

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 12th November, 2003

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

Mr. Deputy Speaker: Hon. Members, we will begin with Questions by Private Notice.

QUESTIONS BY PRIVATE NOTICE

DEATH OF TERESIA NJAMBI KAMAU

(Mr. O.K. Mwangi) to ask the Minister of State, Office of the President the following Question by Private Notice.

- (a) Under what circumstances was Teresia Njambi Kamau killed on 3rd May, 2003 at Gituru Market, Maragwa District?
- (b) How many suspects have been arrested for the killing?
- (c) How many of t

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ese have been charged with the offence?

Mr. Deputy Speaker: Mr. O.K. Mwangi not here? The Question is dropped.

The Assistant Minister of State, Office of the President (Mr. Tarus): On a point of order, Mr. Deputy Speaker, Sir. According to our records, this Question was scheduled to come up tomorrow and I think it was erroneously fixed for today. We have a letter from the National Assembly saying it will come to the House on the 13th of November, 2003.

Mr. Deputy Speaker: Well, then it means that would be for the Clerk's Office to sort out. If what you have said is correct, then it will be put on the Order Paper tomorrow. The Question is deferred.

(Question deferred)

Next Question, Mr. Wamwere!

FINANCING OF PUBLIC WORKS MINISTER'S TRIP

Mr. Wamwere: Mr. Deputy Speaker, Sir, I would like to make some correction. After the word "Germany", the next country should be "Austria" and not Australia.

However, I beg to ask the Minister for Roads, Public Works and Housing the following Question by Private Notice.

- (a) Could the Minister explain the nature of his recent trip to Germany, Austria, The

Netherlands and the United Kingdom (UK) from 27th August to 4th September, 2003?

(b) Who was in the Minister's delegation?

(c) Who financed the trip and what were the benefits of the trip to the country?

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Deputy Speaker, Sir, the answer I have is based on the Question that was asking about Australia and The Netherlands. The hon. Member has corrected that now but I [**The Assistant Minister for Roads, Public Works and Housing**]

will reply to it as it had been asked before.

Mr. Deputy Speaker: Mr. Assistant Minister, just before you proceed let me ask a question. Mr. Wamwere, is the correction you were making typographical? What was the original Question; was it Austria or Australia?

Mr. Wamwere: Mr. Deputy Speaker, Sir, the original Question had Austria and not Australia. I think the mistake was made by the parliamentary staff when typing out the Question.

Mr. Wanjala: On a point of order, Mr. Deputy Speaker, Sir. Could the hon. Questioner declare his interest in this matter; why he wants to know where the Minister went?

(Applause)

Mr. Deputy Speaker: Mr. Wanjala, could you repeat your question?

Mr. Wanjala: Mr. Deputy Speaker, Sir, it seems that the hon. Questioner has some interest in whatever the Minister is doing. Could he declare his interest? It is so difficult for an hon. Member to ask what a Minister does in his Ministry.

Mr. Deputy Speaker: Order, Mr. Wanjala! You are not the Assistant Minister. Why do you not let the Assistant Minister answer that Question? He is very capable.

Proceed, Mr. Assistant Minister!

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Deputy Speaker, Sir, the Question came to our Ministry from the Clerk's office as it appears on the Order Paper. It asks about Australia and The Netherlands and not Austria.

Mr. Deputy Speaker: Just forget about Australia and Austria. Could you answer the Question without that?

The Assistant Minister for Roads, Public works and Housing (Eng. Toro): Mr. Deputy Speaker, Sir, the answer I have is based on Australia and The Netherlands and not on Austria.

Mr. Deputy Speaker: Just proceed!

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Deputy Speaker, Sir, I beg to reply.

(a) It is not true that the Minister travelled to Europe, Germany, Australia, The Netherlands and UK on the 27th August to 4th September, 2003, as alleged by the hon. Questioner.

(b) Since the Minister did not make the alleged trip, this Question does not apply.

(c) Part "c" of the Question does not also apply.

(Applause)

Mr. Wamwere: Mr. Deputy Speaker, Sir, given that the mistake which appeared on the Order Paper was made by the Parliamentary staff---

(Mr. Wamwere exchanged some papers with an hon. Member)

Mr. Deputy Speaker: Order, Mr. Wamwere! Do not exchange with other hon. Members, address the Chair!

Mr. Wamwere: Mr. Deputy Speaker, Sir, it is not right for the Assistant Minister to deny that the Minister travelled to Germany, The Netherlands and UK between 27th August and 4th, September, 2003.

I have a document here which clearly indicates that the Minister travelled to---

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

Mr. Deputy Speaker: Order! Let the hon. Member finish!

Mr. Wamwere: Mr. Deputy Speaker, Sir, I have a document here that clearly indicates that the Minister travelled in those particular days. His trip to Europe between 27th August and 4th September, 2003---

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

Mr. Deputy Speaker: Order, Mr. Wamwere! There is a point of order!

Mr. Cheboi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Questioner to waste the time of this House when he already has an answer and a travel manifest? Why should he waste our time?

Mr. Wamwere: Mr. Deputy Speaker, Sir, I am not wasting the time of the House!

Mr. Deputy Speaker: Just a minute, Mr. Wamwere! I really do not understand what is going on here. Mr. Wamwere is trying to prove that the answer given by the Assistant Minister is wrong. I do not know what interest this Question has generated from hon. Members on this side. Could we hear Mr. Wamwere, please?

Mr. Wamwere: Mr. Deputy Speaker, Sir, I have a document here which proves that the answer given by the Assistant Minister is misleading. The trip by the Minister to Europe from 27th August to 4th September, 2003, was financed by M/S Strabag. The Ministry of---

Mr. Deputy Speaker: Mr. Wamwere, before you go into the question of finances, you have said that the Minister went as per the dates and to the places you have indicated. The question of financing does not even arise!

Mr. Wamwere: Mr. Deputy Speaker, Sir, the original Question is as per the correction that I made. It is true that the Minister travelled to Germany, Austria, The Netherlands and UK between 27th August and 4th September, 2003. The second part of the Question is: "Who was in the Minister's delegation?"

Mr. Deputy Speaker: Order! Order, Mr. Wamwere! You said that the Minister travelled during those days. Could we then hear the Assistant Minister?

Eng. Toro: Mr. Deputy Speaker, Sir, according to the correction made by Mr. Wamwere, yes, it is true the Minister travelled to Germany and Austria. This was on an official Ministerial tour. He was accompanied by the Chief Engineer, Eng. Kiranga. The tour took them to Cologne and Vienna. The purpose of this tour was to visit public works which had been undertaken by Strabag Contractors so that the Minister could have an insight into the construction of a road using cement. The Ministry intends to use cement on Mbagathi Road as an experiment; to make it a concrete road. We need an input from other countries so that we know what to do when we commence work on the road.

Mr. Deputy Speaker: Hon. Members, I want you to distinguish between a point of order and a question. Some of you have a habit of standing up here and shouting "point of order," when they actually want to ask a question. I want it to be very clear that, when you stand to ask a question, please do so without shouting "point of order". Now, if there is anyone with a point of order, let me hear it!

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. We all know that before any

Minister leaves this country, he usually informs the Chief Executive. Is it, therefore, in order for whoever allowed this Question to come before this House to waste time, knowing very well that he would have asked---

Mr. Deputy Speaker: Order, Dr. Khalwale! You are a very new hon. Member here. You do not even know the difference between a question and a point of order! Certainly, that is not a point of order.

Mr. Khamasi: On a point of order, Mr. Deputy Speaker, Sir. I would like some ruling from the Chair. Is it in order for the Assistant Minister to belatedly admit that, indeed, the Minister actually left the country and travelled to Germany when, in the first instance, he did say that the Minister never travelled?

Eng. Toro: Mr. Deputy Speaker, Sir, the first answer I gave was based on the issue of Australia. However, after the correction was made, I went ahead and said [**Eng. Toro**] that, indeed, it is true that the Minister travelled to Germany and Austria.

Mr. Sasura: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us if there is any shortage of funds when it comes to the Minister for Roads, Public Works and Housing doing his official work that he has to seek donor funding?

Eng. Toro: Mr. Deputy Speaker, Sir, I think that question has to be taken in view of what happens also here in Parliament. Hon. Members also travel to various destinations sponsored by other people.

Mr. Maore: Mr. Deputy Speaker, Sir, I do not have a problem with the trip undertaken by the Minister. The problem is the contradiction coming from the Government side. When a few of them go to eat boiled meat at a contractor's house, it becomes a problem. However, they want to justify and, actually put on record in this House, that when a Minister organises a trip to be paid for by a private company that is involved in tendering for concessioning of roads in the country, it is not a problem. They do not see anything wrong with it. Could the Assistant Minister explain why they could organise for an official trip and then a private contractor foots the air tickets, hotel and other bills, but he still says it was an official visit?

Eng. Toro: Mr. Deputy Speaker, Sir, the fact that the trip was sponsored by Strabag International does not make it unofficial. It was not a private visit. The Minister, while in Vienna on 14th October, visited concrete pavement works which were being undertaken by Strabag International in Germany. The works were aimed at strengthening part of the Vienna Airport. The entourage highly appreciated the different pieces of equipment used to carry out concrete paving works, the expected output and cost. At the moment, the Ministry does not have the proper equipment to make concrete pavements. We need to know what type of equipment we require when we undertake concrete pavement works in this country. On 15th July, the Minister had also an opportunity to visit Strabag laboratories for testing materials. He wanted to find out what sort of testing equipment we need in our Materials Department for testing concrete samples when we undertake the construction of Mbagathi Road.

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is not answering the question. The question asked by Mr. Maore is: How can it be an official trip when it was financed by a private firm? If the Minister knew that he was going to get something good for this country, why was his trip not financed by the Government? Why was it financed by a contractor who is an interested party? Will the Minister not be stooping too low to try and get some favour from this private company? Could the Assistant Minister answer the question?

Mr. Deputy Speaker: Alright, Mr. Koech! I have been patient enough to allow you to continue with your questions. That was not a point of order! Eng. Toro, what is your reaction?

Eng. Toro: Mr. Deputy Speaker, Sir, as I said, let us look at the purpose of the visit. If we

concentrate on the merits and demerits---

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

Mr. Deputy Speaker: Order, Mr. Munya! The Assistant Minister is responding to a point of order. How can you stand on another point of order? We should have order here!

Proceed, Eng. Toro!

Eng. Toro: Mr. Deputy Speaker, Sir, let us not concentrate on the merits and demerits of the sponsorship of this important visit. As I said, the fact that it was sponsored by somebody else other than the Government does not make it unofficial. Let us concentrate on what was achieved by the Minister and his entourage when he went to Germany and Austria.

Deputy Speaker: Last question, Mr. Wamwere! We have already taken 20 minutes on this Question.

Mr. Wamwere: Mr. Deputy Speaker, Sir, I just want the Assistant Minister to tell the House what corruption is if it has now become the Government's policy for private contractors to pay for Ministers' trips to Europe and other places.

Secondly, the House was misled when the Assistant Minister read the list of the persons who were in the official delegation. The list I have is very clear. It talks not of one person, but four persons. These are; the hon. Raila Amolo Odinga, Mrs. Ida Betty O. Odinga, Eng. C.F. Kiranga and Mr. David O. Arunga who is the Minister's Personal Assistant. I want the Assistant Minister to explain also whether the law, in this instance, was not contravened.

The Public Officer Ethics Act, Section 11, Subsection (2) says:-

" A public officer shall not use his office to improperly enrich himself or others.

Without limiting the generality of sub-section (1), a public officer shall not---

Mr. Deputy Speaker: Order! Order, Mr. Wamwere! This is Question Time!

Mr. Wamwere: Mr. Deputy Speaker, Sir, I am reading out the Act that has been contravened.

Mr. Deputy Speaker: Order! Order! Could you sit down?

(Mr. Wamwere resumed his seat)

Proceed, Mr. Assistant Minister!

Eng. Toro: Mr. Deputy Speaker, Sir, we are still getting to terms with the Public Officer Ethics Act, as was witnessed yesterday. I might not be in a position to comment on whether what the Minister did amounted to corruption or not, because I am not yet conversant with the Act. However, those who are conversant with it can look at it and advise accordingly.

Mr. Deputy Speaker: Let us proceed to Mr. Mganga's Question.

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

Mr. Deputy Speaker: Order! Mr. Wamwere, you are being disorderly! Please, be orderly. I am going to declare you disorderly!

Proceed, Mr. Mganga.

REPAIR OF MWANYAMBO
PRIMARY SCHOOL ROOF

Mr. Mganga: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that three classrooms of Mwanambo Primary School in Voi had their roofs blown off by the wind and that the pupils are learning in classes without roofs?

(b) Given that the long rains are just approaching, and that both KCPE and end-of-year exams are on, could the Minister consider emergency financial assistance to enable the school repair the roofs?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, this Question is supposed to be answered by my colleague, Mrs. Mugo. She is not in, and I was not informed in advance that I should take it over. So, I beg the indulgence of the House to ensure that the Question is answered tomorrow.

Mr. Deputy Speaker: Mr. Mganga, have you heard what the Assistant Minister has said?

Mr. Mganga: Mr. Deputy Speaker, Sir, could the Assistant Minister indicate whether he can answer the Question in the afternoon?

Mr. Deputy Speaker: Mr. Mganga, the Question cannot be answered in the afternoon, because the Order Paper for the [Mr. Deputy Speaker] afternoon has already been prepared.

Mr. Mganga: So, could he answer it tomorrow?

Mr. Deputy Speaker: Is that okay, Mr. Assistant Minister?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): That is quite okay, Sir.

Mr. Deputy Speaker: Very well. The Question is deferred to tomorrow.

(Question deferred)

MAIZE DEFICIT IN BUTERE CONSTITUENCY

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

(a) Is the Minister aware that there is a serious deficit of maize cereal in Butere?

(b) What urgent action is the Minister taking to ensure that the National Cereals and Produce Board (NCPB) has sufficient maize for sale to avoid escalation of the maize price?

The Minister for Agriculture (Mr. Kirwa): Mr. Deputy Speaker, sir, I beg to reply.

(a) I am aware that there is a normal deficit of cereals in Butere. The area produces 31 per cent of its annual maize requirement.

(b) The NCPB has embarked on a maize-buying programme at all its depots countrywide with a view to replenishing depleted stocks. The Board intends to purchase a total of 5 million bags of maize. The NCPB is making urgent arrangements to transfer more maize to Butere to mitigate the current demand of the cereal.

Mr. Oparanya: Mr. Deputy Speaker, Sir, I thank the Minister the reply. Farmers in Butere grow sugar-cane. When sugar-cane growing was introduced in that area, in 1973, there was a requirement that a sugar-cane farmer leaves a third of his land for subsistence farming. During that time, sugar-cane farming was very profitable. So, sugar-cane farmers were making money, and were able to buy cereals. However, when the sugar industry was subsequently mismanaged, and there was a lot of corruption---

Mr. Deputy Speaker: Mr. Oparanya, I caution you that this is Question Time. So, do not make speeches.

Mr. Oparanya: Mr. Deputy Speaker, Sir, I am now coming to the question. I would like to request the Minister to reinstate the policy that required a sugar-cane farmer to spare a third of his land for cultivation of maize.

Mr. Kirwa: Mr. Deputy Speaker, Sir, I appreciate the sentiments expressed by the hon.

Member. As a Ministry, we will have to look into the situation and establish the status of that policy *vis-a-vis* the need for the review of the same. I take the hon. Member's sentiments seriously.

Mr. Owino: Mr. Deputy Speaker, Sir, the deficit of maize, as a product, is being experienced countrywide. In my own constituency, that is a big problem. We now have to go to Kitale to look for maize. So, could the Minister tell the House what policy he has for maize production in this country? The problem is that farmers no longer get genuine seeds. That is why maize farming does not yield as much as we expect.

Mr. Kirwa: Mr. Deputy Speaker, Sir, Mr. Owino has asked a two-in-one question. One is the question of the seeds and the other one is the question of our policy as far as maize production is concerned. On the question of seeds, I would like to say that, while we recognise the fact that we are totally liberalised as far as seed production is concerned, we have put a regulatory framework in place to ensure that the seed that is going to be supplied to the farmer is certified. As far as the policy is concerned, we, as the NCPB, offer prices that are supposed to be floor prices, so as to encourage farmers to grow maize. The main anomaly, as far as maize deficit is concerned, is the fact that high potential areas produce maize at a certain time of the year. I know that, in the next couple of weeks, the issue of maize deficit will be harmonised given that there is now harvesting taking place in parts of the North Rift and Western Kenya. Once the NCPB purchases the maize, it will distribute it through its network of depots throughout the country.

Mr. Bifwoli: Mr. Deputy Speaker, Sir, you realise from the first question that what is happening in Kenya is that one part of this country has no maize and the other part has surplus maize. What policies does the Ministry have to ensure that maize in Trans Nzoia and parts of Western Kenya, where the Minister comes from, is bought and taken to areas where there is no maize?

Mr. Kirwa: Mr. Deputy Speaker, Sir, I have just explained that the main job of the NCPB is to stabilise maize prices, so as to assist the farmer to produce the cereal. However, we do not distribute maize for free. Once the maize has been purchased by the NCPB, we will take it to areas where there is demand for the same and sell it at market prices. Of course the Government, in its consideration of certain areas with high levels of poverty and scarcity of food, through the Famine Relief Programme, under the Office of the President, assists areas where there is not enough food. That is the Government policy and it is a policy that we are likely to encourage for some time.

Mr. Deputy Speaker: Could you ask the last question on this issue, Mr. Oparanya?

Mr. Oparanya: The Minister said that they are going to buy 5 million bags of maize. The issue is not buying the maize but rather how this maize is going to reach *wananchi*. In Butere, there is a cartel of officials within the NCPB which buys the maize, off-loads it on the market and sells it to farmers at a higher price. I thought that the role of the NCPB is to stabilise the prices of cereals.

Mr. Kirwa: Mr. Deputy Speaker, Sir, we have realised that for every Government policy, there could be certain negative effects. We are very firm and have given clear instructions to the National Cereals and Produce Board (NCPB) not to allow purchase of---

*(Applause as Mr. Raila
entered the Chamber)*

Mr. Deputy Speaker: Order! Continue, Mr. Minister!

Mr. Kirwa: Mr. Deputy Speaker, Sir, I was saying that, as far as the Government is concerned, the NCPB is supposed to sell maize to those who need it. Any officials of NCPB who shall form cartels and frustrate maize consumers shall be dealt with decisively. I am going to investigate the allegations made by the hon. Member with a view to rectifying the situation.

ORAL ANSWERS TO QUESTIONS

Question No.778

INJECTION OF FUNDS INTO NBK

Mr. Mwanicha asked the Minister for Finance:-

(a) how much money has so far been injected into the National Bank of Kenya (NBK) in an effort to keep it afloat; and,

(b) how much more requires to be injected to enable the bank to stay afloat.

The Minister for Finance (Mr. Mwiraria): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The NBK Limited has received support investment from the Government and the National Social Security Fund (NSSF) to the tune of Kshs5,675,000,000 from 1998.

(b) After the capital restructuring which involves the conversion of that money into shares, the NBK will not require support from the shareholders, but will continue improving its liquidity position by collection of debts owed to it and through profitable operations.

Mr. Mwanicha: Mr. Deputy Speaker, Sir, an amount of Kshs5.6 billion of taxpayers money was pumped into that bank. What criteria was used? Was Parliament involved in that process?

Mr. Mwiraria: Mr. Deputy Speaker, Sir, I am fortunate because I happened to be in the last Parliament. I know that the money from the Government was passed by this House. However, the money from NSSF was invested because it already holds shares in that bank.

Mr. Obwocha: Mr. Deputy Speaker, Sir, the Government has pumped public funds into the National Bank of Kenya. But we also know that the Government guaranteed certain companies to take money out of the NBK. Could the Minister tell this House which companies were guaranteed money by the Government?

Mr. Mwiraria: Mr. Deputy Speaker, Sir, that is a slightly different Question. What has caused the problems in the NBK is not the loans which the Government guaranteed the companies. Where the companies have failed to repay, the Government has been repaying. But it is the money that was given to individuals who used credentials such as politicians and Cabinet Ministers as collateral and refused to pay.

Mr. Mwenje: Mr. Deputy Speaker, Sir, is the Minister aware that part of the reason why the bank is unable to collect money from its debtors is because it is not applying his Budget Speech order that it should collect the principal amount borrowed? The interest charged is twice the principal borrowed.

Mr. Mwiraria: Mr. Deputy Speaker, Sir, I am preparing to come to this House with an amendment on the addendum rule which will limit the interest which a bank can sign. But before I do that, the banks are not obliged to follow that suggestion.

Mr. Weya: Mr. Deputy Speaker, Sir, the Minister has taken good money to where bad money is supposed to be. Could he tell this House what action he has taken to recover that money from people who borrowed it without security?

Mr. Mwiraria: Mr. Deputy Speaker, Sir, it is not my duty to collect money for a bank. But I am sure, with improved Judiciary, they will be able to recover some of the money.

Mr. Deputy Speaker: Last question, Mr. Mwanicha! Mr. Mwanicha, you do not have a question?

Mr. Manoti: Mr. Deputy Speaker, Sir, I can ask a question on behalf of Mr. Mwanicha. Now that the NBK has started making some profits, and it had closed many branches in the rural

areas last year, could it consider re-opening them to assist farmers who cannot access big banks like Barclays, Standard Chartered and others? That bank belongs to the *wananchi*!

Mr. Mwiraria: Mr. Deputy Speaker, Sir, that is a very good question. We are currently involved in the process of restructuring that bank because it is one of the few banks with rural branches to serve the *wananchi*. Our intention is to make sure that, not only will those branches re-open, but the bank will open new ones once it is fully operational.

Mr. Deputy Speaker: Next Question by Mr. Kofa!

Mr. Kofa: Mr. Deputy Speaker, Sir, I do not have a written reply.

Question No.855

CONSTRUCTION OF MALINDI-GARISSA ROAD

Mr. Kofa asked the Minister for Roads, Public

[**Mr. Kofa**]

Works and Housing when construction works on the Malindi-Garissa Road, which have how stalled, will commence.

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Deputy Speaker, Sir, I beg the indulgence of this House and request that this Question be deferred until tomorrow afternoon.

Mr. Deputy Speaker: Well, Mr. Kofa, you have heard what the Assistant Minister has said.

Mr. Kofa: Fine.

Mr. Deputy Speaker: Then the Question will be deferred, but not necessarily to tomorrow. The Clerk will reschedule it because of the pressure from other Questions.

(Question deferred)

Question No.768

TARMACKING OF KAPLONG-BOMET
-NAROK ROAD

Mr. Salat asked the Minister for Roads, Public Works and Housing:-

(a) whether he is aware that the construction of Kaplong-Bomet-Narok Road has stalled; and,

(b) what steps he is taking to have the road tarmacked.

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the construction of Kaplong-Bomet-Mulot-Amara River Road has stalled.

(b) My Ministry has procured the construction services of M/S Sterling International in conjunction with TA&M joint venture for the completion of the works on Road B3, the section between Amara River and Kaplong.

Mr. Salat: Mr. Deputy Speaker, Sir, by the time I forwarded this Question work on the road had not started, but I am happy to report that after the Minister visited our district, about five months ago, the construction works are on course now. As the road is being constructed, we had requested the Minister to, at least, tarmack a kilometre of this road within Bomet Town. Is the Assistant

Minister willing to do that?

Eng. Toro: Mr. Deputy Speaker, Sir, the Ministry is willing to do all it can to tarmack as many kilometres as possible and we will look into the possibility of tarmacking a loop which goes through Bomet Town. We will see whether we can accommodate that within the construction sum.

Mr. Deputy Speaker: My understanding is that, that Question is satisfactorily answered. We do not need to belabour on it.

Dr. Galgalo: No, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Dr. Galgalo, I am not saying no but when I say it is satisfactorily answered, I am only echoing what the Questioner said. He said that when he asked the Question, the road project had stalled. He is happy now that work is in progress.

Dr. Galgalo: Mr. Deputy Speaker, Sir, this road was done in the past and I was in Bomet at that time. It was very shoddily done and that is why the work has to be repeated. Now that this Government is bent on correcting past mistakes, what action will the Assistant Minister take retroactively against that contractor who did the road in the first place and now that he has to re-do it?

Eng. Toro: Mr. Deputy Speaker, Sir, when this road was done initially, the designer underestimated the traffic flow and it was done on the basis of a "24" traffic classification. When we come to road classification, "21" accommodates the heaviest movement of traffic. This was done to "T4" standard and later on there was heavy traffic as it offered a shortcut of 60 kilometres for vehicles which are moving from Western Kenya, South Western Kenya, Northern Tanzania, Rwanda and Burundi. So, the road is formulated and a re-design has been done so that it can now accommodate "T2" traffic. With that re-design, it has been necessary now to re-do the work but, initially, we cannot say the contractor did a shoddy job because it was as a result of the deterioration due to heavy traffic flow.

Mr. Deputy Speaker: Next Question by Mr. Kembi-Gitura!

Question No.727

REBUILDING OF RIVER MARAGWA BRIDGE

Mr. Kembi-Gitura asked the Minister for Roads, Public Works and Housing:-

(a) whether he is aware that the bridge on Road C70 across Maragwa River connecting Murang'a and Maragwa districts collapsed during the 2000 *El Nino* rains and has not been re-built to date; and,

(b) what urgent action he is taking to allocate money for the re-building of the said bridge.

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the bridge on Road C70 across Maragwa River connecting Maragwa and Murang'a districts collapsed during the 2000 *El Nino* rains and has not been re-built.

(b) My Ministry has made provisions for rebuilding the bridge starting from 2004/2005 Financial Year.

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, I have got the written answer. It is, of course, quite unsatisfactory. This bridge connects two districts on a major river and if you have to travel right across the river, you have to do a deviation of not less than 30 kilometres to make it to the distance. I understand that there are lots of bailey bridges that are lying idle in provincial works offices and also at the Ministry headquarters. Could the Assistant Minister consider, at least, giving

us a bailey bridge or something temporary as he works towards 2004/2005 Financial Year because this is becoming extremely inconvenient to the people of both Maragwa and Murang'a districts?

Eng. Toro: Mr. Deputy Speaker, Sir, yes, we will look into that possibility. At the moment, we do not have a bailey bridge which is free because bailey bridges only become free after we replace them with concrete bridges. I may also want to add that it is not just a question of re-building the bridge because this area is prone to landslides and the Ministry will have to re-design the road so that there is a new realignment to accommodate a new bridge and a new section of the alignment. So, it is not as easy as just putting up a bridge.

Mr. Omamba: Mr. Deputy Speaker, Sir, I have a supplementary question regarding Mr. Kembi-Gitura's Question. In my constituency, I have Road 211 which was destroyed by *El Nino* rains and the bridge at a place called Nyarago was never repaired and it has now collapsed. What will the Assistant Minister do about that?

Eng. Toro: Mr. Deputy Speaker, Sir, we have strengthened our Bridge Section and we are allocating more resources to it so that we can be able to re-[**Eng. Toro**] build most of the bridges that collapsed during the *El Nino* rains. However, as hon. Members are aware, the *El Nino* Project which was under the Office of the President was not availed to the Ministry to give its priorities on which roads it would like prioritised including bridges. However, we will be looking into the possibility of repairing that bridge.

Mr. Deputy Speaker: Next Question by Mr. Wario!

Question No.775

ISSUANCE OF CERTIFICATES TO
FORMER MADOGO STUDENTS

Mr. Wario asked the Minister for Education, Science and Technology:-

- (a) whether he could explain why Messrs Hassan Mansa, Mohammed Ware Duri and Ali Gaimo, former students of Madogo Secondary School, cannot obtain their academic certificates from the school; and,
- (c) what plans he has for the poor students who are unable to clear their school fees in time.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Messrs Hassan Mansa, Mohammed Ware Dari and Ali Gaimo should collect their academic certificates from Madogo Secondary School as the certificates are their rightful property after having paid the Kenya National Examinations Council its examination fees.

(b) The Ministry has always advised school management to be responsive to parents who have not been able to clear fees on time. The students are required to negotiate with parents and agree on how and when the balances should be cleared.

Mr. Wario: Mr. Deputy Speaker, Sir, while I appreciate the Assistant Minister's answer to part "a", what does he mean when he says: "rightful property after having paid the Kenya National Examination Council its fees", because he is contradicting himself by again saying: "negotiate with parents and agree on how and when?" Which is which?

Dr. Mwiria: Mr. Deputy Speaker, Sir, the certificates belong to the students, but sometimes headmasters have no other way to force parents to pay their fees balances apart from requiring that they keep these certificates. So, they should just negotiate. Headmasters have to find a way of really ensuring that the students are also paying the fees because it is very difficult for them to operate.

However, I am sure it is possible to negotiate with them and see how they can go round the issue.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, we do know that when people are admitted in hospitals and they fail to pay their hospital bills, the Government has set aside money that it uses to clear hospital bills. Could the Ministry of Education, Science and Technology apply the same principal to pay fees, on behalf of these poor students who cannot afford to get their certificates, out of the bursary funds that we vote in this House?

Dr. Mwiria: Mr. Deputy Speaker, Sir, that is an issue we will certainly be happy to consider, but I would like to say that the bursary fund that is available is supposed to help clear these balances while the students are still in school. However, certainly that is an interesting option, but I suspect that it is going to be an extremely expensive one for the Ministry, but this is not to say we should not consider it.

Mr. Boit: Mr. Deputy Speaker, Sir, the issue of certificates is a very sensitive one when it comes to ASAL areas because way back in 1980 students who finished school still have their certificates retained by their respective schools. Children from **[Mr. Boit]** these areas cannot be admitted into colleges, the Army and Prisons because their certificates are being held by such schools. What is the Ministry doing to ensure that these former students get their school certificates since they are just staying idle at their respective homes? Could the Assistant Minister consider waiving these school fees balances because it is pointless if the certificates remain in schools?

Mr. Deputy Speaker: Mr. Boit, you have asked your question and you should let the Assistant Minister answer it.

Dr. Mwiria: Mr. Deputy Speaker, Sir, that is quite a tall order. The problem with waiving fees is that it is going to make it difficult for our principals to run schools. We must also appreciate that they have difficulties and, unfortunately, they have to hold on to something. So, as much as we would like to help the poor students, we must also understand the position of the people who are running those schools. If we make it possible for people to get away with it, it is going to be difficult to run schools and many parents, even those who can afford, will not be paying school fees because they will have realised that they have an opportunity to be helped by the Ministry. I would like to call upon communities to identify poor students and see if they can help them in a little way.

Mr. Wario: Mr. Deputy Speaker, Sir, appreciating the Assistant Minister's contradiction and knowing clearly that negotiations have never been a party to policy guidelines, could the Assistant Minister give us a clear policy guideline that will enable children from poor families to take their certificates, as quickly as possible, after sitting for their examinations?

Dr. Mwiria: Mr. Deputy Speaker, Sir, we shall consider the issue, but I think the matter still remains one that can be resolved at the school level among the schools, Parents and Teachers Associations (PTAs) and the headteachers. We realise that it is a big problem and we would like all the students to have their certificates. We will look for all ways out of the situation, but this is going to involve more than the Government. It will involve the PTAs, parents and the headteachers.

Question No.225

PROVISION OF WATER TO
KIBIRICHIA HEALTH CENTRE

Mr. Deputy Speaker: Mr. M'Mukindia is still not here? Is there any explanation? His Question is dropped.

(Question dropped)

Question No.835

OPENING OF BUGINA HEALTH CENTRE

Mr. Akaranga asked the Minister for Health:-

- (a) whether she could inform the House how much money has been spent on the Bugina Health Centre; and,
- (b) when the health centre will be opened to the public.

The Minister for Health (Mrs. Ngilu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Ministry has spent a total of Kshs4.3 million on building and construction works at the Bugina Health Centre since the works began in 1994. This was under-funding given that the project contract was for Kshs9,794,400. The project, therefore, stalled and the contract terminated due to long term collapse before completion. It still stands stalled up to date. However, the Ministry has allocated a further Kshs500,000 this financial year to begin the process of completing the project. This is expected to be done by the end of the next financial year.

[The Minister for Health]

(b) Once construction is completed, the Ministry will post personnel to start operation at the centre. This will be done within the next financial year.

Mr. Akaranga: Mr. Deputy Speaker, Sir, you realise that this is one of the projects the Government has injected public funds into, but now it has been neglected and vandalised. Could the Minister tell us exactly what steps she is taking to ensure that whatever material the Government has used in the project is not vandalised? This hospital, upon completion, will help not only the people of Sabatia but also the people of Ikolomani since it is located at the border of the two constituencies. And indeed, half a million---

Mr. Deputy Speaker: Order, Mr. Akaranga! You have asked your question. Let the Minister answer you.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, what the hon. Member is saying is right in the sense that work on the health centre is not yet complete. Indeed, the project has stalled. Obviously, it is being vandalised and that is why we have now given out Kshs500,000 so that work can start. May I also inform the hon. Member that actually the funds that have already been spent on this project are much more than actually what a health centre costs to construct. To put up a health centre completely and equip it, we have found out, costs only Kshs8 million. So, we are going to be more careful with future projects. We will ensure that the Bugina Health Centre project is completed.

Mr. Bahari: Mr. Deputy Speaker, Sir, you realise that it has taken a decade for Bugina Health Centre to be completed. This is a very, very serious matter. Could the Minister tell us how much money is required to complete this project?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, as I said earlier on, actually, to complete a health centre and equip it, costs not more than Kshs8 million. Due to mismanagement and wastage it has cost much more than this. There is a very strong committee overseeing construction work on the Bugina Health Centre project and we expect to spend a further Kshs2.2 to complete the project.

Mr. Akaranga: Mr. Deputy Speaker, Sir, is the Minister aware that the people of Sabatia have already contributed Kshs2 million and the funds are lying in a savings accounts in the bank? If the project is going to cost Kshs2.2 million, why can the Minister not pay the contractor so that the project is completed?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, the Ministry will not pay the contractor simply

because there was wastage. The wastage was as a result of some money being stolen from the same project. Therefore, we intend to use the same funds to complete the project by next year.

Question No.690

PAYMENT OF ROAD MAINTENANCE LEVY
BY KENYA RAILWAYS

Eng. Nyamunga asked the Minister of Transport and Communications:-

- (a) how much Kenya Railways Corporation has contributed towards the Road Maintenance Levy from the diesel fuel consumed by their locomotives from January, 1997 to 2003;
- (b) whether it is in order, since road transportation competes with rail transportation, to make railways pay towards road maintenance costs and be left to struggle with rail-road maintenance without any support from the road user; and,
- (c) if he could

[**Eng. Nyamunga**]

authorize Kenya Railways to retain the monthly collections to be used for railway maintenance in order to ensure fair competition between rail and road transportation.

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

(a) The Kenya Railways has contributed Kshs1,073,104,153.40 towards the Road Maintenance Levy from the diesel fuel consumed by its locomotives from January, 1997 to September, 2003.

(b) The hon. Member is correct on the position that it is not right for the Kenya Railways to be expected to fund road maintenance as it is a competitor to the railways. The Ministry will be quite happy to be allowed to use the fuel levy for maintenance of the rail-road. This will go far in improving the current state of the railways.

(c) The Minister for Transport and Communications cannot authorize the Kenya Railways Corporation to retain the fuel levy for use in maintenance of rail transport. However, the Ministry has initiated discussions with the Ministry of Finance and the Ministry of Roads, Public Works and Housing in order to get an agreement on this matter.

Eng. Nyamunga: Mr. Deputy Speaker, Sir, you can see the kind of money that Kenya Railways has to spend to sustain or subsidise a competitor. I am happy with the answer the Assistant Minister has given and I only hope that they work very quickly with the Minister for Finance so that Kenya Railways Corporation can be allowed to retain the money to be used for rail-road maintenance. Mr. Deputy Speaker, Sir, I would like to add that our roads are deteriorating now because Kenya Railways Corporation is not giving the service it should be---

Mr. Deputy Speaker: Order, Eng. Nyamunga! What you are saying makes a lot of sense, but it is completely out of what we are doing! We are asking questions and you have just said you are satisfied. Now, you are going ahead to discuss roads.

Eng. Nyamunga: Mr. Deputy Speaker, Sir, I just wanted to bring to the hon. Members' attention the problems that exist and also, if this kind of money was to be given to Kenya Railways Corporation, it would go a long way in saving our roads.

Mr. Deputy Speaker: That is a statement and not a question! I said no other person should ask a question. So, let us proceed to the next Question by Mr. Muchiri.

*Question No.737*PROVISION OF SERVICES TO NGARE
WARD BY NYAHURURU MUNICIPALITY

Mr. Muchiri asked the Minister for Local Government:-

- (a) when the residents of Kiriita Village in Ngare Narok Ward will be connected to Nyahururu Municipal Council; and,
- (b) whether he is satisfied that the residents merit to be part of the Nyahururu Municipality when they receive no tangible services from the Council.

The Assistant Minister for Local Government (Mrs. Tett): Mr. Deputy Speaker, Sir, I beg to reply.

I did answer this Question last week and the Chair ordered that I mention the services that are provided by the council.

All the earth roads which fall within the ward are maintained by the municipal council. The council spends Kshs200,000 annually in maintaining the roads and a further Kshs80,000 as a bursary to finance secondary school education for the poor children from the ward.

Mr. Deputy Speaker: Mr. Muchiri, I did actually order for that as the Assistant Minister has rightly said. The Question was [**Mr. Deputy Speaker**] answered, it was only that aspect of service that you had requested to be specified. Now you have got it.

Mr. Muchiri: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the Ngare Narok Ward is split into two parts; one is called Rwathia, which is on the other side of River Ewaso-Nyiro, while the other one is Kiriita Village? So, I presume that the services the Assistant Minister is talking about are on the Rwathia side, and not in Kiriita. Can the Assistant Minister clarify further and confirm that Kiriita Village residents do not enjoy those services, and they are landlocked from Nyahururu Town and that they do not merit to be in Nyahururu Town? All their parcels of land are registered under Nyandarua and, therefore, the services that the Assistant Minister is talking about are in another area. There is a big gorge in between these two areas and as a result, they cannot even communicate. So, the services are on the other side. Could she confirm that?

Mrs. Tett: Mr. Deputy Speaker, Sir, I am confirming that. Last week, I said that they are enjoying the facilities such as the market and recreational facilities but that is on the other side. But on this side, I have just said that they do enjoy the facility of Kshs200,000 to maintain the road and Kshs80,000 for the school bursary. Those are the only facilities they have on the side of Kiriita Village.

Mr. Deputy Speaker: Next Question by Eng. Okundi.

Question No.482

REVIVAL OF KOCHIA WATER PROJECT

Mr. Deputy Speaker: Eng. Okundi not here? The Question is dropped.

(Question dropped)

Mr. Tarus, do you have a Statement?

MINISTERIAL STATEMENTINSECURITY ALONG THARAKA
/IGEMBE BORDER

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, following a request by hon. Muriungi on 23rd October, 2003, on insecurity along Tharaka/Igembe border, I wish to state as follows:

There have been long-standing border disputes between residents of Tharaka and Meru districts. The disputes over the border first surfaced in 1994, when the present Tharaka District was under Tharaka Nithi District--

(Loud consultations)

Mr. Deputy Speaker: Order, Members! Order, Mr. Assistant Minister! The Statement which was requested by Mr. Muriungi and which the Assistant Minister is reading is an important one, since it is a matter of security. Therefore, I think it is in the interest of all Members to listen.

Proceed, Mr. Tarus.

The Assistant Minister, Office of the President (Mr. Tarus): The dispute over the border first surfaced in 1994, when the present Tharaka District was under Tharaka Nithi District. It was then decided that the boundary issue be left in the hands of 86 *Njuri-Ncheke* elders from three Meru Districts of Meru Central, Meru North and Tharaka Nithi. In 1997, ethnic clashes between Tharakas of Tharaka Nithi District and Igembe of Nyambene District; now Meru North District, erupted before the completion of the exercise.

Mr. Ntorori Ndiuthi, a 60-year old man was shot with a poisoned arrow and died on 22nd October, 2003, at 12.00 noon. It is suspected that he was shot by a poisoned arrow while he was cultivating a farm in the disputed area of Marega, Giika Location. It is suspected that 30 armed people from Tharaka were responsible for the crime. Again, the Tharaka/Meru North District Security Committee (DSC) meeting was held at the scene, and they resolved that the suspects whose names had been mentioned be apprehended immediately. They also agreed to mobilize security forces to patrol the common disputed border area until further notice. This incident was preceded by another incident in which two people were shot and injured when people suspected to be from Tharaka crossed into the disputed area at Thangata Location where they started farming and cultivating. They were shot by people from Tigania East. Two people from Tharaka were shot with arrows and wounded. Both Districts Security Committees of Tharaka and Meru North Districts have held several *barazas* to preach peace and observance of law and order. As a result, peace has been restored in the area. Suspects from Meru North have been arrested, and have since recorded statements with the police. Investigations are ongoing.

In 1999, the *Njuri-Ncheke* addressed the issue of the boundary and agreed on the siting of the boundary; except in one portion measuring one kilometre where negotiations between *Njuri-Ncheke* elders are still going on. The Government is still trying to have the elders agree on the final document. It has been noticed that, with the onset of the rains and the planting season, clashes similar to those normally occur. Meanwhile, the Government has beefed up security at Kavivini, Kithimani areas and at chief's camp in Giika Location. As a result, for the last two weeks, the area has experienced calm. Meanwhile, the Government has engaged the *Njuri-Ncheke* to complete the fixing of the boundary as this will bring a lasting solution. The DSCs have literally camped in the

area with the aim of defusing the tension by holding *barazas* and maintaining permanent patrols until the problem is resolved. I wish to encourage both Members of Parliament from the affected areas to be involved in the peace process and assist their respective DSCs in their quest for peace. We believe that their input will help in restoring calm and long-lasting peace in the disputed areas.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Muriungi: Thank you, Mr. Deputy Speaker, Sir. As the Assistant Minister has---

Mr. Deputy Speaker: Are you seeking a clarification?

Mr. Muriungi: Yes, I am seeking clarification, Mr. Deputy Speaker, Sir. The Assistant Minister has stated that there were clashes between the Tharaka and Igembe in 1994 to 1997. I would also like to observe that between 1998 and this year, there was peace and peaceful co-existence between the two communities. But from 11th June, 2003, when leaders from Tharaka, the County Council Chairman and other councillors, urged the Tharaka people to resettle in Igembe, it seems that, that is when there was a resurgence of these clashes. Could the Assistant Minister tell us if there is a correlation between the utterances by these leaders and the resurgence of the clashes, which had ceased for more than five years?

Mr. Deputy Speaker: I will allow one or two more clarifications before the Assistant Minister can reply.

Proceed, Mr. Munya.

Mr. Munya: Mr. Deputy Speaker, Sir, Gathithine Market is in Tigania East Constituency, and the Assistant Minister is misleading the House when he says that the Government has beefed up security in Gathithine. Further, there is no police post or chief's camp in Gathithine and the nearest administration centre with some Administration Police (APs) is more than 20 kilometres from Gathithine. Gathithine Market is occupied by people from Tigania East as well as some people from Tharaka. The Tharaka County Council collects rates from people of Gathithine, yet Gathithine is in Tigania East. Could the Assistant Minister tell us how he will find a lasting solution to clashes between the people of Tharaka and Meru North by giving us a deadline on when he will appoint elders from both sides of the border to settle the dispute? He has been promising to do that for the last eight months since the NARC Government came into power, but he has not been able to take any concrete action about it.

Mr. Deputy Speaker: Very well, Mr. Munya. Mr. Assistant Minister, you can now respond to the two issues before I move on to something else.

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, first of all, as I said in the Statement, it is, indeed, very important for leaders to make sure that the statements they issue do not cultivate ill-will amongst communities. That is why we cannot fail to involve the leaders of that particular area in border issues. Hon. Members from that area will play a very important role in assisting the Government to ensure that people understand the importance of co-existence and resolving disputes using the existing machinery.

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

Mr. Deputy Speaker: Order, Mr. Munya! Let the Assistant Minister finish, please! He allowed you to say what you wanted to say.

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Deputy Speaker, Sir, on the issue of beefing up security, we have instituted the use of police patrols for the time being.

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

Mr. Deputy Speaker: Order! Mr. Munya, this is the Kenya National Assembly. There should be no heckling!

Continue, Mr. Tarus!

Hon. Members: This is not *Mungiki*!

The Assistant Minister, Office of the President (Mr. Tarus): I think the hon. Member has been answered properly by the hon. Members.

The Government will ensure that security is provided wherever it is necessary. But I hasten to say that this is where we also require co-operation by hon. Members of Parliament. If utterances that are being uttered in this House are also being uttered on the ground, it will be difficult for the people resolve these disputes. I request hon. Members to also assist us in cultivating goodwill and co-existence amongst our communities.

POINTS OF ORDER

EXPENDITURE ON NCC INSPECTION TEAM

Mr. Mwenje: Mr. Deputy Speaker, Sir, I stand to complain bitterly here about the Ministry-

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Mr. Deputy Speaker: Order! Mr. Mwenje, are you standing to complain or to seek a Ministerial Statement?

Mr. Mwenje: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Ministry of Local Government with regard to the inspection team that was appointed by the Ministry to probe the Nairobi City Council (NCC). The members of the inspection team are civil servants. The NCC has been ordered to pay Kshs10 million to the Ministry of Local Government. This money will be used to pay these officers, who are already drawing salaries from the Government. In the past, the Ministry had appointed three other commissions, namely; the Mbogua Commission, the Mbaru Commission and the Omamo Commission. They made their recommendations and submitted them to the Ministry of Local Government and the Nairobi City Council. But they have not been implemented.

If you look at the terms of reference, one of them simply says that: "The Inspection Team is to recommend disciplinary action and prosecution of all those who have been found guilty". Many officers have been found guilty and no action has been taken against them. The NCC is losing a lot of money, which could be used to provide services to the residents of Nairobi.

Mr. Deputy Speaker: Mr. Mwenje, you are raising a very serious issue. But when you approached me, you said that you would be seeking a Ministerial Statement. Now, you are just giving us a lecture on what is going on. Please, would you address the issues you want the Minister to issue a Ministerial Statement on, so that he can do his homework and bring a Ministerial Statement to the House? You are pre-empting what will be investigated by the Minister. Would you address yourself to the Ministerial Statement that you sought the permission of the Chair to seek?

Mr. Mwenje: Mr. Deputy Speaker, Sir, we cannot continue to have inspection teams looking at the same issue every year. The Inspection Team should be disbanded immediately and the NCC should stop paying any more money to the Ministry of Local Government to meet the cost of that team. This money should be used to provide services to the people of Nairobi.

Mr. Deputy Speaker: I am informed also that there is a Question by Mr. Sirma on the same matter. Madam Assistant Minister, would you like to respond?

The Assistant Minister for Local Government (Mrs. Tett): Mr. Deputy Speaker, Sir, we will issue a Ministerial Statement tomorrow afternoon.

With regard to disbanning the Inspection Team, I will have to check the team's terms of reference and if need be, we shall do that. But I will consult with my officers and if we feel that the hon. Member has a point, then we shall recommend that the team be disbanded. But the Ministerial

Statement will be issued tomorrow.

Mr. Mwenje: Mr. Deputy Speaker, Sir, I have a copy of the terms of reference she is asking for. If she wants to read it right here, I can pass it over to her.

Hon. Members: No!

Mr. Deputy Speaker: Order! Order! Mr. Kamama, are you seeking another Ministerial Statement? I know that you had sought one and it was issued.

STRIKE BY UNIVERSITY LECTURERS

Mr. Kamama: Mr. Deputy Speaker, Sir, I want to seek a Ministerial Statement on the current lecturers' strike.

Mr. Deputy Speaker: Did you consult with the Chair over that Ministerial Statement?

Mr. Kamama: Mr. Deputy Speaker, Sir, this is a very serious matter in this country.

Mr. Deputy Speaker: Indeed, it is very serious, but also, the House has procedures. I think Mr. Speaker has told hon. Members that whenever you want to raise issues in this House, you should see the Chair before, so that he can make arrangements. So, you will do that now.

Mr. Raila has requested to make a personal statement under Standing Order No.69. I have so granted and there will be no debate according to that Standing Order.

PERSONAL STATEMENT

FINANCING OF PUBLIC WORKS

MINISTER'S TRIP

The Minister for Roads, Public Works and Housing (Mr. Raila): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity.

Mr. Deputy Speaker, Sir, I want to state here that, on 11th October, 2003, I travelled to Germany and Austria accompanied by officers of my Ministry in fulfilment of my duty. The trip took five days. I was accompanied by Eng. Francis Kiranga and my personal assistant, Mr. David Arunga, as part of the official delegation. My wife was not part of the official delegation. Her ticket was paid for by those who sponsored this trip on the clear understanding that I was going to refund the money. My travelling was properly cleared as is required when Cabinet Ministers travel out of the country. The clearance is here and it states clearly that Strabag was to meet the expenses of the trip.

Mr. Deputy Speaker, Sir, after my travel, the company that had sponsored the trip sent me an invoice for the ticket of my wife. I will table a copy of that invoice, and I have paid the money. I want it to be very clear that my wife's ticket was not paid for as part of the official delegation. I also want to state that I did not know that it is a crime for Ministers to be accompanied by their wives when they travel on official duties.

(Mr. Raila laid the Document on the Table)

Mr. Deputy Speaker: Very well! There is no debate on that matter as stated under Standing Order No.69.

Next Order!

MOTIONS

SELECT COMMITTEE TO INVESTIGATE
DEATH OF HON. NDILINGE

THAT, following the sudden disappearance and murder of the late Hon. Tony Wambua Ndilinge, MP, on 2nd August, 2001, and the subsequent ruling by the High Court hearing the murder trial that the case is a mistrial; this House resolves that a Select Committee be established to investigate the circumstances leading to the murder of the late Hon. Ndilinge and report its findings and recommendations within six months and that the Committee be composed of the following Members:-

The Hon. John M. Mutiso, MP
The Hon. Benson Mbai, MP
The Hon. Kalembe Ndile, MP
The Hon. Moffat Maitha, MP
The Hon. Kiema Kilonzo, MP
The Hon. Ivuti Mwangi, MP
The Hon. Otieno Kajwang, MP
The Hon. Jimmy Angwenyi, MP
The Hon. (Dr.) Abdullahi Ali, MP
The Hon. Kahindi Kingi, MP
The Hon. Daudi Mwanzia, MP
The Hon. Ekwee Ethuro, MP
The Hon. Gor Sunguh, MP
The Hon. Charles Kilonzo, MP
The Hon. David Mwenje, MP

(Mr. J.M. Mutiso on 5.11.2003)

*(Resumption of Debate
interrupted on 5.11.2003)*

Mr. Deputy Speaker: Prof. Anyang'-Nyong'o was on the Floor. If he is not here, it is assumed that he finished his contribution.

Mr. Kaindi: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Motion. I was in Parliament last time when the late Ndilinge was an hon. Member. It is unfortunate that this Motion had to come at this time. However, it is important that it did come so that it could shed light into the death of one of our colleagues, who stood up in this House on many occasions and said that his life was in danger. Unfortunately, no action was taken.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, human life is very important. Therefore, it cannot be

taken away like the life of a goat that we slaughter any day and rest the matter there. Those of us who knew the late Ndilinge knew him as a humble and dignified man. He served his constituents with diligence. He was a man who would never harm a fly. The question that lingers in our minds to date, is: Why was he murdered and yet, on many occasions, he had openly said that his life was, indeed, in danger? Therefore, the formation of this Committee---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order Members!

Mr. Kaindi: Mr. Temporary Deputy Speaker, Sir, therefore, the formation of this Committee will be the genesis, in our view, into digging deeper and establishing the reasons, causes and the perpetrators of this heinous death of one of the hon. Members of this House.

Mr. Temporary Deputy Speaker, Sir, many of us will remember that sad morning; in fact, it was raining. As I entered the precincts of Parliament, I met the current Minister for Trade and Industry, Dr. Kituyi, and he asked me: "Why Mr. Tony Ndilinge of all people? He was a harmless person."

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Poghisio): Order, Members! Only one hon. Member can be on his feet at a time. I do not know why hon. Members want to stand up and continue standing for a long time. If you want to move from one point to another, please, do so, quietly.

Mr. Kaindi: Mr. Temporary Deputy Speaker, Sir, therefore, it hurt many of us to see a dignified leader killed in the manner in which he was killed.

This important Committee must be given full support by all and sundry; that is, the Government and all its organs, so that they can fully investigate into this murder. The death of Mr. Ndilinge robbed the people of Kilome Constituency off an industrious son, a father and a husband. As we buried the late Ndilinge, many of us could not understand why he was murdered. Mr. Temporary Deputy Speaker, Sir, I do remember on two occasions when the late Ndilinge met us at the Serena Hotel in the morning and he openly expressed fear about his life. We did advise him to come to the Floor of the House and raise this concern. I remember he was contributing in Kiswahili language. He said: "Bw. Spika, maisha yangu yako hatarini", but no action was taken. Even after his death, promises were made by the past regime that no stone would be left unturned, but to date, we have only seen some shoddy work done by the investigating team. As it stands today, nobody knows who killed the late Ndilinge. This is one of the many murders, if you look into history, that have remained unresolved. Therefore, Parliament, as the most paramount institution in this country, must ensure that institutions are put in place that will make sure that murders of this nature are fully investigated. The late Ndilinge was murdered. Tomorrow, it will be another person. I do pray to God that tomorrow, we will not talk about the death of another hon. Member.

Mr. Temporary Deputy Speaker, Sir, this Committee is important. Its mandate is very clear. Its findings and recommendations will form the basis for further investigation. I do know that the NARC Government has the goodwill to put in place machinery to ensure that, once these recommendations are brought forth, sufficient mechanisms will be put in place to ensure that those who killed the late Ndilinge are brought to book.

Mr. Temporary Deputy Speaker, Sir, it is needless to say that we lost a committed man.

However, as a nation, let us not weep over the murders of our leaders without doing anything. This murder reminds us of the insecurity of in this nation. Let this Committee serve as an example and bring to an end political assassinations in this country.

I do recall that many hon. Members were called to give testimony on the murder of Ndilinge. I was one of the hon. Members who were called to testify on what I knew about him. I remember I said very clearly that the last time I saw him was at Serena Hotel and Fair View Hotel. We had met there as Kamba leaders. He was an onerous man; a man of integrity, but he was killed by a bullet.

Let Parliament empower this Committee so that it can go into the depths of the investigation, even if it will mean hiring experts to assist them, so that they can unearth this heinous murder of a great son of this country. I believe that there is commitment from the Government. I do hope that this Committee will be fully empowered to get into the depths of the murder of such leaders.

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

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, I stand to support this Motion. It was, indeed, sad that we did lose one of our very able hon. Members. Indeed, when that death did occur, the Government did promise to leave no stone unturned to ensure that justice was done.

However, when we finally got the alleged culprits, the case went on, and eventually, it was termed a mistrial, which meant that the wrong people were taken to court. The Government has a responsibility to ensure that the right culprits are caught. It is, therefore, our hope that the Attorney-General has already ordered for further investigations of this case so that the right culprits can be brought to book.

Mr. Temporary Deputy Speaker, Sir, maybe, I am one of those people who spent quite a bit of time with the late Ndilinge before he died. I remember we spent two long nights in Taita-Taveta District during the by-election. I found him a very hard-working person. I only remember the last night as we sat when the votes were being counted, and we had only two more stations left, so that we could determine who the winner was, and as it turned out, those stations were two Kamba strongholds. I remember him telling me: "*Tukishindwa hapa, mimi nitalaumiwa sana*". However, I told him, "You do not have to worry since I am the one leading the---

Mr. Temporary Deputy Speaker (Mr. Poghisio): Maj. Madoka, you are combining two languages!

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, I do apologise. I was quoting the late Ndilinge verbatim. However, he said that if we lost, he would be blamed because, as I said, those two last stations were Kamba strong holds. I told him not to worry because, I was leading the campaign team, I was the one who was likely to be blamed. He was indeed a very worried man. It indeed turned out that we lost in those two stations and I know he left there a very disappointed person. I encouraged him to take heart and see that it was all politics. I therefore knew that he had expressed such feelings and people may consider that this was a political murder. For any political murder, a Select Committee of this House would be best placed to try and ensure that those concerned are wiped out.

Mr. Temporary Deputy Speaker, Sir, I therefore do support the Select Committee to go into this. However, my concern is we have had similar Select Committees like that of J.M. Kariuki; we have had other reports, like the Kiliku Report, and nothing is done after the reports have been presented. It is my hope that when this Committee has presented its report, action will be taken where necessary.

My other concern is that if it is to be a Committee of this House, then the membership must be balanced. If you look at the proposed membership of the Committee, more than half of the

membership is from one community. I think we need to look at the membership and spread it out to ensure that it is truly representative of the membership of a Committee.

With those few words, I support the Motion.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, in a democratic country, Parliament occupies a very critical apex position in that democratic arrangement. Therefore, it is fitting that Parliament is able to discharge its obligations to the nation because we are here, having been elected to come and represent the people at the grassroots level from every corner of this country. That is why Parliament is a very important institution. When it is investigating a matter concerning a person or mysterious assassinations, then Parliament has to be very professional in the manner in which it goes about the investigations, particularly, because every Member of Parliament is a potential victim of assassination. We should bear that in mind. It was once Dr. Ouko; there was Mr. Ndilinge, who knows who the next one will be? Therefore, the message that these Parliamentary Committees should send should be clear, unequivocal and firm. The message should be this; that where individuals within a Government are thinking of a political assassination, they should bear in mind that Parliament will appoint a Committee to unearth the truth. Where it is a political assassination, it is only Parliament that has the capacity to unearth the truth.

The powerful individuals within a Government are obviously in control of the police, Special Branch and CID and, therefore, where there is an assassination that has been plotted and executed by powerful individuals within a Government, those individuals will have the capacity to stage manage investigations, and, in fact to cover up the truth about the investigations. That is where Parliament comes in. If powerful individuals are the ones controlling the Police, the Special Branch, CID, and the investigatory machinery, the investigations will be stage-managed to purely mislead members of the public, and at the end of it, nothing will be done, yet a life will have been lost. That is a heavy responsibility that this House assumes when it appoints Committees to investigate mysterious investigations particularly of public figures. We have to bring political assassinations to an end. From Pio Gama Pinto's assassination all the way through. Time has come for us to say "never again". The only way you can bring the assassinations to an end is to unearth the truth and sending this powerful message. Mr. Temporary Deputy Speaker, Sir, in order for a Parliamentary Committee investigating an assassination like this one to succeed and do a thorough job, and a professional job, no obstacles should be placed in its way. It is a Committee of this House and the House is supreme.

There is misinterpretation of the regulations relating to procurement of goods and services. There is misinterpretation of those regulations by the office of the Speaker and the office of the Clerk of the National Assembly. When the Government regulations talk about "tendering for goods and services," you must give an informed interpretation to the terms "goods and services." I say this as a lawyer, that when the regulations talk of tendering for goods and services, the term "services" there does not refer to professional services. It is goods like toiletries and other items. The term "services" conceptualised there are the services of a mechanic, an artisan or a plumber. They are services relating to non-professional jobs that need a worker.

If you want to repair a toilet in Parliament, then you tender for a plumber to put in a tender of how many toilets and how much work he can cover. However, there is nowhere in the world where you will go asking for tendering of professional services. You hunt hard for competent professionals. Can you imagine being told to tender for a heart surgeon? The most incompetent one is the one who will quote the lowest---

The Temporary Deputy Speaker (Mr. Poghio): Mr. Muite, are you trying to challenge the ruling of the Chair?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I am saying that this House is supreme,

and sooner or later, we will need to come here to debate on this.

The Temporary Deputy Speaker (Mr. Poghiso): Order, Mr. Muite, I think you are revisiting an issue which has already been ruled on in a Communication from the Chair, if I recall. If you are referring to an issue which has already been sorted out, then, you should know the rules. That issue was laid to rest by the Speaker. You had better confine yourself to this particular Motion.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, we are talking about the death of a Member of Parliament. I was checking the roles of advocates here, and I am not challenging the ruling of the Speaker. I found out that I am eight years his senior in terms of being admitted, and so I have got experience. However, that is not the issue that I am talking about. I am saying that if that Committee is to succeed, they will need to have a professional lawyer who is competent, so that he can work with the investigators, arrange the evidence, direct where to investigate, and present that report before the Committee which we are appointing. That is the professional thorough way of going about issues. That is the way they do it in America, Australia and everywhere else.

The Members we have asked to sit in the Committee cannot be both the investigators, the lawyers and still hear the matter. They need professional services. It is the lawyer who needs to coordinate the investigations, bring a logical, orderly presentation and prosecution of that matter, including cross-examining the witnesses. That is the way they are going to unearth the matter and we must facilitate that. We must enable these committees to be professional in the investigations and presentation of the matters, so that the truth can be unearthed. This will ensure that when they write the report---

Ms. Abdallah: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Muite to lobby for legal services for his friends on the Floor of the House?

(Applause)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, Ms. Abdallah is a very competent Member of the Committee on the Administration of Justice. Actually, I am not lobbying for any particular individual. I am emphasising competence. There are some lawyers who are my enemies, but because they are able, I would actually urge that they get appointed to this Committee. It has nothing to do with friendship. I am just saying that when it comes to professional ability and competence, one should go and retain the best. This Committee should be facilitated in doing that. I support the Motion.

I urge that they should be very professional and orderly in the manner in which they go about this matter. I am asking the House to review any obstacles that might be placed in the path of this

Committee which we are appointing, or any other committees. When there is suspicion that the assassination may have been arranged by powerful individuals within the Government, the only way you can go around it is by making Parliamentary Committees to be effective. You cannot do that without professionalism.

Mr. Temporary Deputy Speaker, Sir, those of us who were in the last Parliament, and the one before that one, remember with a lot of affection the contributions from the late Mr. Ndilinge. It is not right that we should allow whoever was behind his murder and assassination to get away with it. We must steer away from a situation where that Committee may not be able to unearth the truth. They have got the ability and if they go about it the right way, they will be able to unearth the truth. Do not under-estimate the capacity of the enemy. Powerful individuals acquire money; therefore, they are able to buy their way around and confuse people. We have seen this happen and we can anticipate that it can even happen. So, this Committee must be prepared to deal with powerful

individuals, wealthy people who are prepared to buy others around. It must be prepared to deal with people who are prepared to put obstacles every inch of the way. It will not be an easy job, and they must not underestimate that. That is why we, as a House, including the offices of the Speaker and the Clerk, must rise up to the occasion.

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

Mr. Mganga: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise here to very strongly support the establishment of this Select Committee.

I support this Motion because, as a country, we should never be in a situation where a person in whatever level in society is mysteriously murdered and the investigations never lead to the correct people being arrested. In a democratic country where we are operating transparently and with respect for the rule of law, the sanctity of life must be upheld and protected. The murder of Mr. Ndilinge pointed fingers in various directions and it was like a confirmation, when at the end of the day, the culprits were never arrested. Why should people in powerful positions in Government or who have connections in the Government put themselves in a situation whereby they could be blamed for a murder of a Kenyan, be they MPs or not?

The establishment of this Committee is a clear indication that the Government has many times let Kenyans down as far as investigations of murder, such as this one, are concerned. That is why, at the same time, I would like to support independent establishment of the Police Service Commission, where the Commissioner of Police can be independent, such that he is not arm-twisted by any people in power or whatever level in society, who could be in a position to intimidate the police investigating the murder of a person like the late Mr. Ndilinge.

We have been told many times that no stones will be left unturned. Unfortunately, some of these stones remain unturned because of the positions that the culprits hold and, therefore, they are able to intimidate the investigating arms of the Government. On the other hand, it could be that there is inefficiency and ineffectiveness in the investigation of such murders. This means, therefore, that as we establish this Committee, those who are charged with such investigations must ask themselves: "Why is it that we are not able to come through with this investigations?" Now that it has taken Parliament to establish a Committee, will we use investigators from the same department to try and get to the root of the matter?

Something is wrong somewhere. We have to get to a situation where no political assassinations are ever undertaken again, through making sure that whenever such action is taken, clear deterrent measures are taken and that the culprits are arrested, arraigned in court and committed to prison.

Our investigators must wake up; they must be honest to themselves. If they were not able to arrest the people who were involved in this crime at that time, how will they be able to do that today? As we establish these committees, we must ask ourselves as Parliament: Are we doing it because we have better investigators in Parliament? Are we doing it because it is only through Parliament that the police can conduct free, fair and thorough investigations? We need to ensure that any other investigations that are undertaken in this country are thorough and conclusive. We should not leave files opened for years, such that we cannot trace these people and yet they are somewhere walking around free.

We know that money can move mountains. Cases have been alluded to where MPs, officers of the Government and members of society have lost their lives because they stepped on the feet of some senior people and money was used to eliminate them. This Committee should be prepared to fight this "animal" that goes out of its way to fight justice using money. This money has been accumulated in whatever way, but it is being used to fight Kenyans.

Mr. Temporary Deputy Speaker, Sir, finally, having looked at the composition of the

proposed Committee, this is a Committee of the House and of national concern. I do suggest that the composition be reviewed to reflect the diversity that we have in this Parliament, based on our nation's ethnic diversity.

With those few words, I beg to support.

Mr. G.G. Kariuki: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity.

First of all, hon. Members of Parliament must realize or go by the history of political murders, because there is nowhere in history that perpetrators of political murders have ever been discovered. That being the case, the Committee which is going to be charged with this responsibility must bear in mind that this is a very serious task that they are going to engage in.

Mr. Temporary Deputy Speaker, Sir, political murders can only be investigated by those who are capable of doing that kind of work. For the last many years after Independence, there have been some alleged political murders which have taken place, but none of them has ever been resolved. We have never been told what happened to several political murders which have taken place. Even when we set up a Parliamentary Select Committee to investigate the murder of the late J.M. Kariuki, nothing came up because whatever was said by that Committee was taken by the Executive as mere rumour-mongering.

Mr. Temporary Deputy Speaker, Sir, when the death of the late Ndilinge occurred, hon. Members of Parliament needed to have established a committee immediately, so as to track the information before it was too late. Now, the Committee is going to do work one year after a murder has taken place. This Committee must realize that it is not going to be easy because, whoever did this thing is still alive. Those who were involved are still alive, and they know what it means if they are detected. Therefore, the amount of underhand business which is going to take place cannot be underestimated. What we need to ask ourselves in this House is whether this Committee has power beyond what we think we have, because the Committee's duty is to make recommendations and bring the report here. They have no political or legal power to take anyone to court as per the recommendations of the House. It is yet to be seen whether this Committee will get there.

Temporary Deputy Speaker, Sir, it is not only politicians who are subject to political murders. Even senior citizens of this country, civil servants and business people have been murdered with impunity. All the time, when we raise Questions here, we never get answers. I think we have a big insecurity problem in this country.

Mr. Temporary Deputy Speaker, Sir, when a committee of this nature is being formed, I suggest to this House that we must always look at it broadly. We should not think that since this murder concerns a victim from Kambaland, it is only hon. Members from Ukambani who should carry out the investigations. We must be professional. I think we have grown old to understand that we need professionals who we can utilise in this House. We have lawyers, ex-policemen and former DCs who we can utilise. I think we have almost every profession represented in this House. The issue should not be taken as an Ukambani issue. It is a national issue because, today, it is in Ukambani and tomorrow it might take place elsewhere in this country. We should utilise hon. Members of this House who have some professional background to unearth what might have taken place.

Mr. Temporary Deputy Speaker, Sir, therefore, when we request for lawyers to be engaged in this exercise, like Mr. Muite suggested, our job is to make it known that this House has almost every profession represented. If we needed Generals, we would get them in this House. We have retired Generals and former Army Commanders in this House. We have almost every profession represented in this House. I suggest that the talent of hon. Members of Parliament be used in every particular situation. If it is a problem that touches on the engineering aspect, we have hon. Members

of Parliament who are engineers. If you want people who have worked for the Department of Defence, they are here. We could be seen as trying to politicise this matter, when we should be seen as people who are serious and with professional ethics, who will be able to make sure that we give a report to this house which is beyond any question. Unless we do that, everything will go the way it has gone before.

Mr. Temporary Deputy Speaker, Sir, I think the issue of the murder of the late Ndilinge, who was a person I knew very well, was mishandled from the word go. It was said that he was seen in several places before his death. We need to start from there, because it seems, from all the information people were reading from the newspapers and the information which was doing the rounds, the murderers were trailing him from early evening and following him all over the place. He even claimed that he was being trailed. We understand that he called his House to say that he was being trailed, and he thought that there was something fishy going on. I think we need to start from that point. Hon. Members from that part of the country should have set up this Committee immediately. That time I was not an hon. Member of this House, but I understand that some people were arrested to make sure that whoever brought up such a Motion would be adjudged to be going against the rule of *sub judice*.

Therefore, I think this is the right time to investigate this issue, and I would like to congratulate the hon. Member who brought it up. I would also like to tell him that this matter is very complicated. We should prove to the nation that we are capable of doing investigation. It would be very important to amend this Motion by deleting some of the names and replacing them with others. My suggestion to this House is that some names of hon. Members on the list be replaced with others who have got the professional knowledge on this kind of investigations.

With those few remarks, I beg to support.

Mr. Salat: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion.

First and foremost, I stand to support the composition of the Committee to investigate the death of the late hon. Tony Ndilinge. For those of us who got to know the late Ndilinge one way or the other, his murder robbed this nation of a person who was at his prime; a person whose services were still needed very much in this country.

Mr. Temporary Deputy Speaker, Sir, since the beginning of this Session, this House has formed two committees. This is one of them, while the other one is one charged with the mandate of investigating the circumstances leading to the death of the late Robert Ouko. As I said, I am standing here as a victim because, in 1992, my uncle, the late Daniel Salat, was also murdered mysteriously. So, as much as we would like to say that the life of a Parliamentarian is very important, the lives of those others who have been murdered and their cases never resolved are also very important.

Mr. Temporary Deputy Speaker, Sir, the message we are sending to Kenyans is that when we lose a Parliamentarian, we should form a commission. We should also look at cases which have not been solved. Recently, we lost Dr. Mbai, and the case seems to be dragging on. Not long ago, we lost Dr. Ouko, J. M. Kariuki and many other prominent Kenyans. Their lives were cut short by what we consider political reasons. As I said, Parliamentarians should also support the formation of commissions outside Parliament, to investigate cases of mysterious murders, like that of my late uncle, who, up to now, we believe was murdered due to political reasons. We would like to get to the bottom of all those murders. We urge the Government to co-operate by opening inquiry files because those murders are never solved because of lack of co-operation by the Government.

A case in point is that of the judge who was presiding over the case of my late uncle. He has recently been suspended from duty because of corruption. He has been investigated and found to be

corrupt. We are wondering whether he was bribed to hide the truth of my late uncle's murder. For the Committee to get to the bottom of such investigations, it needs the co-operation of all institutions that provide the necessary support. That way, we can know who killed Mr. Ndilinge.

Mr. Temporary Deputy Speaker, Sir, we hope that when such committees are formed, Members will not look at the monetary value of funds that will be set aside for investigating such deaths. We hope they will be committed. I also join my colleagues in saying that the composition of this Committee should not come from the region where Mr. Ndilinge came from. The membership should be spread out. The loss of Mr. Ndilinge was not only for the people of that region; it was a loss for the whole country. I urge that the composition of that committee should be looked into. We also urge that Members of that Committee should have some qualifications in areas of investigations. As other Members have said, we have hon. Too here, who was the Director of Criminal Investigations. He should be included in this committee. He will be valuable in providing the necessary knowledge in investigating murders.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Poghio): I would like to give this chance to Mrs. Ngilu. I will give her five minutes.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I stand to support this Motion. It is unfortunate that we are setting up that Committee to investigate the death of a Member of Parliament who sat in this House for nine years. We are doing it when he is dead. Mr. Ndilinge called the Government at that time - and he was in the Government - and gave notice that his life was in danger. It is unfortunate that they did not act accordingly to prevent those who intended to kill him from doing so. The Government said that it would conduct investigations at that time. Obviously, it could not investigate itself because we believed it was part of it. It is pleasing to know that those investigations are going to be carried out under a new Government. I know that something will come out of those investigations.

Mr. Temporary Deputy Speaker, Sir, when we look at the composition of that Committee, it should be slightly expanded to include more people. If you look at the composition, it does not have a national outlook. It really looks too "*Kambasome*". I hope we can get a few Members and give it a national outlook. As we investigate the death of the late Mr. Ndilinge, we should also include other leaders from that region who died in mysterious circumstances. In particular, I have in mind the late Mr. Kitili Mwendwa, the late former Commissioner of Police, Mr. Kilonzo, and, indeed, the father of Mr. Mutiso himself. They died mysteriously and it is not known what happened to them. We do not wish to continue losing leaders from that region. It has happened before and we know they died because of talking about development in the area. Time and again, when Members of Parliament spoke about development in the area, they were told to say that, that area was very developed. They were told not to talk about development. That is the reason why Mr. Ndilinge was killed. I believe the issues we have kept on talking about have now come out very clearly in the new Government, and they are going to be addressed.

We also know that the former Government, in trying to hide why and how Mr. Ndilinge died, tried to link his death to women.

An hon. Member: Why?

The Temporary Deputy Speaker (Mr. Poghio): Go on!

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I do know that Mr. Ndilinge was an honest Member of Parliament. He decided to marry three wives and showed them to his people. But for him to be portrayed by the previous Government that he was running from one bar to another looking for women was wrong. I do not think there is anything to hold in that--

The Temporary Deputy Speaker (Mr. Poghisio): Order, Madam Minister! I had given Mrs. Ngilu five minutes, but I do not know if there is a Government Responder. If the Government Responder is not ready, she can continue and finish her remaining time.

The Minister for Health (Mrs. Ngilu): Thank you, Mr. Temporary Deputy Speaker, Sir. What we know is that, after that, so that we could stop talking about it, they got two people as scapegoats and charged them in court. They obviously knew that it was just a matter of time before they released the two people. That eventually happened. Now, we are saying that the Government will provide the necessary facilities to ensure that the circumstances that led to the death of Mr. Ndilinge are known. As other hon. Members said, I know that those who committed that heinous act will be trying to hide, fight back, bribe and do anything possible. I hope the Committee that we will set up will stand firm and come up with a report.

Mr. Temporary Deputy Speaker, Sir, I am one of the people who had been asked to give information. I will be ready to give the information. I have some of the information that was given at that time. We also know that people who tried to give information at that time were threatened. We noticed how the then Head of State came to bury the late Ndilinge and threatened the whole family. He threatened his father, mother and wives. Indeed, the late Mr. Ndilinge's father also died--

The Temporary Deputy Speaker (Mr. Poghisio): Order! I think you know the rule about people who cannot defend themselves in Parliament. I would like you to be very careful when naming some people. That information is useful and you can give it to the Committee.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I would do that, but every Kenyan knows what happened at the funeral. However, the late Mr. Ndilinge's father died because of those threats. So, we lost Mr. Ndilinge and his father at the same time. They were buried at the same time. It is very unfortunate that it happened. We do hope that those people who were threatening will come up with the information.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Poghisio): The remaining time is for the official Government Responder.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Mr. Mungatana): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to reply to this Motion.

I would like to state from the onset that the government supports this Motion as it is framed. On the 2nd of August, 2001, this country suffered a shock when we discovered the death of the former Assistant Minister for Trade and Industry, the late hon. Tony Ndilinge. It shocked this country and the whole region of East Africa, because it had been over ten years since the last time a political figure suffered this kind of death in the region.

The current government that took over on the 27th December, 2002, promised Kenyans that we were ushering in a new era of openness, democratic expression and honesty. The former culture of impunity, where people would do anything and get away with it is now gone. Therefore I want to say that in supporting this Motion, the Government is standing up to the promise it gave to Kenyans that we are now promoting a new culture where things must be said as they are.

There are some people who have cast aspersions on the viability of this Motion, asking why Parliament should go back to history and look at what has happened in the past. There are some who have even stated that it might be a waste of time and money. But former British Prime Minister, Winston Churchill, once said that a country that does not examine its history is a country that has no future. We, therefore, would risk history repeating itself if the truth of what transpired does not come out, and what a better institution to do this job than Parliament itself.

Some issues have been raised concerning that incident. For instance, at the time that mysterious death took place, I remember an hon. Member, who was then a Social Democratic Party Member, said that the late hon. Ndilinge had recorded a statement with the police expressing fear about his life. We hope this new Committee, in fact, looking at the recent history of what has happened to Members of this House, will take time to examine and speak clearly on what the police should be doing. If a Member of Parliament or any member of the public records a statement with the police that his or her life is at risk, such statements must be taken seriously, because probably, that would have averted the possibility of the death that occurred.

Therefore, I want to say that the Government shall back this Committee and will do everything possible to make sure that the truth of what transpired comes out to the public and this Committee's work is successful.

With those remarks, I beg to support the Motion.

The Temporary Deputy Speaker (Mr. Poghiso): I will now call upon the Mover to reply.

Mr. J.M. Mutiso: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to donate ten minutes of my response time to Dr. Rutto and Mr. Leshore and each [Mr. J.M. Mutiso] of them can take five minutes to make their contributions before I wind up.

Dr. Rutto: Thank you, Mr. Temporary Deputy Speaker, Sir. In contributing to this Motion, I would like to make the following remarks.

It is important that this Committee is formed to address an issue that has looked like being mysterious for a long time. First of all, there are a lot of doubts regarding the nature of investigations that were carried out on this matter. As the Minister for Health, hon. Ngilu, mentioned, the late hon. Ndilinge was painted by the police and the media as a careless person. In other words, he was a person who could go even into the dark alleys of the city in the odd hours of the night. He was also painted as a person whose morality was in question.

To some of us, it looks like the attitude that informed that position was intended to be diversionary and that is why there is a lot of doubt on the nature of the investigation. The second reason why we need to come to the bottom of this problem is the fact that no justice has been done on the matter. Just like many other murders of leaders, including Dr. Robert Ouko, Tom Mboya, J.M. Kariuki, Tony Ndilinge and many others, there has been no justice done. As an institution, Parliament needs to move quickly to ensure that justice is carried out.

There is also need to bring this matter to a conclusion, and I think every Kenyan is anxious to find out what the conclusion is likely to be. The murder of hon. Ndilinge raises the whole question of crime and the administration of justice in this country. Kenyans have continued to experience harassment from gangs who wield weapons in this country.

Mr. Temporary Deputy Speaker, Sir, we have read in the newspapers today about a lecturer at Egerton University who was mysteriously murdered. The whole of this year, we have had cases of Kenyans being murdered by thugs who seem to be doing this with impunity. This is because the law enforcers have not been doing their work properly. The number of armed thugs is on the increase, and sometimes the police have been implicated in some of the murder cases. As a House, we should send a message to the law enforcers, particularly the police, that they are employees of the Government of Kenya and they should carry out investigations properly. The police should also protect the citizens of this country properly. The police should also carry out investigations to ensure that justice is done.

The Ndilinge murder still remains a mystery today and we should be told why he died. We should also be told how he died. The investigations which we read about in the newspapers seemed to have been incomplete. The police, for instance, seemed to have been reluctant to carry out a thorough investigation. The police kept on releasing diversionary statements, and it appears as if

they did not take seriously the statement Ndilinge had recorded with them that his life was in danger.

We know that some hon. Members have expressed fears in this House that their lives were in danger. Even as recently as two weeks ago, a Member expressed fear that his life was in danger. We hope that we will not see such an hon. Member die in a few weeks' time. This is because the police should protect the lives of hon. Members and, indeed, all Kenyan citizens. I would like to say that police investigations should be done thoroughly. I think there is need to establish a special police unit to investigate political murders. There is also need to inject some objectivity in police investigations to prevent cover-ups.

I would like to support this Motion by saying that we should find a way of arriving at the truth. So, we should put a mechanism in place to prevent murders of this nature in future. Thirdly, we should send a message that justice must not only **[Dr. Rutto]** be done, but must also be seen to be done.

Mr. Temporary Deputy Speaker, Sir, I support this Motion.

The Temporary Deputy Speaker (Mr. Poghiso): Order, hon. Members! You will realise that Dr. Rutto has taken more than the five minutes he was given. That is because when I gave the Mover a chance to reply, his time had not come yet because the Government Responder took a short time to respond. So, we have taken advantage of that time.

I will give Mr. Leshore the remaining five minutes to contribute to this Motion. This is not part of the Mover's time, but the remaining time.

Mr. Leshore: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to contribute to this Motion because I am a victim of an attempted assassination.

I would like to recall a few moments when my late colleague was still alive. I vividly remember in February, 2000, when we were at Safari Park Hotel, Mr. Maundu, Col. Kiluta and the late Ndilinge approaching me because I was their Chief Whip. They told me that somebody had approached them and told them that their lives were in danger. I told them casually that if their lives were in danger, then I would be the fourth. Two weeks did not end before Mr. Shidiye and I were shot but we survived.

I would also like to remind my colleagues that sometime back in August, 1996, before the 1997 general elections, *The Economist* magazine reported that KANU was going to do everything within its means to ensure that Mr. Ndilinge, Col. Kiluta, Mr. Maundu, Mr. Falana, Mr. Osogo, Mr. Shidiye, Mr. Leshore and Mr. Kirwa did not see the next Parliament. A few of us managed to see the Eighth Parliament. I urge the hon. Members who will investigate this murder case to also investigate what has been happening before. Since Independence, none of the culprits involved in political assassinations has been brought to book. Why is this the case? Are our investigators not trained well to unearth political assassinations in this country? Why is this the case? If the police lack training in homicide, then this Government should train them. Political murder files should not be closed but should be open until those who committed those crimes have been brought to book.

I urge this Government and the Select Committee to investigate the death of the late Ndilinge to unearth the truth. This is because Col. Kiluta and Mr. Maundu are still alive and they know the person who approached them and told them that they had been hired to "finish" them. I do not want to continue contributing to this Motion because I am a victim. That is why I am seated on this wheelchair. If the police were honest enough, they should have come out now and told us the people who shot Mr. Leshore and Mr. Shidiye. We are still alive, and although we do not know the real culprits, we can tell who were behind our shooting.

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

The Temporary Deputy Speaker (Mr. Poghiso): Hon. Members, I think I should now call

upon the Mover to reply.

Mr. J.M. Mutiso: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to reply to this Motion. First of all, let me thank all hon. Members who have made their invaluable contribution towards the setting up of the Select Committee to investigate the death of Mr. Ndilinge.

At the outset, I would like to say that I have taken the concerns raised by hon. Members as far as membership to this Committee is concerned. I will petition the House Business Committee, after consulting the hon. Members who are interested to join the Committee, to make further changes later on. So, the concerns raised by hon. Members as far as the composition of the **[Mr. J.M. Mutiso]**

Select Committee is concerned will be addressed. My intention was not to have hon. Members from a particular community investigating this murder. We should also take into account the fact that there were inherent imbalances which were caused by the promotion of some honourable members to assistant ministers.

We shall move with speed to try and come up with a concrete Report which will be presented to this House for adoption. I promise that we shall be fair to all witnesses who will provide information to the Committee on the circumstances leading to the death of Mr. Ndilinge.

Mr. Temporary Deputy Speaker, Sir, I appreciate the contribution made by Mr. Leshore. I think we have reliable live evidence which we can rely on to unearth the circumstances which led to the death of Mr. Ndilinge. This will also help us to reflect on past similar incidents.

Mr. Temporary Deputy Speaker, Sir, I appeal to the Office of the Clerk and the Speaker of the National Assembly to provide the Committee with the necessary resources. As we are aware, there has been some misunderstanding between the Select Committee investigating the death of the Late Dr. Ouko, and the Office of the Clerk and the Office of the Speaker of the National Assembly. We hope that it will not crop up in this Committee. I appeal for the support of this House so that we can wind up the investigation as soon as possible.

Mr. Temporary Deputy Speaker, Sir, I would also like to assure witnesses who will come forward to give their evidence that they will not be intimidated or victimised. They will be protected. We shall also visit various places and even reach those who might not be able to travel to Nairobi.

With those few remarks, Sir, I beg to move.

(Question put and agreed to)

PAYMENT OF COUNCILLORS' SALARIES
BY CENTRAL GOVERNMENT

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:- THAT, considering the significance of local authorities in the development of our country; aware of the rampant misuse of revenue collected from the authorities under the pretext of remuneration for councillors; this House urges the Government to pay the salaries of councillors from the Vote of the Ministry of Local Government and that 10 per cent of all council revenue collected in the country be submitted to the Central Government.

Mr. Temporary Deputy Speaker, Sir, local authorities as they are referred to are very important institutions in this country. Sometimes we refer to them as the local Government depending on the Minister who is in office. I think, currently, Mr. E.K. Maitha prefers to be called

the Minister for Local Government.

Mr. Temporary Deputy Speaker, Sir, we have 167 local councils in this country with about 2,800 councillors. They collect revenue from various bases and they are supposed to deliver services in return. Some of the revenue bases for our councils, include licensing and issuance of permits like burial permits and market fees. They collect market fees from markets that have been constructed by them or by donor agencies affiliated to them, land rates, parking fees and essential services such as water and garbage collection. These are the basis of revenue for our local authorities. However, if you look at revenue collection against the services provided by the local **[Mr. Sasura]**

authorities in this country, you will find that the services provided by almost every council are dismal. Garbage collection is very poor. The water services provided by the councils are even worse. As far as roads are concerned, I have nothing even to talk about. We must find out the reason why we are not getting good services from these councils, and yet they collect a lot of money.

Mr. Temporary Deputy Speaker, Sir, one of the reasons which is not a good enough excuse, is poor revenue collection. There is deliberate failure in revenue collection by our councils. A very good example is Nairobi City Council which is capable of collecting Kshs300 million per month only from water billing. However, it now collects Kshs150 million per month from water revenue. There are officers who put on yellow aprons in Nairobi City Council. They have substituted the parking meters that we used to have in Nairobi with live parking staff. In 1999, we tried to monitor how much money these people collected over a period of one month. We did an assessment on a weekly basis. In the first week, we realised that these parking staff collected Kshs80,000 per day. As we monitored very closely and tried to seal loopholes, at the end of the fourth week, they had managed to collect about Kshs250,000 per day. This was revenue collected from parking bays around the Nairobi Central Business District (CBD). It excluded Kirinyaga Road which was under construction at that time. You can imagine the amount of revenue that we get only from the parking meters. This amount of money per day translates into a lot of money collected by Nairobi City Council. However, even those parking areas are not safe. You park your vehicle and pay revenue, but immediately you finish your business and come back to your car, you will find the side mirrors missing. So, to begin with, it is difficult for the council to even manage the parking zones.

Mr. Temporary Deputy Speaker, Sir, secondly, we are not getting adequate services from these council because of the mismanagement of this revenue. Definitely, the revenue that is collected by the councils is grossly mismanaged. If you look at the water department, you will find that water meters are short-circuited. You will find that a client has his water officially disconnected because of non-payment of bills, but unofficially the client is getting water.

The bill is debated by the consumer and some City Council staff, and the consumer pays some money to the staff. So, the City Council loses revenue. You realise that even the revenue that is being collected is grossly mismanaged. Part of it is stashed into individuals' pockets. Evidence to that effect has come out from City Hall, where somebody was arrested with cash in the pockets of his coats and trousers.

Mr. Temporary Deputy Speaker, Sir, another failure is the printing of counterfeit receipts. You find that people at our councils, the people who collect revenue, be it from livestock, shops or from the markets, do so by issuance of counterfeit receipts. They print their own receipt books without the consent of the clerk to the council or, sometimes, with the consent of the clerk to the council. So, you find that cess collectors and the clerks to councils collude to fleece the councils of very much needed revenue.

Mismanagement of revenue is also evident in our councils when you look at the piles of garbage. I must congratulate the Nairobi City Council in as far as the Nairobi Central Business

District is concerned. There is a significant reduction in garbage piles, but the outskirts of Nairobi are still not up to standard. If you go to Eastlands, the garbage is still there. The way garbage is collected is rather confusing lately, because you find private vehicles carrying garbage to its destinations. But these are all indicators of how revenue from the Nairobi City Council is being misused.

If you look at the policy that has been in place, and the legal aspect of it - Cap. 265, Laws of Kenya - you will find that one of the biggest shortcomings in the performance of our local authorities is the powers given to the Minister for Local Government. Almost everything is referred to the Minister for ratification, by the local authorities. The Minister has the power to do and undo everything. That is why most of our local authorities have been strangled. They are unable to freely operate, make their own by-laws and operate efficiently. So, there is need to, seriously, review Cap. 265 with a view to reducing the powers of the Minister. That is why when the Minister for Local Government summons councillors, they come running, even at night.

The other day, there was a meeting of councillors with the Minister for Local Government at Kasarani. The duties and operations of local authority chairmen, clerks to councils and Finance Committee chairmen are inter-twined; they do everything together. So, when the Minister summons the chairman of a local authority, it is more or less inevitable that he is accompanied by the chairman of the Finance Committee and the clerk to the council. A lot of money is being spent on such trips. The other day, they just came to Kasarani to listen to the Minister telling them: "We have increased your allowances; we are planning to increase your allowances; so, go home."

These are all signals of the powers given to the Minister, and councillors and clerks to councils have no option, but to listen to him. If you look at what we call "The Local Authority Transfer Fund (LATF), a Fund that has been established by an Act of Parliament, and which came into force about the year 2000, beginning the year 2000, the Government spent 2 per cent of all the revenue collected in this country. That translates to about Kshs1.2 billion. As we sit here today, the Government is disbursing to local authorities, 5 per cent of the revenue it collects, which is about Kshs3.6 billion.

The conditions for disbursement of the LATF money are that local authorities must have audited books of accounts over a period of two or three years, submit reports of their previous expenditure and be able to target capital projects. But, if you go down to the local authorities, that is not translated in the field. For example, Nairobi City Council gets about Kshs200 million from the Local Authority Transfer Fund (LATF). This is beside the revenue that they collect. A council like Marsabit County Council got about Kshs8 million during this financial year. However, if you go to the ground, those things are not there because of the Local Authority Service Delivery Plan (LASDP). The funds that are allocated through LATF are supposed to be implemented through the LASDP Programme. That means that the community is supposed to sit down, plan its own work, submit it to the Minister and then it is implemented. That is not there. The clerks and the councillors collude and the councillors are given the money. They do not even know what to do with that money as far as community service is concerned. Therefore, a big percentage of LATF funds is used to pay the allowances of councillors. That is the spirit in which I am bringing this Motion. According to this Act, councillors are not entitled to payment of salary. They are only entitled to payment of allowances, when the money is available. Therefore, if a council decides that there is no money this month, the councillor has no right to complain because according to the Act, he is supposed to be given an allowance if the money is available.

Mr. Deputy Speaker, Sir, to stop the councillors from misusing money set aside for development and capital projects, and enable them to aggressively collect revenue, I urge the Government to pay them from the Central Government Fund. To boost the morale of councillors to

collect revenue, I am suggesting that every council contributes 10 per cent of the revenue it gets every month to the Central Government to subsidise the 90 per cent payable by the Government.

Mr. Temporary Deputy Speaker, Sir, councillors do a lot of work and they are the political base of almost every Member of Parliament and even the Government. We cannot underate the amount of work they do at the grassroots level. They are the people who decide what services the communities should get. But one thing that is very important to point out is that, there is a communication breakdown between our councils and the local District Development Committees (DDCs). You find that policies adopted by our councils are, most of the time, not endorsed by the DDCs because the councils, kind of, operate in an autonomous way. They sit down in their full council meetings, pass their laws and by-laws, get it certified by the Minister for Local Government and ignore the DDC. There is need for our councils to constantly work with the DDCs, so that their projects are endorsed.

Mr. Temporary Deputy Speaker, Sir, when it comes to the payment of salaries to councillors, I would urge the Ministry of Local Government to desist from increasing and decreasing the councillors salaries in *barazas* and other fora. When the councillors met at Kasarani, the Minister promised to pay them almost Kshs100,000 every year. But they demanded Kshs250,000 and the Minister agreed that the Government will try. That was a positive answer. About a month ago, when we passed the Vote for the Ministry of Local Government, the Minister told this House that they had increased the remuneration package for councillors. He also said they had increased the salaries of low-cadre staff by 100 per cent and high-cadre staff by 25 per cent. He said that the Cabinet had approved that salary increase. However, two weeks later, he came back and said that the decision had been rescinded until an Inter-Ministerial Committee sits down and comes up with a report. For how long are we going to form committees and task forces to give us solutions to the problems in this country? I know that according to the Bible in the book of Genesis, there is a verse which says:- "God loved the world so much that he sent his only son." If God did love this world, then he would have formed committees. This business of forming committees should stop. Mr. Temporary Deputy Speaker, Sir, the Minister, with all due respect, knows a lot about the councils since he has been a councillor before. He does not need any report from any Ministry to know what is happening or what the councillors need.

The Temporary Deputy Speaker (Mr. Poghisi): Order, Mr. Sasura! You should be aware that you are responsible for the accuracy of the information you give to the House. I was listening to you quote that verse from the Bible. Are you sure about that information?

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, I am very sure that information is from the Bible. It is from the Bible according to the book of John but not from Genesis. So, that was just with a light touch. I would like you to add me one minute because you took my one minute.

Mr. Temporary Deputy Speaker, Sir, with those few words, I beg to move, and I request hon. Dr. Galgallo to second the Motion.

Dr. Galgallo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to second this very important Motion. First of all, I would like to thank the Mover for having thought so wisely to bring this Motion because I believe it will give some courage to the Government to get out of the confusion about this issue. I think with the backing of Parliament, then they will have some courage to look more seriously at this issue.

Mr. Temporary Deputy Speaker, Sir, councillors are public servants and they are, therefore, entitled to payment for the work they do for the public by the Government. They are just like other civil servants. You will recall that they are included in the Public Officer Ethics Bill which we passed in this House. Of all those officers who are covered in that Bill, I believe it is only councillors who are not paid from the Consolidated Fund. So, it would just make sense that being

public servants, the responsibility to pay them should rest with the Government.

Secondly, we know that councils throughout this country are unable to raise enough funds to be able to pay councillors and their other workers and also to have enough money to provide services that are required by wananchi at the local level. So, if the responsibility to pay councillors is taken over by the Government, it will release revenue for the councils to be able to concentrate on providing services to wananchi and also to pay their other staff. This is important because we know that in most councils, the workers are not paid their salaries in good time. They are not paid enough salaries and so automatically they engage in corrupt and fraudulent activities and that fleeces councils of their revenue because they have no option. Councils do not pay them. They go without pay for three, four or even five months.

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, I would request hon. Oloo-Aringo and his colleagues to consult a little more quietly. If people are not paid for months, they then engage in other corrupt activities. Their kids have to eat and be clothed. They have to pay rent for their houses. If they are not paid, they engage in corrupt activities. For example, some of the Nairobi car-park attendants ask car owners, instead of paying Kshs70 for the parking ticket, to give them Kshs30. They would then allow the car owners to park their vehicles for as long they wish. The attendants have no option because they do not get their salaries and when they are paid, it is either too late or too little. The councils are unable to give them good salaries because political leaders wield a lot of clout and councils would rather pay the councillors first than pay their workers.

We also know that councils across this country pay varied allowances and salaries to councillors. One council would pay its Chairperson, for example, Kshs 20,000, another council would pay Kshs10,000 and others like Nairobi City Council would pay a lot of money. If these funds were to come from the Government, then we would know that there would be some rationalised payments such that a councillor serving a council that is unable to collect enough revenue, therefore, unable to pay handsome allowances and salaries, would also have the advantage of getting a respectable sum of money at the end of the month. This would help to rationalise payment of councillors throughout the country.

Mr. Temporary Deputy Speaker, Sir, we also know that town clerks, who are the chief executives of the councils, have used money to patronise councillors. consequently, rather than being watchdogs for the public, councillors become compromised because they go for hand-outs from the town clerks. They even go asking for imprests which are never surrendered. Indeed, town clerks have used money to patronise councillors and shut their eyes from the corrupt deals that the town clerks are involved in. So, if we free the councillors from the town clerks or, if the councillors know that their salaries and allowances will come from the Central Government, then, they will be able to stand up to the town clerks and check on what they are doing and tell them to their face that they cannot engage in corrupt activities. But right now, councillors are compromised by the town clerks.

We are involved in the Constitution review process in this country. We know that once we are through with that exercise, the structure of local authorities that will be enshrined in our new Constitution, will be such that the functions of the councils will be more or less an extension of the functions of the Central Government's activities. So, paying them from the Central Government's coffers will, again, be in tandem with the provisions of our forthcoming new Constitution.

Mr. Temporary Deputy Speaker, Sir, we know that since councils are unable to pay well, councillors have a very, very poor pension scheme. We know that for a councillor to qualify for

pension, he has to have served for four consecutive terms. By any standards, for anybody to get re-elected four times consecutively, is a very tall order. We know that in every general elections, about two-thirds of Members of Parliament do not make it back. The same is true with the councillors. So, literally, only very few councillors are able to benefit from the pension scheme because it so difficult to get re-elected four times in a row.

As we work these salary scales and as we urge the Government to adopt this Motion, we should also look at the pension scheme for councillors and maybe, like Members of Parliament, they should also benefit from the pension scheme after serving two terms and not four terms as is the case now.

Finally, Mr. Temporary Deputy Speaker, Sir, I have to add that in as much as we have talked about councils not being able to raise enough revenue locally, one of the biggest impediments to the operations of councils is corruption. It happens at all levels; it happens at high levels in the councils, in the Ministry of Local Government and all the way down. We would urge the Government that it is not just enough to talk about fighting corruption. We do not advocate, for example, for mass sacking of chief executives of councils, but there are several of them throughout this country who have obviously been involved in corruption; who have fleeced councils, and who have made it impossible for councils to operate and provide services. Those people are still around and they still continue to steal more monies from the public. So, we would like to urge the Minister - he was said to be a "hurricane", but he just blows for a while and then he goes off. He should not just blow and go off, he should sustain his war. We know that he has his own problems; having been cited in corruption cases, but that does not mean that while he remains the Minister, he should turn a blind eye to the chief executives who are fleecing councils across the country.

With these few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to second the Motion.

(Question proposed)

Mr. J.M. Mutiso: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support the Motion before the House. This is a Motion which is really going to empower the grassroots leadership of this country as far as councillors are concerned. I would like to give the historical setting of the allowances or remunerations which were prescribed to councillors. As you know, we inherited a colonial legacy and those Members who used to represent the local interests in the local authorities were farmers or rich farmers in different local councils in the country.

(Dr. Godana consulted loudly)

I would like to urge Dr. Godana to be patient and to understand what the proceedings of the House say.

At that time, the overriding principle of salaries to the councillors was not in view merely because the activities of the councils at that time were only preserved to render basic services to the communities, for example, providing water, sheds for animals and markets for marketing their produce. Hence, when we attained Independence, the nature and scope of activities of the local authorities really dramatically changed. We do recognize the leadership of the councils and the local Government in our national elections. We do know very well that at the end of every five years in this country, we call for general elections which involve councillors, Members of Parliament and also the President.

This august House passed a Bill which increased salaries and allowances of hon. Members

of Parliament. At that time, we were bashed so much. It was said that hon. Members are greedy and they enrich themselves by awarding themselves hefty salaries. That notion is wrong. For the purpose of record, I would like to correct that. An independent Tribunal which was set up by the House, went all over the country, collected views from the people and made recommendations which were adopted by this House.

Mr. Temporary Deputy Speaker, Sir, I would like to move an amendment to this Motion. I have given notice to do so.

I beg to move that the Motion be amended as follows:-

By inserting the words "amend the Local Government Act, Cap.265" after the word "to" appearing on the third line, and also inserting the word "pensions" after the word "salaries" appearing on the fourth line.

Mr. Temporary Deputy Speaker, Sir, Kenya is a signatory to the United Nations Convention on Labour. Convention 100 of 1951 deals with the principle of equal remuneration for men and women employees for work of equal value. This country has signed the relevant Conventions and we are in the process of domesticating some of these principles to enable our employees earn better salaries. Dr. Galgalo has said that councillors are entitled to pension after four terms, that is not the case. The truth of the matter is that councillors who contribute towards the contributory provident fund get pension.

Mr. Temporary Deputy Speaker, Sir, Section 140 of the Local Government Act, Cap. 265, gives the Minister powers to determine allowances of councillors. The bone of contention is that if the Motion is passed, we might incur additional expenditure to the Exchequer. That is not the case. We are trying to amend the Act so that we channel the allowances and other benefits to the Exchequer. The Mover of the Motion said that instead of incurring additional expenditure from the Consolidated Fund, we shall have additional revenue. Ten per cent of the revenue collected by local authorities will be surrendered to the Government. Therefore, we will resist any attempts by the Government to oppose this Motion on the grounds that we are trying to change its nature and that this will result in additional expenditure to the Exchequer. Such a move will be defeatist and unpatriotic to the fate of the councillors.

Mr. Temporary Deputy Speaker, Sir, I do understand that in old age, every worker is entitled to social security. Councillors do not have a security safety net. By revising Cap.265 of the Local Government Act, we shall empower the councillors, not only to earn a salary, but also a pension which will be a social safety net after, say, 50 years or 55 years of employment.

Mr. Temporary Deputy Speaker, Sir, because I know many hon. Members would like to contribute to this Motion, I would not like to continue burdening this House with a lot of information. I would like to say that, whoever thinks that this Motion is contradictory and is against the Constitution, his spirit is contrary to the aspirations of this House. I believe that if councillors get a good salary, the Government will also earn taxes unlike it is, in the current set up.

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

The Temporary Deputy Speaker (Mr. Poghisio): Mr. J. M. Mutiso, you have already moved an amendment to the Motion!

Mr. J. M. Mutiso: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghisio): So, what are you supporting?

Mr. J. M. Mutiso: Mr. Temporary Deputy Speaker, Sir, I beg to move.

Mr. Temporary Deputy Speaker (Mr. Poghisio): Who is seconding this amendment? Mr. Kipchumba, you can second by bowing or speaking out!

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I wish to second the amendment as moved by Mr. J. M. Mutiso.

*(Question, that the words to
be added be added, proposed)*

Mr. Rotino: Mr. Temporary Deputy Speaker, Sir, I would like to support this amendment as proposed. It would be in good spirit if the Ministry of Local Government supports this Motion as amended. I am sure that any hon. Member who will oppose this Motion, will never be elected to this House in the next General Elections.

Councillors are the basic foundation of our political life in the constituencies because they are at the grassroots level. We work with most of them in various activities and functions. For most days in a week, hon. Members are always in this House. However, councillors are readily available to our people in our constituencies. We also support them financially because their salaries are not even enough to keep them going, let alone allow them to travel to the district headquarters, or tour their wards. Most of them are very frustrated. The Ministry should, therefore, support this Motion fully because our councillors are people with credibility.

Mr. Temporary Deputy Speaker, Sir, I will go as far as removing the word "allowances." They should be paid a salary because, as one of my colleagues has said, salaries will be taxed. Therefore, the Government will benefit from revenue through taxing them.

Mr. Temporary Deputy Speaker, Sir, when you say that you are paying someone a salary---

The Temporary Deputy Speaker: Order, Mr. Rotino. The amendment says "salaries." It does not say "allowances."

Mr. Rotino: Mr. Temporary Deputy Speaker, Sir, that is why I am supporting that. I want to tell the Ministry that one of the reasons we do not have revenue coming to the local authorities is that the infrastructure within the local authority is not there. Even if we gave them the LATF money, it would not be enough.

Secondly, local authorities have not been given enough facilities to be able to monitor the LATF money that is given to them. The LATF money is supposed to be an economical base for a local authority to get enough revenue. Consider the level of education of our councillors, that of the staff employed at the local authorities, and that of the Finance Committee members, it would not enable them to plan, budget and execute the uses of money that has been given to them by the local authority. I urge the Ministry to employ competent staff. As we talk, the County Council of West Pokot has a treasurer who is not competent enough to be able to advise the Finance Committee on how best they can use the LATF money. We need to send qualified staff, those who are trained on the appropriate activities that the local authority is supposed to do.

On the issue of infrastructure, the local authorities that we used to know long [Mr. Rotino] time ago are not the ones that are there now. Long time ago, we used to work for Sirikwa County Council that had combined many districts together. It was in charge of markets and improved the infrastructure at the market places so that businessmen could improve on their business activities. If the roads are not there, if there is no electricity and water facilities, how do you expect the investors to invest in those county councils so that, in turn, they can give revenue? Our small trading centres are stagnating because the services the county councils are supposed to provide are not available.

Mr. Temporary Deputy Speaker, Sir, the Ministry of Local Government should do a master plan of most of the county councils. They should be able to train the county councillors and the staff. The staff within the Ministry are not even trained because I have had meetings and discussions with some of them on how best they can improve. However, I know that they are able to be trained but they are not well equipped. I believe that the Ministry should concentrate on training the staff so that they can go down to the grassroots and advise the financial chairpersons and

committees so that the people appointed in those local authorities are trained and have some qualifications. The councillors must be well trained. It is just not enough to take them for a seminar and give them allowances. It is good if the committee members are given enough training so they are able to put in enough input to the growth of the local authorities.

Mr. Temporary Deputy Speaker, Sir, the Minister should not be issuing statements, making promises to councillors now and then. If an election is done now, even your Minister will not come back because of the statement he made. He has taken councillors for a ride for a long time. The Minister should not just stand up and issue statements by the roadside. There should be a committee within the Ministry to advise the Minister on what statements to give because it is quite alarming to see him giving promises to councillors. Our councillors keep on asking us whether we ever speak to the Minister. They are wondering whether the Minister knows what he is saying because of the promises that he has been making. If you promise somebody who earns a salary of Kshs20,000 that you will pay him a salary of Kshs100,000 next month, even his family will say: "Dad, you are getting enough money. Why do you not give us some?" The Minister is always deceiving them. Let the Minister be diplomatic, otherwise he will not see Parliament again.

Mr. Temporary Deputy Speaker, Sir, I want to talk about the employment of staff. If you go to most of these authorities, they have employed so many people and they cannot retrench them now. Most of them are casual workers. In my own local authority they are using casual workers to go to the markets and raise revenue. How on earth do you use casual workers to go to the markets and issue receipts? Surely, you are tempting them to misappropriate the money. There should be a way of controlling the employment of staff within the local authorities so that we can reduce their numbers. There is overstaffing within the local authorities such that they spend a lot of money. In my own local authority, they only raise Kshs200,000 from markets and other sources while their expenditure at the end of the month is Kshs1.2 million. So, you can imagine the disparity. They only raise Kshs200,000 and they are supposed to spend Kshs1.2 million every month. How will they raise the difference? That is why we have a lot of problems. Most of that money is used to pay the staff and not even the councillors.

We have got nine councillors in my own local authority and yet the staff are more than 60 in number. There is this disparity in the local authorities and yet we have staff who are supposed to advise these people. The provincial local authority officers who are supposed to advise councillors, go to the local authorities for one hour, but they do not even advise them. This is really alarming. I am pleading with the Minister that he should have brought this amended Motion for his own sake and that of his staff and the politicians who are there because, if he even thinks of opposing it, he will be in trouble.

With those few remarks I beg to support.

An hon. Member: You are inciting councillors!

*(Question, that the words to be added
be added, put and agreed to)*

(Question of the Motion as amended proposed)

The Assistant Minister, Office of the President (Prof. Kibwana): Thank you, Mr. Temporary Deputy Speaker, Sir. I think it is not possible to really quarrel with the spirit of this particular Motion. It is common knowledge that our councillors are really not paid at all; they are given allowances. This was one of the anomalies which ensured that the local government movement was very feeble. Therefore, one of the ways we must use to correct that situation is to

appropriately pay our councillors both salaries and pensions. Therefore, it is very much in order to support this particular Motion as amended.

Mr. Temporary Deputy Speaker, Sir, because the Government has realised the need to properly remunerate councillors, an Inter-Ministerial Committee has actually been established to work on the nitty gritty of how the councillors will be paid. Therefore, that is a very clear indication that the Government is pursuing the question of changing the manner in which councillors are paid.

Again, in supporting this particular Motion, I am aware as it has been amended, it will be necessary to introduce the relevant amendment of the Local Government Act, so that this time round, the matter is resolved once and for all. Since some monies from the Consolidated Fund will be used, it will also be necessary, under the Constitution, to seek the acceptance of the President in terms of an amendment to the Local Government Act which involves expenditure of money from the Consolidated Fund. Because this particular Motion states that the money will come from the Vote of the Ministry of Local Government, the Ministry must appropriately vote for that money to pay the councillors.

Mr. Temporary Deputy Speaker, Sir, it has actually been a shame that since Independence, our councillors have continued to obtain "peanuts" and not salaries. Because of this we have had situations where any monies accruing to councils have been mismanaged, not because councillors are clearly corrupt people, but merely because they are trying to subsidise allowances which are very meagre. The system as it has existed, has encouraged some of the councillors to be corrupt in terms of supplementing incomes that are non-existent.

It is also clear that councillors who are at the grassroots, particularly before the *Harambee* system was changed by the law, would attend all the *Harambee*. They actually keep on paying a lot of money, because the hon. Members sometimes are here for quite a while, and they do not go home as frequently. So, the councillors have been exposed to a lot of financial pressure from our people. Often when one becomes a councillor, by the time he or she ends the stint, he or she is actually completely impoverished.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghio): Order! Prof. Kibwana, you will have five more minutes when we resume debate on this Motion. Hon. Members, it is now time for interruption of business. The House, is therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12. 30 p.m.