary as far as the Nairobi City Council is concerned? In fact, it will be necessary for us to have a list of the recipients of this money, so that if certain local authorities do not perform according to the expected standards they do not get a penny. Every local authority should be considered for allocation of money on its own merit. Those that do not merit, because they are corrupt, should be scrapped, until we get to a time where they are good enough and they warrant to be given that money. Therefore, it is important that this money is not just given freely. This is because a section of these institutions are not ready to accommodate the money because of the mismanagement and corruption going on in them. Therefore, that happens to be a case that we ought to look at. In fact, the Minister should stop any further allocation of public plots and sale of local authorities' properties. That should be stopped forthwith because while we are talking about getting more money, these people are giving out houses.

For instance, in the City here, properties that are valued at Kshs15 million go for only Kshs300,000. Why do you not sell the properties at market prices, if at all they are to be sold? The generosity of the city council, giving free things on the one hand, and then on the other hand, getting colossal sums of money from the Central Government is nonsense. I think it is important for us to be serious for once, and ask ourselves: "Are we

protecting public properties". By protecting public property, we should be ensuring that nothing of public nature is given out or sold. In fact, what should be happening is that we should put in place proper mechanisms of ownership of those properties in the first place, and also allocation. It should not be just one or two individuals being given that responsibility. There should be committees with various interests represented, so that properties are not just dished out without proper procedures being followed. I think the issue of property is going to cause a big problem to this nation. We are living as a nation that is looking at the present time, and not caring about the future. In future generations, the municipal councils and urban councils will have officers who will be recruited. They will need housing. Why should we give all these houses away, assuming that our sons and daughters will not need them? It does make any economic or justifiable sense. I think it is important for us to stop this issue because we are sitting on a time-bomb.

The other issue on the local authorities is the issue of their inability to honour their statutory obligations, in terms of remittance of the various statutory deductions, like the NSSF, NHIF and PAYE. There are cases where county councils, for a long time, have not made remittances to the rightful institutions. They are causing their employees a lot of embarrassment. For example, when they are admitted in hospitals, they are held there because their county councils have not paid the NHIF deductions. This is bad. I think it is important that we ensure that if at all you expect the private sector to honour the statutory obligations, the Government should be the first one to set a good example. That is very important. You cannot deduct PAYE and not remit it where it belongs. Otherwise, you are saying: "Give us PAYE which we do not remit". You should, first of all, remit it so that it is given back to you.

There are certain cases where county councils are not paying their salaries on time. Employees are suffering and some of them have stayed for months and years without their payments being made. I think they are breaking the law. If at all you expect us to obey the law, the local authorities should set up a good example by ensuring that salaries are paid on time.

The Minister for Local Authorities came up with a recent Legal Notice on Crop Cess Fund Committees, whereby, he required that a committee be set-up comprising seven councillors and five farmers. I do not know what the Minister for Local Authorities has to do with the monies belonging to agriculture. I think cess belongs to the farmers. Farmers are the ones who toil to get that money. The Minister is not dictating that he wants his councillors to accept that money. Farmers are up in arms, particularly in the tea and coffee growing areas. They are asking themselves: "What business does the Minister have dictating on how our money is going to be used?" I think the Minister should keep off from giving this type of dictatorial arbitrary legal notices. If at all they have to come, let them be justifiable. You do not expect councillors to be dictating on how farmers' money has to be spent. We should have more farmers' representation in that type of committee, other than councillors. I think the Minister is not becoming sensitive to public opinion. You should listen to this side of the House and hear what we say. This is because we represent farmers' wishes. I would even go and say that if at all you are going to ask for funds from Income Tax to local authorities, then you should do away with cess on various crops. This is because the farmers need that money more than anybody else, so that they can buy fertilisers, hire workers and other things. So, crop cess should be done away with so that we can support this type of Bill.

The other issue is that the various county councils are failing in their social responsibilities. In the old days, we used to have social clubs all over the place like Kariokor, Kaloleni, Shauri Moyo and also in the rural areas, where young men and women would learn such things like football, volleyball and other sports. These are now things of the past. The county councils have flopped altogether. They have no social responsibility. What are they going to do with this money? Can they address these areas? Kenyans are lucky that God has given us talented international athletes and boxers. But we do not take the trouble to harness the talents that we have. Local authorities were very good captive areas for these types of talents. Today, we have flopped. In fact, Kenya used to have the best boxers in Africa. Kenya used to be tops in the Commonwealth Games. We are no longer featuring anywhere. Why? This is because we have done away with our social responsibility; to harness the boxers talents at the grassroots level. This is caused by the fact that local authorities spend more time talking about land allocations and awarding of tenders for construction of roads, than addressing the issue of provision of social clubs and services; not to mention the issue of street children. Nobody really cares about them. The local authorities should be charged with the responsibility of taking care of these children. They belong to us and we should not be discarding them as though they belong to nobody. It is important that those children are taken care of.

The other issue which is also very basic, and very important, is the issue of decentralisation. We have a problem of over-centralisation of activities in some of the local authorities and, more so, in areas like Nairobi. The Nairobi City Council is not offering adequate services because of the structural setup within it, which is not conducive to dispensing good services, because of over-centralisation. I think a lot has been talked about creation

of boroughs within the City. I think that should be a priority matter so that the City Council of Nairobi can be able to give better services in terms of garbage collection, sewer, water and other services.

The other issue that is also important within the local authorities is that we seem to be allergic to information technology (IT) like computerisation. We tend to fear these machines and, therefore, there is a lot of inefficiency and cover-ups. This is because the systems we have of manual accounting systems, manual documentation of various things like titles and other, things is done by man. If it was done by machines or computers, we would end up being more efficient. If you go to the City Council and ask for your rates bill, it will take them days before they locate your account. If we had computerisation, it would be done by the pressing of a button. We need computerisation and we hope that some of this money will be used for IT, so as to enhance the level of IT within the various local authorities. This covers all of them, and not just Nairobi. All the local authorities need to have computer networks to make them more efficient.

The other issue that ought to be addressed, as a matter of urgency, is the procurement and the tendering system within the local authorities. It leaves a lot to be desired. The tendering system has given rise to a lot of corruption. I think the Ministry is not following to ensure that they put in place a tendering system which is very transparent and can be followed; and that, there is representation from the highest possible level in the Ministry, so that corruption can be reduced to a level that is manageable.

The issue of training of staff needs no re-emphasis. Our staff in the various local authorities need training. I think we should put in place an institution for training staff in local authorities where they can be going for courses. Although the Kenya Commercial Bank (KCB) has a training college, it has a less number of employees than the various local authorities. Nairobi City Council employs over 10,000 employees and it does not have a training college. KCB has only 3,000 employees, but they have a very huge training college. Does this mean that the Nairobi City Council employees do not need training and that KCB employees are the only ones who need it? I think it is important for us to put in place some training facilities for the local authorities, even if it is centralised, so that local authorities can be sending their employees there for training. They used to have one in KIA. I think it is long dead and buried. I would hope that something is done to have some training for employees within the various local authorities.

Something was said about commercialisation of services and it is important to re-echo the fact that if public servants have failed, then the private sector can do the job better. This, we have seen through refuse collection in Nairobi. We should now move from refuse to water and maybe, from water to roads and from roads to the sewers. Every other service should be privatised so that you can reduce your establishment; from 10,000 in Nairobi to about, maybe, 1,500 people. Feed out your services through privatisation because we have the biggest salary bill for instance in Nairobi I hear they are spending about Kshs100 million on salaries per month. That bill should be reduced to maybe, Kshs20 million so that the other Kshs80 million can be used for the purposes of infrastructural development. Commercialisation of services should be taken as a priority. I have talked about this before, but I would like to re-echo because we do not have any regard for our brothers living in the slum areas like the Mathare Valleys of this world, the Kiberas, Kangemis and Mukurus. Those areas have no water, sewers or roads. How do you expect your brothers to stay in those areas without those provisions?

I think we have our priorities upside down. We only cater for the Lavingtons of this world, Muthaiga and areas like those. Priority ought to be given to our brothers in the slum areas. I think the Ministry should earmark about 25 per cent of the money going into these local authorities to be spent specifically on slum areas. The rest of it can go elsewhere so that our brothers who are the major components in proportions of our population can also access the benefit of this Fund. Not only the high class areas and the big shots should benefit. I think that priority is wrong and we should put it right.

With those few remarks, I beg to support.

The Assistant Minister for Local Authorities (Mr. Mwakalu): Thank you, Mr. Temporary Deputy Speaker, Sir. Ever since the beginning of this debate, I have listened very carefully and, time and again, it has dawned on me that the local authorities structure is a bureaucracy of its own type. In the bureaucracy, it is and it qualifies, therefore, as a complex organisation. Very many different units are inter-connected. They have to work in harmony. There have to be certain movements in motion to direct results effectively. Whereas the intention and purpose is that of delivering services to the clientele, we have in fact, fallen short of that realisation. So, I have been wondering if we set standards and expectations, if we want services to be rendered to the general public very effectively what would be perhaps the most common denominator that would help to enhance service delivery to the people. I have noted that in the discussions that have transpired hitherto, there is no single way that we can say we have a job definition, job description, job specification or task structures for a councillor. And yet we expect specific services to be delivered by these people. We expect specific institutional structures to carry through the resources for implementation to service the public.

Once we have that difficulty, being unable to define, describe, specify and structure the task, then we are at liberty to blame the councillor for non-service delivery, failing to understand the relationship between the chief officer and the councillor, for being unable to specify what rules and roles the Local Authorities structure has to play vis-a-viz the Ministry of Finance and vis-a-viz the clientele on the ground.

Mr. Odoyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for my hon. colleague to request for job descriptions of councillors when the Members of Parliament do not have job descriptions?

The Assistant Minister for Local Authorities (Mr. Mwakalu): Thank you, Mr. Temporary Deputy Speaker, Sir. I think we are now getting closer to the problem. Parliament has absconded its responsibility. The day Parliament will do so then they will be able to allocate the right resources to the right institutions and the right tasks. They may be compelled to carry out harambees for water projects in those areas. The one and only cardinal point that I wanted to raise before this august House is that we need a central training college. This college will, *inter alia*, take into account the complaints hitherto raised by the Members of this House in order to assess the concrete training needs that are required in that particular college so that councillors and officers are able to understand the technical aspects of the work they are supposed to supervise or to by-pass laws and implement them. I do believe that at the level of the Member of Parliament taking his responsibilities seriously and accounting for these through the relevant Ministry including streamlining some of these Ministries so that there is no duplication of duties and tasks at any level at all, then we will be able to marshal the resources we have through the institutional structures of local authorities and through the local authorities themselves and thus empower and enhance their job effectivity. If and when we have, and we should actually budget for a local authorities training college, because it is long overdue, to assess the needs, to provide for the training, to upgrade the performance of those institutions---

Mr. Munyasia: On a point of information, Mr. Temporary Deputy Speaker, Sir. I need to inform hon. Mwakalu that money for such a training college was actually offered by the Government of Finland, but this Government here that he now serves, turned down that offer. Maybe all that should be done is that the offer should be renewed. So, we should request the Government of Finland to come and establish that college.

The Assistant Minister for Local Authorities (Mr. Mwakalu): Thank you, for the information. I would also like to inform you that as recent as 1995, hon. Odongo Omamo's Report on the local was carried out. It is up to this Parliament to insist on the availability of that Commission's Report and see to what extent it can or cannot be effected. The ball again rolls back to this House; for abdicating its duties and responsibilities; to live up to the dictum "for the welfare of the society". I beg to support this Motion on the understanding that, indeed, time has now come for us to start a national Local Government Training College in this country.

Mr. Wafula: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. I would like, at the outset, to decry the prevalent mismanagement in the local authorities. In particular cases, the chief officers of the local authorities have been involved in rampant corruption in terms of unprocedural tendering, illegal allocation of plots and financial mismanagement. It is time the Government put in place structures and policies to harmonize matters at the local authorities. The chief officers are vested with excessive powers. The councillors at the local authorities have no powers at all and they are overrun by the chief officers. I have an example of one chief officer in Bungoma who allocated himself some stalls at the market which are supposed to be given to small traders in the town.

Mr. Temporary Deputy Speaker, Sir, one former clerk of Bungoma Municipal council allocated himself some 10 stalls in the Bungoma Municipal Council Market. He also built some 10 kiosks at Bungoma Bus Park. I am talking about the clerk of the municipal council. Now, when such things are done by an officer of that level, surely, when we have councillors and there is nothing they can do about it---

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. Hon. Wafula is making a very serious allegation against an officer who cannot defend himself in this House. Could he substantiate the claim that a former chief officer in Bungoma Municipal Council allocated himself 10 stalls in the market and 10 other plots elsewhere? Could he give a list of those numbers so that this House could check the authenticity of that particular information?

Mr. Wafula: Thank you, Mr. Speaker, Sir, I am able to substantiate that, given time. Even hon. Munyasia happens to come from Bungoma and he knows what I am talking about.

The Temporary Deputy Speaker (Mr. Imanyara): Are you ready to substantiate?

Mr. Wafula: Mr. Temporary Deputy Speaker, Sir, given time, I will have to substantiate that.

The Temporary Deputy Speaker (Mr. Imanyara): When will you substantiate? When do you want to do that?

Mr. Wafula: Mr. Temporary Deputy Speaker, Sir, on Wednesday next week.

The Temporary Deputy Speaker (Mr. Imanyara): Order! I will remind the Minister when he will replying that, before that, you make your substantiation because those are serious allegations against an officer who cannot defend himself or herself in this House.

Mr. Wafula: Thank you, Mr. Temporary Deputy Speaker, Sir. The local authorities which are supposed to provide services to various people in particular areas have not been providing the services as required. I would like to refer, particularly, to the maintenance of roads in some of our local towns. For example, in Bungoma, we have been talking about the sewerage for the last 15 years and nothing has happened. The chief officers in Bungoma have been involved in harassing the hawkers simply because they want to protect some of their own kiosks and stalls there. It is time the Government acted so that matters can be harmonised. There has not been a clear-cut, straightforward guideline in terms of implementation of council resolutions. I would like to appeal to the Minister for Local Authorities to put in place clear-cut policies in terms of the management of the local authorities and personnel policies to curb illegal employment. Where there is no opportunity for employment, you find that the chief officer has employed somebody after of receiving instructions from "above". There should be clear personnel and financial policies over this and, very clear procedures to be followed. There should be proper guidelines to curb illegal and unprocedural award of tenders.

Mr. Temporary Deputy Speaker, Sir, we have had cases where certain resolutions have been made but implementation has been a problem. We want a situation where once resolutions have been made, implementation takes place without fail. I want to talk about the issue of having chief officers working in various local authorities for many years. Some chief officers stay at one station for as many as 10 years. Some of these chief officers, like clerks, behave as if they are small kings in those respective local authorities. There should be a specific period of time for a chief officer to serve in a particular council, before he is transferred to another council. Preferably, a chief officer, a clerk, a deputy clerk, or treasurer, should not stay in a particular municipal council or county council for a period of more than three years. When one stays in one station for too long, he behaves as if he owns that particular area and controls everything without following the relevant procedures.

Mr. Temporary Deputy Speaker, Sir, my friends have already talked about the Omamo Report. It has been a normal thing that even when Motions are passed in this House, they are not implemented. They are passed and remain unimplemented until they are forgotten. We would like to have a situation where when recommendations are made and accepted, they should be implemented without, dilly-dallying.

On that note, I want to say that the recent Motion which was passed regarding the Provincial Administration, the DCs and DOs, being nominated councillors in the local authorities, should be hurried; a Bill should be prepared and presented before the House. This is one area where we have to harmonize the situation and keep the civil servants out of politics. I am, therefore, appealing to the Minister for Local Authorities to implement the Omamo Report which takes into account the remuneration for councillors and spells out all the details that I cannot mention right now.

Mr. Temporary Deputy Speaker, Sir, finally, we have a project for urban transport, with the funding ready. Roads in many urban centres have been recarpeted and refurbished, but this Government somehow has had reasons to say that, that project should not go on in Bungoma. I do not know what goes wrong with this Government whenever an issue concerning Bungoma comes up. There is something seriously wrong with this Government. This is because, the urban transport project for Bungoma Municipal Council was supposed to start sometimes in July this year, but various reasons have been given by the Minister that, the guarantor has had a problem with the World Bank and so on. Why should these problems arise when they get to Bungoma or when a project is supposed to be started in Bungoma? I am appealing to this Government to be serious with its business; to be serious in providing services to the people of Kenya. The people in Bungoma are also entitled to enjoy the services of this Government. If this Government cannot provide services to the people of Bungoma, it has no business being in power. Some of them are looking at me as I am talking. I would like to urge the Minister to act fast to make sure; that this project takes off.

With those few remarks, I beg to support.

The Assistant Minister for Health (Dr. Wako): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. First and foremost, I would like to congratulate the Ministry for bringing this Bill before the House, because most of the councils in this country are handicapped. They lack funds. Local councils are very important in the determination of development in a given area. Given the opportunity, the council can actually, do a lot in terms of improving infrastructure, putting up schools, offering bursaries, providing electricity and most of the essential services within the council. We must first of all learn from past experience, as we have had as regards the management of the councils. Most of the councils in this country can run effectively if they are allowed to collect their own resources. Revenue is not collected in most

councils and there is no proper use of the little that is collected. This is the problem which has to be tackled before we put more funds into the councils. Most of the councils collect revenue, but do not use them properly. For example, Isiolo County Council used to collect revenue to the tune of Kshs2 million every week when the tourism industry was still doing well. This revenue was used for school bursaries and for building nurseries and schools. The funds have actually been misappropriated. Today, it is one of the poorest councils we have in this country. This is due to poor management. I think we have to ensure that councillors have attained a certain level of education, to be able to run these councils. The chief officers and other officers must be qualified enough, to be able to run the county councils. They must be properly trained. I concur with hon. Members who are advocating for the formation of a training college for the councillors and other local council officers. It is only when we have enough manpower that we can be in a position to manage the resources which we have. The management of resources is very important and it does not matter whether we pass this Bill or not, if it is not going to be implemented properly.

Mr. Temporary Deputy Speaker, Sir, the way things are at the moment, most of local councils and county councils are unable to pay salaries to their staff and councillors. In most of the places, council workers have gone for six months without salaries. For example, in Mandera and Wajir, these people do not get any payment. That encourages corruption in the councils. So, this Fund will actually help, but we have to be careful in the way we will transmit the funds. In most cases, the business of the councils has been only allocating plots. These plots belong to the people and in most cases this is Trust Land. They do not advertise them. They are grabbed by the councillors or the chief officers in the council. This is conflicting, because there is the Plot Allocation Committee. We are not sure what they are doing in the allocation of those plots. Most of the time you will find that the chief officers, the District Commissioner, the planner and the surveyor collaborate and it becomes a syndicate whereby they give out land belonging to the county councils without any consultations and advertisement in the Kenya Gazette. This has become a big problem in most of the local areas. People who are from that particular area do not expect to be allocated these plots through corruption, since this is their own place. But they do not get the plots. This gives the opportunity to the chief officers and the people from the administration to grab those plots.

Mr. Temporary Deputy Speaker, Sir, if the councils have to be strong enough, they should have enough funds. At the same time, proper management of the funds in the councils is very important. For example, Isiolo County Council, which generates revenue to the tune of about Kshs40 million, cannot account for it. This money goes to benefit the chief officers. Most of the revenue for Isiolo County Council is collected from the parks. The security of the parks matters a lot. It is the responsibility of the council to ensure that the security of the parks is upheld so that they can generate a certain amount of revenue from the parks. For example, in Isiolo County Council, they passed Kshs2.5 million for acquiring uniforms and other equipment for the rangers, to boost their morale. But, unfortunately, even after cheques have been paid, the money---

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members. I have to remind you that today is our Zero Hour Day. So, we have three statements, but I need to remind Members that any Member wishing to take advantage of the Members' half hour statements must comply with Standing Order No.20(a), which requires that any Member wishing to take advantage of this half hour statements period do give notification to the Speaker. That notification must be before 1.00 p.m. on the day on which the statement is to be made and must be made through the Party Whip. So, for today, three notifications had been given in this order: From the Member for Mwea, hon. Alfred Nderitu, directed to the Minister for Agriculture.

MEMBERS ZERO HOUR STATEMENTS

COLLECTION OF REHABILITATION LEVY BY NATIONAL IRRIGATION BOARD

Mr. Ndiritu: Thank you, Mr. Temporary Deputy Speaker, Sir. The National Irrigation Board has been collecting rehabilitation levy from the sales of rice. Which year did the National Irrigation Board start collecting this money? How much has been collected so far? Who manages the levy and where has the money been utilised? There is a lot of money which has been coming into the National Irrigation Board coffers and as of today, I have not received any information as to how this amount has been used. It has not even been mentioned anywhere in the report or operations of the National Irrigation Board. But it appears in the report of the Auditor-General (Corporations). This money is not utilised on time. So, could the Minister kindly bring a statement showing where this money is utilised and whether a good job is being done with it?

Thank you.

The Minister for Agriculture (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I would like to

respond on Thursday. There were other two statements which we shall respond to on Tuesday, one for the National Irrigation Board as well. But for this one, I will respond on Thursday.

The Temporary Deputy Speaker (Mr. Imanyara): The next one is from the Member for Kasarani, Mr. Adolf Muchiri, directed to the Office of the President.

INSECURITY IN KASARANI AREA

Mr. Muchiri: Thank you, Mr. Temporary Deputy Speaker, Sir. The residents of Korogocho, Nairobi, for the past one month have been spending the night in the cold due to harassment by armed criminals who have caused insecurity. What action will the Minister take to guarantee that security is restored?

Thank you.

The Minister for Agriculture (Mr. Mudavadi): We will get the response on Thursday.

The Temporary Deputy Speaker (Mr. Imanyara): A final one from the Member for Limuru, Mr. Nyanja.

DISAPPEARANCE OF TIGONI OCS

Mr. Nyanja: Thank you, Mr. Temporary Deputy Speaker, Sir. The OCS, Tigoni Police Station has been reported missing. The OCS reported to me when we had a Harambee, with the hon. Kibaki and Karume, that her life was in danger and she was threatened, because she exposed a man called Wekesa who had been terrorising Limuru people and even being involved in murders and robbery. Statements to that effect have been written. On Monday last week, it was reported that the OCS was missing because she exposed Mr. Wekesa. The OCPD has been transferred and I, too, have been followed. But being a "General" and lately a "Field Marshall" I have escaped. So, in terms of security, could the Minister concerned tell the nation, and especially the Limuru people, where Mrs. Muchemi is? We fear she could have been murdered. From now on, my life should also be guaranteed. Mr. Wekesa was in charge of the Flying Squad, Kikuyu Police Station, and there are some suspects who were caught by this very effective OCS and they told everybody, the DC and the OCPD who has since been transferred, that Wekesa was renting firearms such as AK-47 and G3 rifles to these people and giving them escort using Government vehicles. So, that is why we are fearing for the lady because she has disappeared like the late Robert Ouko.

The Temporary Deputy Speaker (Mr. Imanyara): That is enough. The Leader of Government Business?

The Minister for Agriculture (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, this will also have to wait until Thursday. In any case, I think we will need to extract the HANSARD report because he has made some elaborate comments which were not in the original notice.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, in view of the seriousness of the allegations, could you assure the House that you will try and do it on Tuesday?

The Minister for Agriculture (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I will endeavour to see whether the Office of the President can have a response by Tuesday, but if not, latest should be Thursday.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 10th November, 1998 at 2.30 p.m.

The House rose 6.35 p.m.