

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 23rd November, 2000

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

The Report of the Departmental Committee on Finance, Planning and Trade, on the Central Bank of Kenya (Amendment) Bill 2000.

(By Mr. Mkalla)

ORAL ANSWERS TO QUESTIONS

Question No.245

ABDUCTION OF MR. WANG'ANG'A

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

- (a) whether he is aware that on 19th December, 1998, police officers from Karen Police Station abducted Mr. Charles Wang'ang'a and detained him illegally;
- (b) whether he is further aware that police officers, including Sergeant Kienze, tortured Mr. Wang'ang'a, inflicting serious injuries and fracturing his right femur bone for which he underwent major operations at the Mater Hospital and MP Shah Hospital; and,
- (c) what crime Mr. Wang'ang'a committed and what disciplinary measures he has taken against the errant officers who tortured him.

Mr. Speaker: Anybody from the Office of the President? We will come back to the Question later.
Next Question, Dr. Kituyi!

Question No.403

DISTRICT COMMISSIONERS' MANDATE TO CHAIR DSCS/DCCS

Mr. Speaker: Dr. Kituyi not here? We will come back to this Question later.
Next Question, Mr. Wanjala!

Question No.655

STAFF HOUSES FOR BULWANI HEALTH CENTRE

Mr. Speaker: Mr. Wanjala also not here? We will come back to the Question later.
Next Question, Mr. Kihoro!

Question No.447

RELOCATION OF CENTRAL KENYA SHOW GROUND

Mr. Kihoro asked the Minister for Agriculture:-

(a) whether he is aware that Central Kenya Agricultural Show was moved to Kabiru-ini Forest in 1998;

(b) whether he is further aware that because of this relocation into an inaccessible gazetted forest area, many people have boycotted the previous two shows; and,

(c) whether he could order that the show be restored to its home ground at the 60-acre Ruring'u Show Ground.

The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that this was necessitated by the need for additional space in view of the fact that the former show ground, which occupies an area of 7.9 hectares, was congested.

(b) I am aware that there has been a decline in performance of Nyeri Agricultural Society of Kenya (ASK) show. This is attributed to the country's poor economic situation which has affected most ASK shows in the country. This has also contributed to low quality exhibitions and poor show attendance. A decline is usually experienced when a new show ground is developed. We are, however, optimistic about the future growth of Nyeri ASK show, considering that it is the only such facility in Central Province. The new show ground is six and half kilometres away from the Nyeri-Nyahururu tarmac road. So, it is fairly accessible. The following infrastructure has also been developed at Kabiru-ini Show Ground; a partially developed arena, permanent exhibition stands, a water dam, piped water, a demonstration plot for the Ministry of Agriculture, conservation area by the Ministry of Natural resources and road networks to the show ground.

(c) In view of the above, it will not be feasible for the show to be restored to its former home ground at Ruring'u.

Mr. Kihoro: Mr. Speaker, Sir, this Question had been asked before but it was not fully answered. I wanted to know why the show ground was taken to Kabiru-ini Forest and the Minister then said there was a DDC Minute to the effect that the people of Nyeri did agree to have the show ground taken to Kabiru-ini Forest. I would like to see that DDC Minute. The land at Ruring'u was surveyed in 1956. I have the Minutes of the Nyeri African District Council that confirms that the area in question was 85 acres.

Mr. Speaker: Order, Mr. Kihoro! This is not point-making time. It is Question Time. Please acquaint yourself with the provisions of Standing Orders Nos.35, 36 and 37. The Standing Orders will tell you what Question Time is all about. Could you, please, put those questions to the Assistant Minister?

Mr. Kihoro: Mr. Speaker, Sir, could the Assistant Minister tell us how 85 acres became insufficient for the show ground and yet it has been sufficient for the last 35 years?

Mr. Sumbeiywo: Mr. Speaker, Sir, according to the records held in my office, the area measures 7.9 hectares. The Nyeri DDC met after allegations to the effect that the show ground had been grabbed, and there is a Minute to that effect.

Mr. Kihoro: On a point of order, Mr. Speaker, Sir. The Assistant Minister has just misled the House because the two plots in question, LR Nos.732 and 733 - Kaguthi-Karia, show that the land is not 80 acres as he has stated but 49 acres and 10.4 acres.

Mr. Speaker: Mr. Kihoro, as a lawyer, is that a point of order or a point of argument? Hon. Members, I invite you to acquaint yourselves with what constitutes a point of order. Do not push me to the wall; such that I can decree an order to the effect that, every Member of Parliament, who rises on a point of order, must show which Standing Order has been breached. I do not want to go that far. So, please, assist me so that I can assist you. I do not want to be too hard on you.

Mr. Gatabaki: Mr. Speaker, Sir, considering that the attendance of ASK shows in Kenya is on the decline, is it justifiable for the ASK to acquire more land? In fact, in the coming years, there may be no agricultural shows until the KANU Government disappears!

Mr. Sumbeiywo: Mr. Speaker, Sir, we are optimistic that the attendance will increase as the economy grows.

Mr. Anyona: Mr. Speaker, Sir, could the Assistant Minister tell us on what basis this transaction was done? Is it on the basis of acreage? Secondly could he also tell us in whose interest this transaction was carried out? The Assistant Minister has not come out clearly on this issue!

Mr. Sumbeiywo: Mr. Speaker, Sir, I am sure that I came out clearly because it is in the interest of the ASK, and the people of Nyeri, that the acreage is increased. In 1995, the ASK applied to get additional land because the one

that was being used at that time was congested.

Mr. Wamae: Mr. Speaker, Sir, could the hon. Assistant Minister tell us what the ideal acreage of a successful ASK show is, in a place like Nyeri?

Mr. Sumbeiywo: Mr. Speaker, Sir, that depends on the population, the attendance and the agricultural area. So, there is no fixed acreage for an ASK show ground.

Mr. Kihoro: What plans does the ASK have for the 60-acre Ruring'u Show Ground?

Mr. Sumbeiywo: Mr. Speaker, Sir, the land that was given to the ASK at Kabiru-ini was in exchange of the old show ground at Ruring'u. So, we have handed over the Ruring'u Show Ground to the county council.

Mr. Kihoro: On a point of order, Mr. Speaker, Sir. That is not correct. The land has not yet been handed over to the Nyeri County Council. I have an extract here from the Kenya Gazette showing that the land at Kabiru-ini was forest land. Therefore, no exchange took place!

Mr. Sumbeiywo: Mr. Speaker, Sir, I have the Minutes with me here.

Mr. Speaker: As a matter of interest for the House, in whose name is this land registered?

Mr. Wamae: Mr. Speaker, Sir, I can assist. From the information I have, both parcels of land are registered in the name of ASK.

Mr. Sumbeiywo: Mr. Speaker, Sir, then that is no problem because this land is going to be surrendered to the County Council and it will be the responsibility of the County Council to decide on what to do with it.

Mr. Kihoro: On a point of order, Mr. Speaker, Sir. I did a search one month ago and the land is actually in the name of Nyeri County Council, but the ASK has got a lease of 99 years from 1987. So, you cannot say that it will revert back to the County Council. **Mr. Speaker:** So, are they surrendering it?

Mr. Kihoro: They cannot! They have already sub-divided it and I have got a plan for the sub-division here.

Mr. Sumbeiywo: Mr. Speaker, Sir, both the pieces of land at Kabiru-ini and Nyeri belong to the same Government. So, both of them being departments of the Government, they will have to negotiate. There is no problem because it is Government land.

Mr. Speaker: Very well, I think we have been on this Question for too long.
Next Question!

Question No.371

ELECTRIFICATION OF COFFEE FACTORIES

Mr. Mwiraria, on behalf of **Mr. Obwocha**, asked the Minister for Energy:-

(a) whether he could confirm whether Nyabomite Coffee Farmers Co-operative Society and its subsidiaries, that is, Nyangoko, Nyansangio and Embonga were to receive electricity supply under the new scheme for coffee factories; and,

(b) why Nyansangio has not received its supply and yet the farmers are being deducted money for installation.

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

(a) I am aware that the European Union funding, STABEX Programme, is in place to supply electricity to coffee factories in the country. For a coffee factory to qualify under this programme, the cost of supplying electricity to the factory should be less than Kshs2.8 million. To supply electricity to Nyansangio Coffee Factory, and the nearby Miruka Market, it will cost approximately Kshs7 million. I am not aware of any other new scheme whose contribution is from farmers.

(b) I am not aware of any cost being deducted from farmers to meet installation costs of Nyansangio Factory.

Mr. Mwiraria: Mr. Speaker, Sir, from the reply given by the Assistant Minister, one can understand why Nyansangio Coffee Factory has not been supplied with electricity. When are the other coffee factories in Nyamira going to be provided with electricity?

Mr. Sasura: Mr. Speaker, Sir, there are several factories in Nyamira that have been supplied with electricity. These include, Embonga Coffee Factory, Bunyunyu Coffee Factory, Migogo, Nyamaiya and Mawawa coffee factories.

Mr. Ndicho: Mr. Speaker, Sir, there is a policy in the Ministry of Energy where beneficiaries of a project may pay 10 per cent of the total amount required. Now, the Assistant Minister says that Nyansangio will require Kshs7 million. And 10 per cent of Kshs7 million is about Kshs700,000. Could the Assistant Minister consider supplying power to this factory through the Rural Electrification Programme, whereby they only need to pay 10 per cent? This will also help the people living around that factory.

Mr. Sasura: Mr. Speaker, Sir, the Ministry has no objection to supplying electricity to this factory under the Rural Electrification Programme. But if it has to be connected under this programme, then this has to be prioritised by the DDC.

Mr. Kibicho: Mr. Speaker, Sir, the Assistant Minister has said that the maximum cost under this programme must be Kshs2.8 million. Does it mean that it is only factories which are adjacent to lines that are going to be supplied with electricity?

Mr. Sasura: Mr. Speaker, Sir, the STABEX Programme is European Union funded, where 168 factories were identified and we have so far supplied power to about 57 factories. The pre-condition here is that, the factories must be very close to the national grid. To enable us to cover the 168 factories, we have maximised the cost of installation to Kshs2.8 million. That does not necessarily mean that we are not going to supply electricity to the other factories, because we have other programmes like the Coffee Factories Rural Electrification Programme (COFREP) under the Rural Electrification Programme which goes through the DDC.

Mr. Mwiraria: Mr. Speaker, Sir, the STABEX fund has been with the Government for many years. In fact, the Government cannot use it all now. They are now diverting the funds to roads and other projects. Why can they not use the money to supply electricity to all the coffee factories, so that coffee production increases in the country?

Mr. Sasura: Mr. Speaker, Sir, it is not true that the STABEX funds have been diverted to other projects. It is not also true that we are having a surplus. What we have, out of the Kshs375 million, is only enough to supply electricity to the 168 coffee factories.

Question No.312

NON-PAYMENT OF SALARIES TO MANGU
INVESTMENT COMPANY EMPLOYEES

Mr. Ndicho asked the Minister for Labour:-

- (a) whether he is aware that employees of Mangu Investment Company Limited in Thika have not been paid their salaries for the last five months; and,
- (b) what has caused this delay.

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that 107 employees have not been paid.

(b) The delay was caused by internal squabbles within the management of the farms. However, on 3rd November, Kshs100,000 was deposited with the Thika District Labour Office.

Mr. Ndicho: Mr. Speaker, Sir, the Assistant Minister says that on 3rd November, 2000, Kshs100,000 was deposited with the Labour office in Thika. From November 1999 to 3rd October 2000, those are 12 months. There are 107 employees paid Kshs100,000. Could the Assistant Minister tell us the monthly wage bill of this company?

Mr. Ethuro: Mr. Speaker, Sir, hon. Ndicho had actually asked about the five months that they had not been paid. So, the issue of one year arises because of the time involved. The claim that was lodged adds to Kshs1.3 million. The company has consented to that and they are making arrangements to pay. But the Kshs100,000 was some kind of a token amount to demonstrate their commitment and their willingness to pay.

Mr. Ndicho: Mr. Speaker, Sir, the Assistant Minister says that the amount that was demanded by those employees is Kshs1.3 million and they have only paid Kshs100,000. Is the Assistant Minister satisfied that 107 people, who include coffee pickers and watchmen all of whom have school going children and who are also supposed to feed their families, are being paid only Kshs100,000 for 12 months? Is he satisfied with this? I think he is not!

Mr. Speaker: Let him answer for himself!

Mr. Ethuro: Mr. Speaker, Sir, I agree with the hon. Member that we are not satisfied with that kind of payment and we have already lodged a complaint with the Industrial Court. Within 90 days, there will be a report by the District Labour Office to determine the exact amount of money. The hon. Member may also wish to know that this issue has been complicated by the fact that some 18 employees had already instituted civil proceedings. We are not satisfied with that amount, and we are doing something about it.

Question No.674

UPGRADING OF GITHUNGURI HEALTH CENTRE

Mr. Gatabaki asked the Minister for Medical Services:-

- (a) how many Government medical doctors have been posted to Githunguri, Kigumo and Githiga

health centres in Githunguri Constituency;

(b) why the Ministry has neglected Githunguri Health Centre and ignored various District Development Committee recommendations for its upgrading to a sub-district hospital; and,

(c) why the construction of wards and other facilities at the Githiga Health Centre have stalled for so many years.

The Assistant Minister for Health (Dr. Wako): Mr. Speaker, Sir, I beg to reply.

(a) There are no Government doctors posted to Githunguri, Kigumo and Githiga health centres at the moment.

(b) Githunguri Health Centre has not been neglected by the Ministry and it is effectively functional. However, due to the high costs involved, it has not been possible to upgrade the health centre to a sub-district hospital as recommended by the DDC. Construction of roads and other facilities at Githiga Health Centre has stalled because of lack of sufficient funds to complete the project.

Mr. Gatabaki: Mr. Speaker, Sir, truly, this is a demonstration of a Government so hostile to my constituency and the district I come from!

Mr. Speaker, Sir, I am sure you know the history of Githunguri. This is where Mzee Jomo Kenyatta, and the late Mbiyu Koinange, who was a Cabinet Minister, started Githunguri Teachers College in the 1940s. We are now being told that there is not a single doctor in Githunguri where we have a population of about 200,000 people whose contribution to the Exchequer, through tea and coffee production, is so enormous. Could this Government tell us why they hate Githunguri Constituency and love our foreign exchange earnings?

Dr. Wako: Mr. Speaker, Sir, the Government does not hate the people of Githunguri. Githunguri Health Centre is sufficiently manned. It has one clinical officer with a nursing officer, 11 [Dr. Wako] enrolled community nurses, one physiotherapist, a nutritionist and a public health officer. This is sufficient for a health centre anywhere. The population of about 240 patients per year is actually the range for all the health centres throughout the country.

Mr. Gatabaki: Mr. Speaker, Sir, could the Assistant Minister tell us when a health centre qualifies to have a doctor and how many doctors there are in Kiambu District?

Dr. Wako: Mr. Speaker, Sir, a clinical officer is normally in charge of a health centre. A sub-district hospital is either run by a doctor or a clinical officer, and a district hospital is run by a medical officer of health.

Mr. Parpai: Mr. Speaker, Sir, other than the recommendation by the DDC, could the Assistant Minister tell us the other criterion for upgrading health centres, not taking into consideration the population?

Dr. Wako: Mr. Speaker, Sir, we take the resources as the first criteria and secondly, the number of patients and the population within that particular area.

Mr. Gatabaki: Mr. Speaker, Sir, I do not want to insinuate that the Assistant Minister is deliberately misleading this House. Githunguri Health Centre has about 10 doctors operating private clinics in Githunguri Town alone. In the other centres there are about five practitioners. Is this not a demonstration of a Government that deliberately wants to deny certain areas of this country essential services by virtue of their political ideology? Could the Assistant Minister tell the Minister to send medical doctors to Githunguri because we deserve those services?

Dr. Wako: Mr. Speaker, Sir, we will consider sending one as soon as they are available. We have a shortage of doctors throughout the country.

Question No.627

COST OF HOMA BAY MAYOR'S OVERSEAS TRIPS

Dr. Ochuodho asked the Minister for Local Government:-

(a) whether he is aware that Homa Bay Municipal Council recently awarded a contract to a company belonging to the Town Mayor contrary to the law;

(b) whether the Ministry approved the recent trips made to Uganda and Namibia by the same mayor; and,

(c) how much money these trips cost the Council.

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

(a) I am aware that Homa Bay Municipal Council recently awarded a contract to a company in which one of the directors is the Town Mayor. However, I am not aware that the contract was awarded contrary to the law.

(b) The recent trips to Uganda and Namibia, by the Homa Bay Municipal Council Mayor had ministerial approval.

(c) The Council spent a sum of Kshs103,850 to finance the two journeys.

Dr. Ochuodho: Mr. Speaker, Sir, I am very surprised to hear that answer from the Assistant Minister. However, I would like to draw his attention to Section 143(5)(a) of Cap. 265, with regard to awarding of tenders, which states as follows:-

"A local authority may accept any tender which, having regard to all the circumstances, appears to it to be the most advantageous; and, may take security for the due and faithful performance of every contract; or, the local authority may decline to accept any tender provided that the local authority, before accepting any tender other than the lowest, shall obtain the consent of the Minister in writing."

In this case, the Mayor awarded himself the tender, and yet there were lower bids for the same. If the Assistant Minister is saying that this was not illegal, could he table the letter by which he authorised the Mayor to give himself the contract?

Mr. Sirma: Mr. Speaker, Sir, the contract was awarded on the basis of the lowest bidder. Quotations were circulated to four companies, namely, M/S Masosa Construction Company Limited, which quoted Kshs1,958,750; M/S Joaz Components Company Limited, which quoted Kshs1,954,500; M/S Charles Ombura Building Contractors Limited, which quoted Kshs1,992,650, and M/S Asoro Construction Company Limited, which quoted Kshs2,394,500. M/S Joaz Components Company Limited, among whose directors was the Mayor of Homa Bay, was the lowest bidder.

Mr. Kikuyu: Mr. Speaker, Sir, from the figures the Assistant Minister has given as being those quoted by the construction companies, it is clear that the Mayor took forms of other companies and filled them; the difference in the amounts quoted by the companies was Kshs5. Why can this not be investigated since it seems that there were no other companies which were competing with the one in which the Mayor was a director? It could be that the Mayor filled the tender forms for the other companies, and ensured that the company in which he had interest quoted the lowest amount.

Mr. Sirma: Mr. Speaker, Sir, I would like to refute the hon. Member's claim that the differences of the amounts quoted by the said companies was Kshs5. Also, I am not aware that the Mayor was the one filling the tender forms for the other companies, or he used other means to get the tender. Actually, the Mayor declared his full interest before a full Council, hence the tender was awarded without any influence.

Dr. Ochuodho: Mr. Speaker, Sir, I put it to the Assistant Minister that the figures he has quoted here are wrong. I undertake to provide the proper figures later. As of now, he said that he approved the trip the Mayor made to Entebbe to attend the wedding of the Entebbe Mayor. By the way, the Mayor took along his wife, whom he presented at that ceremony as a lady councillor from Homa Bay! How was that trip beneficial to Homa Bay Municipal Council, which cannot even pay its workers on time? Could the Assistant Minister provide us with the letter by which he authorised that trip?

Mr. Sirma: Mr. Speaker, Sir, the trip was authorised by my Ministry. Also, I would like to refute the hon. Member's allegation that the Mayor travelled to Uganda to attend a wedding ceremony. The true position is that he travelled to that country to attend a meeting between 26th and 30th April, 2000, and the signing ceremony between the Union of the Baltic Cities (UBC) and the Lake Victoria Region Local Authorities (LVRLA) Co-operation. The LVRLA Co-operation is the umbrella body that brings together the local authorities around Lake Victoria.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. The Assistant Minister has been misled by the Mayor, who gave him the answer he has presented here. The Town Clerk, who may have written the letter the Assistant Minister is reading to us, also went on that trip in the company of his wife. The Municipal Council has two lady councillors. The Mayor and the Town Clerk presented their wives at that ceremony as the two lady councillors from Homa Bay. However, could the Assistant Minister table the letter by which he authorised the said trip?

Mr. Sirma: Mr. Speaker, Sir, we will make that letter available. I can assure him that I and him were not in Entebbe for that particular function.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. There is a legal issue which is not very clear here. I believe that, at local authorities, tenders are awarded by the Finance Committees. In this case, I am not sure whether the Mayor was a member of that Committee. If he was, he would be required to declare his interest and not participate in the proceedings. The Assistant Ministry said that the Mayor declared his interest in that tender before a full council meeting. If by then the tender had already been awarded, that was a breach of the law. Could he be clear?

Mr. Sirma: Mr. Speaker, Sir, I would like to make it clear that the Mayor declared his interest, and that he did not participate in the deliberations for the award of the contract at both the Finance Committee and the full council meeting.

Mr. Speaker: Very well; let us proceed to Mr. Otula's Question.

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

Mr. Speaker: Order! Dr. Ochuodho, you are never satisfied with answers given to questions!

Dr. Ochuodho: Mr. Speaker, Sir, when will the Assistant Minister provide the letter by which the said trip was authorised by his Ministry? I talked to his colleague, hon. Kiangoi, who was on one of the trips to Namibia, and he said he was aware that the Mayor of Homa Bay Municipal Council was not authorised to go on that trip. So, when will the Assistant Minister provide the letter by which the Mayor was authorised to travel to the two places.

Mr. Sirma: Mr. Speaker, Sir, Dr. Ochuodho can come with me, so that I give him the letter.

Hon. Members: Aah! No!

Mr. Speaker: Next Question!

Dr. Ochuodho: Mr. Speaker, Sir, are you satisfied?

Mr. Speaker: Yes, I am!

Question No.242

REHABILITATION OF ROADS IN RACHUONYO

Mr. Otula asked the Minister for Roads and Public Works:-

(a) whether he is aware that roads in Rachuonyo District are in a dire state of disrepair due to lack of maintenance; and,

(b) what plans he has to repair the roads.

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

(a) I am aware that roads in Rachuonyo District were in poor condition. Routine maintenance has been carried out regularly, and is still going on, but we are not satisfied that we have achieved what we wanted to accomplish.

(b) My Ministry has issued funds, amounting to Kshs1.2 million, for routine maintenance of roads in the district, in accordance with the District Development Committee's prioritised roads during its meeting of 15th May, 2000.

Mr. Otula: Mr. Speaker, Sir, the Assistant Minister says that they have released Kshs1.2 million for routine roads maintenance in Rachuonyo District. Could he state clearly when the money was released and how many roads have been done using that money?

Eng. Rotich: Mr. Speaker, Sir, I can state when the money was released, but I am not able to state how many roads have been done. Alternatively, instead of stating when the money was released, I can lay on the table the Authority to Incur Expenditure (AIE) that was issued to that district.

(Eng. Rotich laid the document on the Table)

Mr. Speaker: That was an AIE for how much money, Mr. Assistant Minister?

Eng. Rotich: For Kshs1.2 million, Mr. Speaker, Sir!

Dr. Oburu: Mr. Speaker, Sir, could the Assistant Minister tell us the amount of work that can be done on any road with Kshs1.2 million? I think the Assistant Minister is not serious. How can the Ministry give Kshs1.2 million for maintaining roads in a whole district?

Mr. Speaker: Is that a bad joke, Mr. Assistant Minister?

Eng. Rotich: Mr. Speaker, Sir, we give what we have. These roads fall under the DRCs, and the money will be ready very soon - maybe this week or next week.

Mrs. Ngilu: Mr. Speaker, Sir, it is now six months since we formed the DRCs and the Constituency Roads Committees. They were supposed to get some funding from the Ministry, so that some of the roads can be constructed. When does the Ministry expect to release the funds - if at all they will do so?

Mr. Speaker: I thought he just answered that question! He said "soon"; maybe next week. Eng. Rotich, is that what you said?

Eng. Rotich: Mr. Speaker, Sir, the amendment was made this week, and the money will be released at the beginning of next week, depending on whether they have submitted their work plans.

Mr. Otula: Mr. Speaker, Sir, as I speak here now, no work has been done on the roads within Karachuonyo District. Could the Assistant Minister arrange to visit that district and see for himself that the Kshs1.2 million which was released has not been used?

Eng. Rotich: Mr. Speaker, Sir, it is not possible, for example, to know what was done last year, but I have no problem in arranging to go there.

Mr. Speaker: Mr. Anyona's Question, for the second time!

Question No.245

ABDUCTION OF MR. WANG'ANG'A

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

- (a) whether he is aware that on 19th December, 1998, police officers from Karen Police Station abducted Mr. Charles Wang'ang'a and detained him illegally;
- (b) whether he is further aware that the police officers (including one Sergeant Kienze) tortured Mr. Wang'ang'a, inflicting serious injuries and fracturing his right femur bone for which he underwent major operations at the Mater Hospital and M.P. Shah Hospital; and,
- (c) what crime Mr. Wang'ang'a committed and what disciplinary measures he has taken against the errant police officers who tortured him.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I do apologise for coming late. Hon. Anyona gave us a certain document from the hospital, and we have been trying to get the doctor in order to confirm that the injuries were consistent with any acts of torture. Unfortunately, we have not been able to get the doctor to respond to that.

I would also like to say that Mr. Wang'ang'a was to appear in court after being released on bond and he never appeared. In fact, a warrant of arrest was issued and maybe, hon. Anyona could get Mr. Wang'ang'a to come to court and then, we will deal with him and he will then report---

Mr. Speaker: No! No! Order! Mr. Minister, you cannot hold the House to ransom; can you? That you will not answer this Question until Mr. Anyona arrests the suspect! That is untenable and I will not allow that! Maybe, you had the other good reason. Mr. Anyona, I want to know your reaction to his request for more time, but the issue of you to arrest the suspect is impossible. What is your reaction?

Mr. Anyona: Mr. Speaker, Sir, in view of what the Minister has said, I would now like, through the Chair, to ask that Mr. Wang'ang'a, who is a bad cripple, is protected from further harassment. The Minister has a medical report and

he has denied that there was any torture. There are two hospitals involved---

Mr. Speaker: Order! The two of you can you save the House from this issue? You see, we cannot argue about a Question that has not been replied to.

Mr. Anyona, the Minister is asking for time, because you gave him certain documents that he wants to verify. I wanted to get your reaction. Are you agreeable to that request? That is all.

Mr. Anyona: Mr. Speaker, Sir, this Question has been before this Parliament for two years, and they have been dodging. There is Mater Hospital and MP Shah and their records are there. I do not know which doctor they are looking for, and that is a way of trying to run away from the Question. Nevertheless, since we have an answer, I will leave it to you to decide what you will do with that issue.

Mr. Speaker: Since you are alleging that he wants to run away from the Question, and the Aga Khan Hospital is in Nairobi, I will give him tomorrow and Monday. On Tuesday, he should come to this House and answer the Question, with or without arresting Mr. Wang'ang'a.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, first of all, let me say that I did not say that I cannot answer the Question before Mr. Anyona arrests Mr. Wang'ang'a, and I am afraid to say that, that was a wrong impression.

Mr. Speaker: All right. Is Tuesday okay?

The Minister of State, Office of the President (Maj. Madoka): Yes, Mr. Speaker, Sir.

(Question deferred)

Dr. Kituyi: Mr. Speaker, Sir, I do apologise to the House for being a bit late. However, I beg to ask my Question.

*Question No.403*DISTRICT COMMISSIONERS' MANDATE
TO CHAIR DSCS/DDCS

Dr. Kituyi asked the Minister of State, Office of the President under what law the District

Commissioners chair District Security, Executive and Development Committees.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, under the Constitution of Kenya, the President is empowered to organise the Government, and, therefore, District Commissioners chair the District Security Executive and Development Committees in their respective districts under the administrative arrangements. It is not within the Constitution of Kenya.

Dr. Kituyi: Mr. Speaker, Sir, I asked about which law, but the Minister applies the Constitution which he glides over. I have asked specifically for an instrument of the Government which can punish and execute things; that instrument must have certain provisions in law that give it the mandate to do what it does. What law in Kenya allows a DC to become a small paramount chief?

Maj. Madoka: Mr. Speaker, Sir, there is no specific law, and this is an administrative arrangement which the President is empowered to put in place.

Dr. Ochuodho: Mr. Speaker, Sir, you have heard the Minister repeatedly say that the President is "empowered". My understanding is that there is no provision in our laws, even the Constitution of Kenya that he mentioned, that empowers the President to organise the administration whichever way he wishes. If that be the case, could the Minister consider disbanding the Provincial Administration that itself is illegal? If it is not illegal, he should tell us what legalises it.

Maj. Madoka: Mr. Speaker, Sir, let me state that we are not going to abolish the Provincial Administration.

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, you have heard the Minister say that the President is empowered to create these structures. This Government claims to govern under the rule of law. Under what specific law does the President have powers to create whatever the Minister purports that he has powers to create?

(Maj. Madoka consulted his notes)

Dr. Kituyi: Mr. Speaker, Sir, since the Minister is taking time to respond to the question by Mr. Ochilo-Ayacko, could you compel him to answer it?

Mr. Speaker: Order! Dr. Kituyi, next time you stand up there without my authority and talk, you will be in very terrible trouble!

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

Mr. Speaker: Order! How can you tell the Chair to sit down? So, if you stand up on a point of order and I refuse to see you, what happens? Anyway, I will not revenge.

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

Mr. Speaker: What is it?

Hon. Members: The man is flat!

Dr. Kituyi: Mr. Speaker, Sir, under the procedures of this House---

(Hon. Members started counting from one to ten)

(Laughter)

Hon. Members: The Minister is flat! He has been knocked out!

Mr. Speaker: Order, hon. Members! What is it, Mr. Wamae?

Mr. Wamae: Mr. Speaker, Sir, is it in order for the Minister to refuse to answer the question and continue sitting down?

(Laughter)

Hon. Members: It is a knockout!

Maj. Madoka: Mr. Speaker, Sir, I am not refusing to answer the question. I was trying to check my facts because I know that there is a particular section that I wanted to refer to.

Mr. Speaker: Order, Maj. Madoka! Let me be fair to everybody. Since the Minister is keen in finding out a provision which he thinks exists, I will defer the Question up to Tuesday next week, so that I can give him time.

(Question deferred)

Question No.655

Mr. Speaker: Mr. Wanjala still not here? His Question is dropped.

(Question dropped)

(Loud consultations)

Order, hon. Members! I kind of enjoy when hon. Members are very happy!

Mr. Shill: Mr. Speaker, Sir---

Mr. Speaker: Order, Mr. Shill! Please, I enjoy this, but it must be within acceptable limits!

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. You have had the tradition that when you are deferring a Question, you ask the person who asked the Question if that is okay with him. You are an eminent lawyer in this country. You know the Constitution and the laws of Kenya. There is no provision in law, and the Constitution, for what the Minister is alleging. Why are you asking him to do what is impossible?

Mr. Speaker: Dr. Kituyi, I never willingly participate in debate. So, let him find out.

QUESTIONS BY PRIVATE NOTICE

ALLOWANCES FOR KENYA POLICE FORCE STAFF

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

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

(b) What are their statutory and administrative deductions?

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

(a) The following allowances are paid to the Police Force: Medical allowance, house supplement allowance, hardship allowance, uniform allowance, CID allowance, animal handlers allowance, travelling and accommodation allowance, leave allowance, drivers allowance and instructors allowance.

(b) Their statutory and administrative deductions are as follows: Widows and children's Pension Scheme, Pay-As-You-Earn, National Hospital Insurance Fund and union dues. Let me clarify here that "union dues" do not mean trade union dues. These are welfare dues. Union alone does not imply trade. There is trade union and it could be a welfare union. This is specifically for their welfare. In fact, it is through these funds that they were able to build the Utumishi Academy at Gilgil. They also have sports and social welfare deductions.

Mr. Kathangu: Mr. Speaker, Sir, I notice the absence of figures attached to these allowances. I would like to ask again, very humbly, if the Minister would be willing to give us the amount for each allowance that he has read out. I would like, at the same time, to ask him to confirm whether the SINK and the UB allowances are among them.

Mr. Speaker: What is that?

Mr. Kathangu: That is a police deduction!

Mr. Speaker: Order, Mr. Kathangu! The House is not---

Mr. Kathangu: Mr. Speaker, Sir, these are pay slips of police---

Mr. Speaker: Order! Although there are former police officers who, lawfully and through merit, have become Members of this House, the House is not full of police officers! We do not understand that jargon. Although the Minister was in the military, it is not the same as the Police Force. So, help us to understand these things.

Mr. Kathangu: Mr. Speaker, Sir, I would wish to assist the House if I was a policeman, but I am not and I have never been one. I was in the military. The Police Force has a SINK deduction. There is another deduction called UB Fund. Every policeman in Kenya is charged Kshs1,000 for that. On the SINK deduction, they deduct Kshs55. We would like the Minister to confirm whether these deductions exist.

Mr. Speaker: What are SINK funds?

Maj. Madoka: Mr. Speaker, Sir, I am afraid I do not know about those deductions. I have to check from the list I have given out because there is nothing like SINK or UB Fund from what I have got.

Mr. Speaker: Mr. Kathangu, do you have a pay slip of a policeman?

Mr. Kathangu: Mr. Speaker, Sir, the Kenya Police Force is threatening to go on strike on 3rd December because of such laxity. The Minister cannot tell us that he does not know what his staff are deducted.

Mr. Speaker: Do you have a copy of the pay slip?

Mr. Kathangu: I have many of them, but I refuse to give them out until the Minister tells us the amount of money attached to the allowances.

Mr. Speaker: Order, Mr. Kathangu! You are also trying to hold the House at ransom. Since the Minister says he does not know those things, and you are purporting to have documents that have that information, to help the House, you should table that document. Failing that, I will take it that you do not want your Question to be answered.

Mr. Ndwiga: Mr. Speaker, Sir, I rise to seek your guidance. Concerning the position of the pay slips which are with hon. Kathangu, if they are tabled here, you know very well what happens in the Police Force. We have no guarantee that these officers will not be victimised for supplying this information. Which is the way forward?

Mr. Speaker: I do understand that sentiment. I can as well appreciate that fear. I suppose in the current age and time, you can actually photocopy a part of that document and omit the name and number of the person who supplied the document to you by covering that name and photocopying it.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. That one does not fit very well, with due respect. I want to make two observations. It used to be the practice of this House - I do not know what has happened in recent times - that when an hon. Member refers to a document in reference to a Question or debate, he is obliged to table that document. Secondly, if this Parliament cannot provide protection to somebody who has been wronged and whose documents have been tabled here as a matter of law, then I think there is something wrong. We must be able to guarantee that this person whose papers will be tabled here is not victimised. That is what the Powers and Privileges Act requires.

Mr. Kathangu: Mr. Speaker, Sir, I want to beg the Chair to give me two minutes to bring you all the photocopies of the originals I have.

Mr. Speaker: I will defer the Question to Tuesday and encourage Mr. Kathangu to dialogue with the Minister so that on that day we can get a proper answer.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. Could the Minister first give the figures for each of those categories that hon. Kathangu asked for?

Mr. Speaker: Order! He will not give them.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. You heard hon. Kathangu say that the police have given notice to riot on the 3rd of December. That is very soon. Considering that they only earn Kshs5,000 a month, can the Minister reassure this House that we will still have a Police Force come 3rd of December?

Mr. Speaker: Order! I think Dr. Ochuodho is attempting to perpetrate a rumour! I will not allow the House to---

(Mr. Katuku consulted loudly)

Order! Mr. Katuku, please, go out!

(Mr. Katuku withdrew from the Chamber)

Order! Hon. Members must understand that we cannot act like that; that while the Speaker is addressing the House, Members are heckling him. It cannot happen. If it does happen from anybody now, I am sorry, we will have to be a little weedy. I hope you do not become a weed in the process. Please, keep your honour and dignity. We will defer the Question.

(Question deferred)

INCREASE OF TSETSE FLIES
IN RUMA NATIONAL PARK

(Mr. Nyauchi) to ask the Minister for Agriculture:-

(a) Is the Minister aware of the increase of tsetse flies in areas around Ruma National Park, Suba District?

(b) What is the Ministry doing to contain the increase of the tsetse flies in this region?

Mr. Speaker: Is Mr. Nyauchi not here? The Question is dropped.

(Question dropped)

FEES COLLECTION BY NAIROBI
UNIVERSITY ENTERPRISES

(Mr. Kajwang) to ask the

Minister for Education:-

- (a) Why does the University of Nairobi Enterprises Services Company collect fees from the university students, while the university has a finance department?
- (b) What action is the Minister taking to stop the company management from interfering with university functions and programmes, contrary to the University of Nairobi Act and Statutes?

Mr. Speaker: Is Mr. Kajwang also not here? The Question is dropped.

(Question dropped)

POINT OF ORDER

ETHIOPIAN INVASION IN NORTH EASTERN PROVINCE

The Minister of State, Office of the President (Maj. Madoka): On a point of order, Mr. Speaker, Sir. As regards the Statement requested for by hon. Dr. Ali, I would request that I be given a little more time, because I tried to get the Minister for Foreign Affairs and International Co-operation to sort out a few things, but he was not available. So, I would request the House that I give the Ministerial Statement on Tuesday, next week.

Mr. Speaker: What is your reaction, Dr. Ali?

Dr. Ali: Mr. Speaker, Sir, I have no objection.

MINISTERIAL STATEMENT

ALLEGATIONS AGAINST MR. CHERUIYOT

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I would like to issue a Ministerial Statement in response to allegations made by hon. Dr. Kituyi and hon. Mwenje on 22nd November, 2000, in which hon. Dr. Kituyi claimed that the Permanent Secretary, Mr. Zakayo Cheruiyot had a company which was involved in distributing methanol, a chemical used to lace illicit brews.

Hon. Mwenje alleged that the Buru Buru OCPD's vehicle was being used to distribute *chang'aa* at Umoja Estate in Nairobi. I would like to inform this august House that Mr. Cheruiyot does not own any company dealing with methanol or alcohol beverages. The Buru Buru OCPD has no official or personal vehicle that is involved in the distribution of *chang'aa* in any part of Nairobi. It is unfortunate that the two hon. Members of Parliament were allowed to get away with their baseless and unfounded allegations. It is immoral and self-demeaning for anyone in this House to use Parliamentary immunity irresponsibly just to malign people whom they know very well cannot come here to defend themselves. It lowers the dignity and questions the integrity of this House when such statements are made. I demand that hon. Dr. Kituyi and Mr. Mwenje be made to substantiate their allegations, and if not to apologise to this House and the officers concerned for giving misleading information.

Mr. Speaker: Could I just make a short comment on that? I do not know what transpired with Dr. Kituyi, but I did follow yesterday's proceeding although I was not in the Chair. I think Mr. Mwenje made that allegation and he was challenged to substantiate it by hon. Haji, and from what I followed yesterday and I have just sent for the HANSARD, Mr. Mwenje was unable to substantiate that as a fact. He told the Minister that he was not alleging that as a fact, but as a kind of rumour that he had heard and he wanted the Minister to dispel it. That is what I understand to have transpired here.

So, although Mr. Mwenje was ultimately wrong in the first place to make the allegation, which he was unable to substantiate when he was called upon to do so, the Press is not entirely unguilty. This is because when an hon. Member has been challenged in this House to substantiate a fact and he is unable to do so, for the Press to put that as bold headline as an allegation made in this House, it is total misrepresentation of reporting in the National Assembly. I wish to warn the Press that a matter that has not been substantiated by an hon. Member who has been called upon to substantiate or withdraw it, will not be considered by the Chair as fair and accurate reporting. So, please, although you want to sell your newspapers, do not misuse the House in order to sell them. Be accurate in your reporting!

The other allegation by Dr. Kituyi, I would like to say that I did not follow it. So, I am unable to comment on

it. But I would like to take this opportunity to inform the Press that when an hon. Member has been called upon to substantiate a matter, and he or she has been unable to do so, please, do not say, "it is as stated". That is all.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, if you listened very carefully to my statement, you will realise that I am asking hon. Mwenje to apologise on the allegation he made against the Buru Buru OCPD and not on the allegation made against Mr. Cheruiyot, who was mentioned by Dr. Kituyi.

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Speaker, Sir. I think the Chair is quite right. The hon. Member who mentioned the name of Mr. Cheruiyot and the Buru Buru OCPD, is none other than hon. Mwenje and I asked him to substantiate the allegation, but he failed to do so. We are, therefore, demanding, if we are in order, that he substantiates or withdraws and apologises.

Mr. Speaker: Order! This is a matter that, as hon. Members of Parliament must take seriously. If we, hon. Members we are honest to ourselves, we will realise that this year, we have not had it very good from members of the public and the Press out of what we do, refuse to do and say. As a National Assembly, we have already had that denting. The only thing I would like to request of you, for us to redeem our honour and place accorded to us by the society, it behooves each one of us to be very responsible in his or her utterances and actions so that we do not give avenues for our actions and activities and utterances to further erode the dignity of this House. The only way to do that is for each one of you, as an hon. Member of this National Assembly, to insist on honour from each one of you. So, if an hon. Member of the National Assembly has uttered a word, let it go forth from here as a factual statement from an hon. Member of Parliament and you can stand by it so that we do not have all these problems.

Mr. Minister, in the interest of the House, I will look at the HANSARD. If what you are saying is what transpired, indeed, under the Standing Orders, an hon. Member may be called upon to substantiate, but I would prefer that Mr. Minister, on your side, take issue with the hon. Member at that time. I do not want to waste my time or that of the House again going into history. Mr. Minister, where were you? Where were the other hon. Members? So, it is always important that we confront the hon. Member who has made an allegation there and then. But I am not also ruling that you cannot call upon the Chair at a subsequent date, if you look at the HANSARD and find that something that required substantiation was said but was not substantiated. I am not saying that there cannot be a possibility of re-opening the issue. But I would not like it to be the practice and procedure. So, we will now proceed, but let everyone of you be the "policeman" of the House against any conduct or utterances that are likely to damage the integrity of the National Assembly of Kenya.

Thank you.

(Applause)

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I think it would be important for the Chair to, maybe, guide the House out of this experience for the future. Under Standing Order No.76, an hon. Member can only be required to substantiate a statement of fact. If he or she is not able to do so, he or she has to withdraw and apologise, if you so require. In this particular case, from the story you have given the House, it appears as if hon. Mwenje did shift the ground. He said that it was not a fact, but it was a rumour he had heard and he was asking the Minister to dispel it or confirm it. To what extent can we allow hon. Members to go beyond the stipulations of Standing Order No.76 and find an escape route when they cannot to do so?

Mr. Speaker: Order, hon. Members! I think because of the interest and heat that these issues are generating from Kenyans generally we, as a privileged lot, have used the Floor of this House to malign the names of members of the public who, in the first place, are the ones who put us here, and who will have no recourse to any redress either by addressing this House or going to court. They have absolutely no redress. So, I will use a little time to answer you and maybe, even to give a few more Members an opportunity to say something. I think it is a matter of grave moment.

Now, to answer your question, Standing Order No.76 only allows Members to state facts. If they make allegations of fact, which they are challenged to substantiate, they must do so or withdraw. Now, I think I am on record many times, advising Members and also, ordering that "a rumour" shall never be the basis of debate in this House. In fact, I went further and said: "A rumour" shall never be allowed to make entry into that door, or even behind me! "Rumours" from the front, back and from the sides should never come here. In fact, Mr. Mwenje should have been immediately brought to order that he was out of order. I think I will finish with that. I do not think the rumour shall come again. But, please, hon. Members, we have had a beating from our electors. We are loosing our image. I think all you need to do is open the newspapers and look at the commentaries to see how we are viewed. It is upto you to aggravate it or to redeem it. I plead on your behalf that you agree with me that, let us redeem our lost glory and dignity. I look upon you, and count on each one of you to assist in that travel.

Thank you.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. What is likely to happen when a Member of Parliament says that a particular road is impassable, and the Minister replies that the road is passable? What do you do in that circumstance?

Mr. Speaker: Order, hon. Angwenyi! After I have made that long plea to Members, I hope it will not come to that. But if it must come, maybe, in your own wisdom, you might think of getting me a helicopter. Then, I can be going all over the places to check on the roads!

POINT OF ORDER

RETRENCHMENT BY THE AFC

Mr. Murungi: On a point of order, Mr. Speaker, Sir. On Wednesday last week, I requested a Ministerial Statement from the Minister for Agriculture and Rural Development on two things. First, I wanted the Minister to explain the scheme for retrenchment being implemented by the Agricultural Finance Corporation (AFC), and the debt-waiver scheme of the same Corporation. I have not got the Ministerial Statement to date. I would like to request the Clerk to inform the Minister because he is not in the House, to make the Statement available to the House next week.

The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo): Mr. Speaker, Sir, I undertake to inform the Minister. We will issue the Statement next week.

COMMUNICATION FROM THE CHAIR

CLARIFICATION ABOUT MR. MWENJE'S REMARKS ON MR. CHERUIYOT

Mr. Speaker: Very well! Just to rest the issue that was raised, I just wish to read from the HANSARD what hon. Mwenje said when he was challenged by hon. Haji to substantiate his allegations. I want you to confirm whether it tallies with the report in the newspapers. Mr. Mwenje is not responsible for editing newspapers. You must understand that. He is not an editor of any newspaper. So, he cannot come to complain to me that he was "misreported". This is what he said when he was challenged:

"Mr. Temporary Deputy Speaker, Sir, I said that I heard that the Permanent Secretary is the sole person licensed to supply methanol in this country. I have challenged the Minister responsible to check his records and see whether it is true. I did not confirm that it is true".

That is what Mr. Mwenje said. He did not confirm that what he said was true. So, he was actually passing on a "rumour." So, the newspapers, to be accurate, should have put in bold headline: "Mr. Mwenje rumours that the PS was the sole distributor of methanol." That is all. Next Order!

POINT OF ORDER

ABDUCTIONS OF CHILDREN IN THE COUNTRY

Mr. Muchiri: On a point of order, Mr. Speaker, Sir. About three or four weeks ago, I demanded a Ministerial Statement from the Minister of State, Office of the President, in relation to the kidnapping of children. He never issued that Statement! He said that he would issue a Ministerial Statement immediately, but the kidnappings are now occurring in Kisumu! Could he do so?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I do apologise! I got unsatisfactory information and sent for more details. I promise to make the Statement on Tuesday.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. Also related to that but not quite the same, I also sought a Ministerial Statement on child abductions in Nyanza and Coast Province. We saw the speed with which the Minister worked when the matter concerned the PS came up. Could he do the same with child abductions?

Mr. Speaker: Order, Dr. Ochuodho! You are eroding the dignity of Parliament. Dr. Ochuodho, it does look like unless something is said by you, it cannot have been said! That is exactly what hon. Muchiri has asked! So, must you say it to be heard? Please, relax!

Next Order!

BILL

*Second Reading*THE PUBLIC SERVICE (CODE OF
CONDUCT AND ETHICS) BILL

*(The Minister of State, Office of
the President (Mr. ole Ntimama) on 22.11.2000)*

(Resumption of Debate interrupted on 22.11.2000)

Mr. Speaker: The Minister was on the Floor. Proceed!

The Minister of State, Office of the President (Mr. ole Ntimama): Thank you very much, Mr. Speaker, Sir. We are still discussing the Public Service (Code of Conduct and Ethics) Bill. We discussed it quite a bit yesterday. We touched on some of the important sections that make the pillar of the Bill. We explained a little bit about the functions of the Public Service Code of Conduct Committee and how it will operate. That is a very important part of the Bill. It is through that Committee, which will be chaired by a Judge of the Court of Appeal, and will have Members who will be people of high integrity and probity, that all the work, including investigations, recommendations and disciplinary action to public servants who default will be done. We also talked about the declaration of income, which is imperative for every public servant. Anybody who will not fill up the declaration form will be committing a crime.

Mr. Speaker, Sir, let me talk about the prohibited conduct. I want to emphasize on Part IV of the Bill because Section 10(1)(a) talks about the public servant accepting property for his own benefit or for the benefit of other people closer to him.

The other very important Section is 10(4) which talks about soliciting and accepting gifts. It definitely prohibits a public servant to solicit or accept gifts. The public servant is also not allowed to accept or receive gifts or donations.

Mr. Speaker, Sir, Section 11(1) states that:-

"A public officer shall not put himself in a position in which his personal interests conflict with his duties and responsibilities, especially in the awarding of contracts and tenders."

Section 12(1) states very clearly that, although a Member of Parliament and a councillor are public officers, they are allowed to promote political activities because that is temporarily their profession. But public officers in other public offices who are not Members of Parliament and who are not councillors are not allowed to engage in political activities. They are also not allowed to support any political party, a political candidate or even to make speeches on platforms, *et cetera*. They are supposed to be neutral. That is a very important section which separates a Member of Parliament and a councillor from the other public servants. But these other public servants have got a right, under Section 12 (1)(j), to exercise their constitutional rights. This section states that: A public servant can resign and serve as a Member of Parliament or a councillor because that is his constitutional right. But when he is still in the payroll of the Government or any other public body, he is not allowed to engage in political activities at all.

Mr. Speaker, Sir, Section 14 also talks about the misuse of Government property and states very clearly that, a public servant will not be allowed to misuse public properties. This is where the Government and other public bodies have lost millions, if not billions of Shillings because of misuse of property; like vehicles, telephones, typewriters, computers *et cetera*. Such equipment is not only misused but it is also removed from places of work. This is going to be a very important section in curbing the misuse of Government property.

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members! This Bill is very important and I think you better listen because the moment you pass it, it will require you to take certain steps and do certain things. It is better for you to listen and hear what you are supposed to do.

The Minister of State, Office of the President (Mr. ole Ntimama): Thank you, Mr. Speaker, Sir, for that advice because this Bill affects hon. Members directly.

Section 15(1) emphasizes the confidentiality of information. A public officer is not supposed to peddle around information that comes out of a public body; which includes the Government and many other institutions. Section 16(1) is also important because it talks about outrageous, infamous and disgraceful conducts. What are the outrageous, infamous and disgraceful conducts? One of these conducts is when you evade taxes.

Secondly, it involves refusing to settle debts owed to the Government or individuals, or allowing yourself to be used for the interest of a foreign government. It also includes organising individuals to the detriment of the interest of Kenya. These conducts are outrageous, infamous and disgraceful and should not be exercised by a public servant.

Mr. Speaker, Sir, in the same section, favouritism is one vice that must not be entertained as far as a public servant is concerned. A public servant should not practise favouritism, nepotism or ethnic bias. He or she shall not abuse or take advantage of subordinates or a member of the opposite sex, through coercion, threats, harassment and should not violate the fundamental rights and freedoms of individuals. Human rights include; the right to life, shelter, association, expression, worship and so forth. It will be understood by hon. Members that, favouritism and coercion are things that must not be allowed, as far as this public Code of Conduct and Ethics is concerned.

Mr. Speaker, Sir, before I wind up, I would like to talk about Section 19(1) which is very important. This is a new phenomenon which talks about sexual harassment. It is a new law and it must be properly understood by all public servants. This section makes reference to sexual discrimination or harassment of any gender; any sexual innuendos, gestures, noises, jokes and remarks to another person for purposes of sexuality. This concept is supposed to improve the working relations between public servants in their work place.

Mr. Speaker, Sir, I just want to emphasize that this conduct of discrimination and harassment is not only done to women, but women can also do the same to men. It is definitely both ways. So, these are some of the highlights about this Bill.

[Mr. Speaker left the Chair]

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

However, like I emphasised yesterday, I will close my presentation here by saying that this Bill, once enacted, will be a landmark in this country. It will revolutionise the conduct and ethics of public servants. Indeed, as I said, this Bill will complement other Acts of Parliament like the Economic Crimes Bill. It will also support other codes of ethics which are already in existence by other professions, for example, lawyers and doctors, among others. This Bill will only complement and it will not at all remove the responsibility of those people abiding by those codes of ethics and conduct.

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

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I stand to second the Motion moved by the hon. Minister that this House adopts the Public Service (Code of Conduct and Ethics) Bill.

The Minister has elaborated quite a bit since yesterday and today on the main objectives and purposes of bringing this Bill forward. I must say that this is one of the Bills that can be regarded as a major milestone in the country's desire to bring the issues of public conduct into a dignified and respectable standing within the society as a whole. It is, perhaps, also very telling that this Bill is being brought in the year 2000 when we are entering a new millennium. So, there are a lot of significant items or parallels we can draw on to this Bill. It is, perhaps, a measure to show that there is indeed a new beginning in the way we want to have our public offices run and public affairs conducted in this Republic. This does not, however, say that prior to this, there was no element of a Civil Service Code of Conduct. There was, indeed, a Civil Service Code of Conduct. But over the years, laxity has developed in the implementation of that Code of Ethics. Some adjustments were brought in through the Ndegwa Commission which, at one time, allowed the public servants to conduct business and, at the same time, hold public offices. In the earlier days, we may not have seen the danger of conflict of interests. But with time, it has become very clear that human beings sometimes have to be guided through a legislative arrangement, so that they do not lose sight of what their various responsibilities are.

Mr. Temporary Deputy Speaker, Sir, one key aspect about this particular Bill is that it now broadens the definition of public service or public office. Earlier, it has always been assumed that "public service" refers to those people who have been employed by the Public Service Commission, or alternatively, those who fall within the various parastatals or semi-Government authorities. But when one looks at the First Schedule as it appears on page 1082 on declaration of income of assets and liabilities. It says:- "Officers who should be required to submit declaration to the Committee---" It starts with the Parliamentarians; that is ourselves; the Speaker of the National Assembly, Ministers,

Assistant Ministers and hon. Members of Parliament. It goes further to deal with the Parliamentary Service, the Civil Service, the Local Authorities which include councillors and officers in that area, the Teachers Service Commission and the teachers, the Judiciary, co-operative societies, state corporations and parastatals, public universities, disciplined forces and so forth. This is an extremely widened and broader definition of who is a public officer. Therefore, when Parliamentarians are debating on this Bill, I think the message which needs to go across is that we are now looking at ourselves in totality. We are not looking at the Civil Service, Permanent Secretaries or all other officers who are in various departments of Government or semi-Government institutions. This definition involves us.

Mr. Temporary Deputy Speaker, Sir, in fact, it goes beyond that. This is because in the Second Schedule which again I would like hon. Members to look at from page 1084 to 1086, the elements and the issue of declaration shall not end up with the Member of Parliament alone, but it goes beyond to their spouses. The spouse will also have to declare his/her assets and liabilities. That is not the spouse of the Permanent Secretary or the head of a parastatal alone, but the spouse of each and every hon. Member who is here and has a spouse. If they are not yet married, then that is not an issue. But if you are married, then you will have to make a declaration.

Mr. Temporary Deputy Speaker, Sir, these are very important aspects that we are introducing into the management of our public affairs. I wish to stress this because when some sections of the media wrote about this Bill when reporting on the debate in Parliament, they gave the impression that this Bill will deal only with the civil servants. They did not come out clearly that the Bill will go beyond that and deal also with hon. Members, councillors, among other people. The media did not come out strongly on this point. I think it is important that this message comes out because we are now entering a different chapter and moving away from looking at the Public Service from a narrow definition. We are now regarding and categorising ourselves and, perhaps rightly so, as public servants. Therefore, in passing this Bill, we will commit ourselves to setting the stage for a completely different level and standard of management in our public affairs. So, I would like to draw the attention of hon. Members to the depth of this Bill.

Mr. Temporary Deputy Speaker, Sir, there are several clauses and hon. Members will contribute to them individually as they deem fit. It is important that each clause be looked at critically. It is, indeed, rather unfortunate that we have not had an opportunity to receive a report from the Departmental Committee that deals with these matters. I do hope in the process of the debate, the relevant Departmental Committee will have an opportunity to meet and discuss, so that through this new Parliamentary process, we can look at this Bill with a "tooth comb" and improve on it as it may be necessary.

Mr. Temporary Deputy Speaker, Sir, if the House finally does recommend the approval of this Bill, I would want to urge them to stress the point that the Minister responsible will have to make sure that they look for people of very high integrity to sit on that committee. This committee must be impartial and objective. It must not be a committee that will use the powers that will be conferred upon it within this Act to harass any member of the public within the public service.

The other thing that needs to be stated very clearly is that when one looks at the element of prohibited conduct, this Bill is also bringing forth very strong statements. It will also directly impinge on the whole concept of the Harambee. In my view, it is providing guidelines on how Harambees ought to be conducted. I would invite hon. Members to look specifically at Part IV, Clause 10 and the subclauses that go with it. For instance, if one looks at Clause 2, it says that:

"A public officer shall not, either as a collector or as a promoter of any public collection, obtain money or any other property from any person by means of coercion or threats to withhold any public services, or by using his official position in any other way to exert undue pressure on such a person."

When you go further down, it is very significant because then, it relates to Cap.106 which deals with the Public Collections Act. This again, is sending a very strong message that Harambees must be voluntary. They should not be used to seek any favours. It must be genuine and out of the original spirit of pooling together in order to grow. These are some of the important things that are contained in this Bill.

Mr. Temporary Deputy Speaker, Sir, the other issue that I would just quickly want to highlight is that, indeed, as we look at this Bill; we must also make sure that we do not have provisions in any Act which can also be loosely interpreted and sometimes cause undue anguish to people. I want to echo the comments that were made by hon. ole Ntimama on clause 19 of this Bill. The gist of it is that it deals with sexual discrimination or harassment. This is important, but I think hon. Members must also look at the whole aspect of the phraseology in that particular clause. In a nutshell, it describes discrimination and what can be construed to mean sexual harassment. It reads as follows:-

"It includes any pressure or request for sexual activity or favours, any attempt to commit sexual assault of any degree; any intentional, careless or negligent physical contact which is sexual in nature, any sexual innuendoes, gestures, noises, jokes, comments or remarks regarding any other person's sexuality."

That is a very serious statement and one must be able to ask themselves: Will this be conducted in a situation of genuine honesty? Will you brush past a lady or a man and immediately you are accused of sexual harassment? This may seem to be a simplistic issue, but I think as we debate this Bill, as these issues do come out - and they will come out in many ways - we should look at them carefully. I can see that this has drawn some attention from quite a number of Members which is excellent. I think this is what it should have done and what it should do. It is important that as we look at these clauses, we do not leave any room for anybody to misuse any provisions of this Bill when it comes into law. We want to make sure that it is fair to both men and women and that its implementation is done in a manner that ensures that everybody who will be bound by the provisions of this Bill obeys it without complaint.

Mr. Temporary Deputy Speaker, Sir, we know that some of these provisions, for instance, relate to the infamous Affiliation Act. There may be some issues that could dovetail into the provisions of the Act when one goes into the depth of this Bill. I would just urge hon. Members to give it a lot of consideration because, as we said, these are issues that will have a major bearing on how we conduct our affairs.

Mr. Temporary Deputy Speaker, Sir, the Act also states that within three months from the time that it becomes law, all public officers will be required to make their declaration. Thereafter, they will continuously make their declaration. So, it means that, if there is any member of the Public Service or any public official who feels that the provisions of this Bill are untenable, then he has one option and that is to resign and leave office. Once you leave office, then you are not bound by the provisions of this Bill because it calls for a lot of accountability. It is important that the Members bring out these issues so that at the end of the day, we are able to move forward.

The other thing that I would also like to state is that we should look at this Bill from a positive angle. We are a free market economy and although there will be public declarations to be made on the assets and liabilities of individuals, we should not turn this into a document that creates undue excitement. We should not go out of our way to know what hon. Munyao or hon. Mudavadi owns or does not own. This should not be the basis of this Bill. This is simply a law that is trying to make sure that in the management of our public affairs, we conduct ourselves with decorum. We should not have at the back of our minds a concept that we shall use this law as a basis for simple Press articles and excitement. We should not bring certain issues on the Floor of this House in a manner that does not reflect the whole purpose and intention of this Bill. That is one other issue that I thought that we need to bring out.

I also want to say that we have over the years been rebuked by organisations like Transparency International and even the international community in many ways. They have always had a lot of reservations about Kenya and our desire and resolve to deal with corruption in this country. This Bill will be sending a very strong message to Kenyans and the international community that all those doubts that have been there are being dealt with systematically. We are coming forward as a nation that wants to completely alter that image, particularly in this Century. We are admitting that, yes, those accusations have been there but we are coming forward with this legal mechanism. Through this mechanism, we are sending a message that we want to get rid of the past, look forward and collectively find a way of ensuring that this economy is sustained on the strong principles of excellent and open governance.

Mr. Temporary Deputy Speaker, Sir, this Bill also brings into focus the issue of how public officers should conduct themselves in terms of punctuality, maintaining a dignified posture and demeanour at all times. This can be seen in Clause 18. Clause 18(1)A says:

"A public officer shall at all times be disciplined whether or not on official duty and shall in particular maintain a standard of dressing and personal hygiene befitting the dignity and the image of the Public Service; observe official working hours, punctuality and meeting deadlines, not be absent from duty without proper cause, practise and promote adherence to meritocratic principles and practices on appointments to the Public Service where the guiding principles shall be qualifications, merit, competence and experience."

These are very strong clauses but extremely powerful and useful in ensuring transparency in the way we shall be managing our Public Service and appointing those officers. It also stipulates that those officers will be rewarded for their good efforts. Their work performance will be based strictly on these kind of principles so that the quality and professionalism of our Public Service shall be enhanced.

Mr. Temporary Deputy Speaker, Sir, there is also Clause 16, which highlights many issues in terms of what sometimes would be improper practice. I will give an example. Clause 16(b) says the following:-

"Without prejudice to the provisions of any other written law, a public officer shall not improperly use such officer's official position to obtain any property, including land or business premises for such officer or any other spouse, child, relation or friend of such officer, or use his official time to engage in private business to the detriment of the officer's official duty".

The particular paragraph that I have quoted is very significant, because it addresses some of the issues that were raised during the Ndegwa Commission. The Ndegwa Commission made some recommendations, then, to the effect that members of the public service, and more specifically civil servants, would be allowed to engage in private

business. It is clear that it is not possible to expect that a public officer would regulate his time, so that he divorces himself from his public official duties to conduct his private functions. It is, therefore, clear that it is important that such regulations are now put into law, so that what we have been unable to do without any provisions of the law, we will now be bound to do so, so that if one wants to spend time on his business, he must know very well that, that should not, in any way, conflict whatsoever, with his normal public official functions.

One other issue that also comes out here is that this Clause says very clearly that a Kenya public official, particularly in respect of the so-called "prohibited acts", should not, in any way, compromise Kenya's position under any contractual obligation, when giving any financial undertakings to any foreign entity or authority. This is very important, because, sometimes, you cannot rule out the fact that, over the years, the Controller and Auditor-General has brought out instances where it becomes clear that, perhaps, the public official involved was not clearly acting in favour and in the interests of the Kenyan Government or the country as a whole, but was more inclined to favour or support the international entity at the detriment of Kenya's national interests. So, this Bill, again, brings out this aspect extremely clearly.

Mr. Temporary Deputy Speaker, Sir, the Bill also talks about the aspects of gifts and donations. It prohibits any public official from receiving any donation of any nature. This aspect is also very clearly specified in the Bill. It provides that if at all there is such a gift, that gift must be handed over through the Customs Department, or the Government, so that it becomes a public asset. The Bill also states very clearly that, while such gifts are being received, there will be a method of more or less determining their value. The Bill also tries to define the cultural aspects, because there are some gifts that are cultural. For instance, when hon. Munyao comes to preside over a *Harambee* in Sabatia Constituency, we may give him a goat as a cultural gift. Now, the question is: Would the hon. Member submit such a goat to the Government to become public property or would he regard it as a cultural gift and keep it for his personal use? Do such gifts have to be subjected to the provisions of this Bill or not?

QUORUM

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. You appreciate that the Minister is making very useful contributions on a matter that should have attracted the attention of the whole House. It is not just that we do not have a quorum, but if you look at the Government side, you will see that it has only four hon. Members. Where is the Government in this House?

The Temporary Deputy Speaker (Mr. Imanyara): Very well; we do not have a quorum. Could the Division Bell be rung?

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Imanyara): Order! We now have a quorum, and Mr. Mudavadi, you may continue.

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I was talking about some of the provisions of Clause 10 which deals with gifts. For instance, I was quoting subsection 5 of Clause 10 which states as follows:-

"Subject to subsection 7, a gift or donation to a Public Officer on any public or ceremonial occasion shall be treated as a gift to the Government or other appropriate institutions represented by each Public Officer."

I was saying that whereas that is there, there is also some leeway because, indeed, some of those gifts have some strong cultural attachment and there is a provision as to whether you can accept it or not. If that is not done carefully, and of course, the value of the gift--- This is because I gave the example that in most public harambees, the communities tend to show their appreciation by donating a goat or a sheep to the chief guest in question. It would be awkward for every hon. Member, Minister or Permanent Secretary to go and submit goats, cows and, perhaps, sheep to the Government or to his or her Ministry bearing in mind that, that will be rather an awkward approach to the Bill. However, there is a provision that certain minimum exemptions can be granted.

Since my time is coming to an end, I just want to reiterate a points that I had made that I would want to ask the hon. Members to look extremely carefully at the provisions of this Bill because it is going beyond what used to be loose approaches to the Public Service. It is also going beyond what would have been perceived as normal cultural practices in African setting. We are introducing extremely new parameters, very strong measures and new practices that are part and parcel of the whole global fraternity and it is important they are understood because we do not want anybody to become a victim of the penalties of this particular Bill when it does come into place. The penalties are quite prohibitive and I would also ask the hon. Members to look at the element of penalties because they are quite punitive.

Lastly, I just want to reiterate that, ultimately, this Bill will be a milestone in bringing order and decorum to the Public Service. I beg to second the Bill.

(Question proposed)

Mr. Munyao: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to add my voice on what the Minister said yesterday when he was moving this Bill and also what the Minister for Information, Transport and Communications has just said while seconding it.

Yesterday, I was one of the hon. Members who drew the attention of the Chair to the fact that, this Bill has not been referred to the relevant Departmental Committee for scrutiny and a report made on it here. This is because I had read quickly through the Bill and I saw the importance of that. But I now commend the Minister for raising some matters which we, as Kenyans noted and I felt that they are crucial. Although even right now we are going to touch a lot upon the enactment of this Bill, I would still ask the House, through you, that somehow somewhere before we go to the Committees stage, let this Bill be referred to the relevant Committee. I agree with the ruling of the Chair that was made yesterday, because it was made very clear to us that the Bill was referred to another Departmental Committee in July last year. But it also came out very clearly that the Bill was referred to the wrong Committee. Although it was referred to that Committee at the required time, the fact is that it went to the wrong Committee, and, therefore, the right action has not been taken. I would, therefore, plead with you that after we have deliberated on this Bill, somewhere along the line, let it be shelved for a while so that the Minister can refer it to the relevant Departmental Committee so that it can be seriously scrutinised.

I am saying so because as soon as this Bill goes through, we are going to have total faith in the Government, a new Kenya and a new people. This Bill alone will more less act like a reconciliatory gesture on a lot of things and activities that happened in several public sectors. I have been a public servant for several years and I am now a Member of Parliament and I can see the clauses which touch on several parameters of the life of a public servant after this Bill is enacted into law.

The Minister, while introducing this Bill, spoke of so many things. I am not going to address those issues seriously, because he has already highlighted them, but I am going to touch on a few of them. The current Civil Service is now being run on what used to be the Ndegwa Commission. So many errors were committed by that Commission. At that time, the Ndegwa Commission was necessary, but now we have seen that it is not necessary because it has introduced a lot of mistakes which have now been accounted for. At that time, the Ndegwa Commission was important, and we are not blaming them for whatever they have done because we are opening a new chapter of reconciliation on whatever has happened. But there must be a spirit of give and take. We are now wiping out all that happened because the Ndegwa Commission introduced many evils in this country. This is because when it gave the civil servant an authority and permission to run a business. You can imagine what could happen to a simple thing like liquor licensing business committee. When you want to open a bar and a chief or a DC would like to open the same business, and then you have to go the Liquor Licensing Committee, which is chaired by the local administration and, the answer is very clear as to who would get the licence. Now, this Bill will wipe out that kind of anomaly, and we may not need any other reconciliatory committee thereafter if this Bill goes through in its entirety. It will act as a reconciliatory avenue for the entire country and it will bring a lot of blessings. It will pour cold water on the old wounds which have been opened because of the activities of the past. I would like the spirit advocated by hon. Mudavadi to be emulated. I understood him to be pouring a lot of cold waters on what happened in the past. That was very good, and it is welcomed.

If we pass this Bill, we are going to solve a lot of problems in this country.

This Bill is very crucial. This country is going to the 38th year of Independence and we have been seeing the same kind of structures. Now we need a change. I would like to touch on the issue of declaration of assets. When we will be declaring our assets, we would like honesty to be shown. It should not be another way of knowing what we have and what we do not have. When banking started in this country, we had to have our own people manning banks and there was something similar to what we are suggesting here. At that time, one would go to the manager of ICDC and apply for a loan to buy a certain business and he would submit a lot of details. At that time, somebody would call his friend and tell him all the details that were required and he would fill in the forms and apply for a loan. I am giving this example because this information can be used that way. One thing which is very good is that even those who have earned some property illegally and they do not want to be subjected to the embarrassment of the Act, they can resign from employment. For those who would still like to continue in the service, let it not be a way of knowing what a person has and how he got it so that through that there can be intimidation.

Section 12 is on the conduct of civil servants. Today, when you watch television or listen to the radio you hear mostly about what the DCs and PCs do. These kinds of things should be left to politicians. They should not be fighting over who should appear on the screen today or tomorrow. At this point, it is important to note that District

Information Officers are under the DCs and in most cases you find that they send information about the DCs to the Kenya Broadcasting Corporation (KBC). This clarifies the issues and we will not go into it.

After Independence, when you walked into an office, you would see public servants dressed in short sleeved shirts, jackets, shorts and stockings. Their offices had hard tables and chairs with no carpets, but services were provided. Today, when you go to an office, you find three or four telephones; two with direct lines; one with a secretary and another red one called a hotline. But you are made to wait out there. If you had gone there to do a job which would take five minutes, you are made to stay there for two or three hours waiting because the secretary tells you that the boss is on the telephone. He makes private telephone calls and the secretary is not aware that such a thing is happening. Why make all these private telephone calls? You should install only one telephone with a switchboard where the secretary is. If a call comes, put it through or tell the boss that there is a visitor. This kind of behaviour wastes a lot of our time. When you waste about five minutes of the 30 million Kenyans, that will amount to about 150 million minutes. Within five minutes, accountingwise, you find you have almost wasted about ten years. This must be done away with because proper services are not provided.

When you walk into an office, the officers are dressed in a certain manner and the carpets are about three inches thick, but no services are provided. Let us go back to where we were and look behind to see what has actually gone wrong. From there, we will improve our services.

Today, this country has no food because District Agricultural Officers come late to work and after that they start making private telephone calls. By the time they are ready to see members of the public, it is already after 10.00 o'clock. They then see two people up to 12.00 o'clock and they go for lunch only to come back at about 3.00 o'clock. Again, they see two other people up to about 4.30 p.m. and they go home. If services are not controlled then the output of the country slows down completely. The effect of one person's behaviour before 30 million Kenyans leads to a very big loss and this has got to be taken into account.

I agree with the clause on declaration of assets. This is the 15th year that I am hearing in this House that a public servant ought to declare what he owes and the way he acquired that property. There has been a snag somewhere because every time Motions are brought here they are debated, some are thrown out while others are accepted by the Government, but nothing happens. I do not know what has been going wrong. I thank the Minister for bringing in this provision although it has come late, but it is better than never because this declaration will control corruption. You will find a case whereby somebody gets a position and within two or three years he has already acquired what hon. ole Ntimama has been looking for, for the last 40 years. This kind of thing must be controlled.

The other point is on the secret documents, particularly in Government offices. Today there is no single document that you cannot get from any office. This is not just in the DC's office, but even here in the Office of the President where, if you send me to collect any document, I will get it within two hours. What is lopsided in this country? I am happy that after this Bill has gone through, Kenyans will be seen to be on the same level with other countries in the world. Why should we encourage this kind of thing? Secrets of the Government should be safeguarded and we should put some emphasis on this. A public officer must be accountable. Accountability does not only refer to the finances, but also to our image. Kenya will be judged from the way we all behave, both in politics, business or in the Civil Service *et cetera*. This Bill is very important and I would also like to give a chance to other hon. Members to make their comments. Essentially, when we have all made our comments, I would like the Minister to allow the Committee concerned to have a look at them and bring the recommendations here. After going through this Bill, it will not be possible to bring it back here for an amendment within one year. The issues already highlighted here are of concern to this country.

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

Mr. Raila: Thank you, Mr. Temporary Deputy Speaker, Sir.

The Minister, in introducing this Bill, made several salient points. He attempted to convince the House that the Government is serious in implementing what it has been saying for a long time; that it is committed to the principles of transparency and accountability in the management of public affairs. But I would like to say from the outset that this Bill, in its present form is grossly deficient in very fundamental areas, which need to be addressed when we talk about a proper code of conduct that will ensure transparency and accountability in the management of our public affairs.

The Memorandum of Objects and Reasons, Part (iv) sets out the acts and omissions which constitute prohibited conduct. These include solicitation or acceptance of gifts or benefits for the discharge of official duties, putting oneself in conflict of interest situation, political partiality, use of official position to obtain property, including land or business premises for such officers or any spouse, child relation or friend of such officers, use of official time to engage in private business, misuses of Government property and so on and so forth. The point here is the use of official time to engage in business. I do not think that, that is the issue. The issue is public officers being engaged in private business.

(Applause)

All of us have said many times that the genesis of grand corruption in this country is to be found in the Ndegwa Commission Report, which allowed public servants to engage in businesses, which are in competition with what they do or conflict with their work as public servants. This Bill would have addressed the crucial issue of corruption, if it was stated here that public servants or civil servants are prohibited hence forth from engaging in private business. That is missing here. Therefore, I say that it is a very fundamental omission, because it does not matter what else you say now to gloss over the matter, that you need to declare interest and so on and so forth. When does a public servant have time to do his business and when does he have time to serve the public, since most of the businesses are conducted during the day? I cannot be a Managing Director of Raila Odinga and Associates and at the same time be a Permanent Secretary, which occupation demands my full time attention. The Government needs to look at this more critically. We need to change this and say that we will not allow civil servants to engage in private business.

The Bill proposes the establishment of a Committee to be known as "Public Service Code of Conduct and Ethics Committee". I would have loved to see a Code of Conduct Bill with a Tribunal. The way this is prescribed here; we are just talking about a Committee which consists of six persons, whom at least, three shall be women nominated by the Minister, the Chairman being appointed by the President in consultation with the Chief Justice, who shall be a person who holds or has held office as a Judge of the Court of Appeal. Why do you want to limit this position to merely senior members of the Bench? Why must the Chairman of a Committee or a Tribunal, as I want to call it, have to be a Judge of the Court of Appeal? The prescription should ask for somebody who is qualified to be a Judge of the High Court. A practising lawyer who qualifies to be a Judge of the High Court can become a Chairman of this Committee.

Secondly, apart from the six members, there shall be the Permanent Secretary and Secretary to the Cabinet and Head of the Public Service and a Director of the Kenya Anti-Corruption Authority (KACA). Then further it says that no person who has previously been convicted of any crime or offence related to corruption or fraud or any other criminal offence shall be eligible for appointment. I have no quarrel with that provision. But why do we want to make this to be a Committee of the civil servants, since they are the ones on trial? Here, we are talking about complaints that will come from members of the public against these people. I hope that the Attorney-General does not intend to use this Bill as a substitute for establishing the office of Ombudsman, if that be his intention, then I will say that he is extremely misguided. What we need is the introduction of the institution of Ombudsman in this country. The Office of Ombudsman is normally under the National Assembly and it ensures impartiality and neutrality. That it will not be controlled by the Executive which it is supposed to check. I therefore, propose that this code of conduct should fall under the office of the Ombudsman, and that there should be a tribunal set up in this Bill that will deal with cases. In that way, those people who will complain against these officers will ensure that they are themselves safe. If, for example, a civil servant is aggrieved against his superior, who discriminates against him on the basis of ethnicity, which is an offence under the Bill, or because he sees that his superior is in the process of committing an act of corruption, he goes and complains and appears before this Tribunal consisting basically of people who have been predominantly civil servants, where is the guarantee that this officer will not be subsequently victimised? That is the reason why the National Assembly is the best institution to deal with matters of discipline, where public servants who have been found to have committed crime under this Bill or Act shall come for punishment.

Mr. Temporary Deputy Speaker, Sir, Section 11(3) reads:

"No officer shall award or influence the award of any Government contract to himself or his nominee".

This would not have arisen, if we had begun by incorporating in this Bill, a provision that public servants shall not be allowed to engage in private business. This clause could be superfluous. Still on Section 11(5)(ii), which prohibits public officers to offer themselves as candidates in the parliamentary or civil elections, provided such officers shall be required to resign their positions before engaging in any elective process, leading to such officers being offered as candidates. In the event that such an officer does not resign as required, such an officer shall be deemed to have resigned. This is not very specific. What about an officer participating in a nomination process in a political party, for the purposes of the general elections? Is that also construed to be an election within the meaning of this Bill? That needs to be clearly spelt out. I know very many civil servants who participated in nomination exercises of various political parties who, having lost, very comfortably went back to their positions, and are now serving as civil servants. The danger is that those people have already expressed open political bias by associating directly with a political party. Therefore, they are likely to be biased in dealing with general members of the public. Where does that begin? That needs to come out clearly.

Mr. Temporary Deputy Speaker, Sir, Clause 23 talks about actions that may be taken against the offending

officer. They are listed from (a) to (k). But there is no provision of restitution. If a public officer uses his position to enrich himself corruptly, there is no provision for restitution. For example, the Government will have the right to recover the property that will have been stolen. That is the reason why so many people and even Government officers have got away with graft. There is also no provision that deals with foreign bank accounts. If you look at a similar Act in Nigeria, it prohibits public servants to open foreign bank accounts. Public servants include the President, Ministers, Assistant Ministers and Members of Parliament. That is not spelt out here. One would like that to be specified here because we are just talking about the declaration of wealth which is locally owned. What about wealth which is stashed out there in foreign bank accounts? Is a public servant also required to declare that as well? That also needs to be clearly stated in the Bill.

Mr. Temporary Deputy Speaker, Sir, this has to do with Members of this House!

The Minister of State, Office of the President (Mr. ole Ntimama): On a point of order, Mr. Temporary Deputy Speaker, Sir. I really do not like to interrupt the hon. Member. I think what he is saying is very important. But when he stood up to speak, in his first sentence, he said that the Minister came short of coming up with some policy because he did not mention anything about transparency and accountability. That is what he said. I just want to show him that my first sentence was---

The Temporary Deputy Speaker (Mr. Imanyara): Do you not think that, that is a matter you can respond to when replying?

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, he speaks before I have not said things! I would like to see a provision in this Bill that requires Members of Parliament, who proposes to speak, or vote on any matter before the House or any Committee of the House, and who shall have a direct or indirect beneficial interest in the matter, to declare their interest here. We have had cases here where Members of Parliament stand in this House to talk about institutions where they are shareholders, without first, declaring their interests. That is wrong! Members of Parliament should be required to declare their interests before they speak on matters on which they have some interest.

Mr. Temporary Deputy Speaker, Sir, this country requires some kind of reconciliation. We are coming from an era of opacity where civil servants, particularly senior civil servants, use their positions with impunity, to enrich themselves. Some of those civil servants have now reached the retirement age. They have retired and are now politicians. It is only in this country where politics is a business of retired public servants. People go and work in the Civil Service until they reach their retirement age. After they have grabbed wealth in the Civil Service, and because they want to protect that wealth, they run for elective offices as Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, I have said that the Ndegwa Commission was the genesis of major corruption in our Civil Service. There are people who were then under-secretaries, deputy secretaries and permanent secretaries. They used their positions then to start businesses. They influenced contracts to be given to their businesses. That is what has formed the basis of their wealth today. Those are the people who can today afford to stand on top of the roof and shout at the rest of the other Kenyans about corruption. Those are the people who are today moralising to us about the evils of corruption. I would have mentioned names, but I know that I cannot mention hon. Members of Parliament without bringing a substantive Motion. But some of those people know what they did. You find that some of those people used their positions to acquire Government land. They first transferred it to the names of the people who they knew, and after that, they said that they bought the land. They also claim that they paid for the land. When you ask them: "How much did you pay for the land and how did so and so acquire that land?" They have no answer.

Mr. Temporary Deputy Speaker, Sir, this side of the House has now become the River Jordan. The Opposition is the River Jordan! I remember the Biblical story of the leper who went to Jesus and then Jesus told him to go and deep himself seven times in River Jordan to cleanse himself. When he went and did so, after the seventh time, he became clean. There are people who believe that crossing from the Government side to the Opposition side is tantamount to washing yourself in "River Jordan". They can now come here and begin shouting. It is not right because we know the records of some of these people when they were on the other side. There are some who are still on that side who are shouting about corruption. A time will come when we will bring a substantive Motion here to discuss the source of their wealth and bring documents here to show that the source of their wealth is filthy. Therefore, this country needs cleansing and reconciliation because there has been a lot of looting.

When I look at the form shown on the Sixth Schedule on page 1086, No.14, it demands that you should indicate if you have ever been convicted of any criminal offence and you give details of the nature of crime, date, place, *et cetera*. We are coming from an era of tramped up charges when innocent people were arrested for political purposes, but had criminal charges pinned against them. Are we going to use that kind of record again, when we know that the real criminals may have no criminal records? There are people who have engaged themselves in graft or lawyers who have been raping state corporations by charging the so-called professional fees. We have corporations like the National Social Security Fund (NSSF), where some lawyers charge Kshs240 million for supposedly offering

professional services. Because those people were correct in those days, they were not caught, whereas somebody else who never stole anybody's money is going to be discriminated against because of the era we are coming from. There must be some time limitation in this! How far down do we go and what kind of offences do we deal with? If that is not done, then we will continue discriminating against very many innocent Kenyans who, because of their own political convictions and because they were brave enough to stand up and be counted in those days, they got charged with tramped up criminal charges and were then put in prison.

Mr. Temporary Deputy Speaker, Sir, I may have very many cases that I can cite here. So, this should be looked at afresh. I said that we want to have a code of conduct bureau instead of a Committee. That code of conduct bureau should consist of about five members who are selected by the National Assembly and these people should be answerable to the National Assembly. I have given the reason why there should be a code of conduct bureau and I think that this is important. We should replace the Committee with a Tribunal and that Tribunal shall have the powers to try the people against whom complaints have been made. Members of the public who complain, for example, do not have to put it in writing. If they put it in writing, then that shall be kept confidential and shall not be used against them. That way, members of the public only need to note the number of a police officer on the road who is receiving a bribe and they can go and report. That way, members of the public who go to the office of the Ministry of Lands and Settlement to look for title deeds and are asked to pay before a file is located on a daily basis, even today, shall have redress. That way, somebody who feels that he has been by-passed in promotion by a Mr. Onyango merely because he is a Wanyama, a Mwangi or a Shariff, shall be free to go and complain.

Mr. Temporary Deputy Speaker, Sir, I am going to propose some major amendments to this Bill at the Committee stage because I feel that this is a Bill we need at this moment in time, but we need to polish it up. We need to add to it very substantially so that it meets the requirements of this country. We should not just bring a Bill here because So-and-so wants us to have it passed quickly. Let us bring an Act of Parliament which is going to help us solve a problem of indiscipline and corruption in our public service.

Mr. Temporary Deputy Speaker, Sir, we should also prohibit public servants from holding more than one public position. You should not be a chairman of this bank and be a member of the board of another corporation and again you become a member of the board of the other one. It should be one person, one job! So, if you are a member or chairman of this bank, full stop! You should not again be a member of the Board of Kenya Pipeline, Industrial, Commercial and Development Corporation, Kenya Power and Lighting Company (KPLC), Kerio Valley Development Authority--

An hon. Member: Soil Conservation or! Civil Aviation!

Mr. Raila: There are many Kenyans who need jobs. Therefore, we should restrict it to one person, one job. In doing this we should ensure that there is no conflict. Civil servants should be civil servants. If, by virtue of your position, you are an *ex-officio* member of a board, you should not be paid an allowance as a member of that board. If we do this, we are going to have a Civil Service that is responsive to our needs. The reason why the British Civil Service has remained professional is because there are very many people who join the Civil Service in Britain to serve. These are people who come from fairly rich backgrounds and who would do without having to work in the public service. But they go and join the public service because they want to serve their country out of a sense of patriotism. Because of this, these people are able and prepared to defend the Code of Ethics of the British Civil Service. These are people who can neither be influenced nor intimidated. But because of the poverty that prevails in our country and given that most of our civil servants come from poor backgrounds, they are forced by circumstances to do certain things against their conscience. This is because they know that if they do not do the bidding for the boss, they run the risk of losing their jobs.

Therefore, some of them feel very frustrated. They are bitter people because they know they are doing the wrong thing. But they know that if they do not do it, tomorrow, they will be on the streets, jobless. So, it is these patriotic young Kenyans whom we should protect. We do not protect them by bringing people from the private sector.

We should not "crowd" the Civil Service with people who have chosen vocations in the private sector. If we do that, we will only continue to frustrate our young people who have chosen a profession in the Civil Service. They have been trained at great expense by the Government. Some of them have been taken to KIA while others have been taken abroad for training. Then tomorrow, we bring a business executive from the private sector and appoint him as the Permanent Secretary or make him the head of the Kenya Revenue Authority (KRA). Do we not have people in the Civil Service who could head the KRA? For how long are we going to continue to draw people from the private sector and place them on top of our public servants? This is very wrong. If it has been done to try to jump-start the economy, it has been done. But let us not make it a practice. If you make it a practice, civil servants will feel insecure.

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

The Minister of State, Office of the President (Mr. Nassir): Bw. Naibu Spika wa Muda, asante sana kwa kunipa nafasi hii ili niseme ukweli juu ya Mswada huu. Nimekuwa katika Bunge hili kwa zaidi ya miaka 30. Katika

miaka hiyo yote, kila siku Waheshimiwa Wabunge hupenda kuwakosoa wenzao. Lakini hata hivyo, sioni jambo ambalo linaweza kuzuia mambo fulani yaliyotendeka mwaka jana yasiitendelea tena. Waheshimiwa Wabunge fulani hupenda tu kuwakosoa viongozi wetu baada ya kufaidika. Ni aibu kuona kuwa baada ya kushiba, wao hujiunga na genge lingine na kuanza kukosoa kiongozi aliyewasaidia sana. Wao "waliiba" zamani wakati wa utalawa wao. Mhe. Mbunge anayemtukana mwenziwe kumbe alikuwa mwizi mkubwa. Ukimsikia mhe. Mbunge akizungumza juu ya ufisadi na ukabila, basi yeye alikuwa ni mfidadi na mkabila mkubwa. Kuna mambo mengi ya kuwafanyia wananchi wetu. Kupiga domo tu hakufai kwa sababu wananchi wetu hawawezi kupata chakula, kuwapeleka watoto wao shuleni au kupata kazi kwa sababu sisi tunakashifiana.

Bw. Naibu Spika wa Muda, kama ni sheria tunataka kutunga katika Bunge hili, basi tuitunge sheria ambayo itazuia mambo mabaya kufanyika tena kama yalivyofanyika miaka iliyopita. Sheria kama hiyo nitaiunga mkono kikamilifu. Lakini ikiwa kila siku ni kukashifiana baada ya kufaidika kutoka utawala fulani, basi sioni tukiwa na maendeleo hapa nchini. Mimi sitaki kutoa mifano ya mithali kwa sababu nimeona mengi miaka 30 ambayo nimekuwa katika Bunge hili. Nimewaona Waheshimiwa Wabunge wakizungumza juu ya makosa fulani kwa zaidi ya masaa matatu au manne, lakini hakuna hata mmoja wao huzungumza juu ya suluhisho la makosa hayo.

Bw. Naibu Spika wa Muda, watumishi wote wa Serikali wameajiriwa na sisi. Kwa hivyo, sioni haja ya kumkosoa hapa ikiwa hawawezi kujisaidia ni kazi bure. Ingefaa zaidi kama tungekuwa na njia ya kuwauliza watumishi hawa wa Serikali udhaifu wao ili tuweze kuwarekebisha. Kwa kufanya hivyo, tutafaidika.

Bw. Naibu Spika wa Muda, ukabila umekolea katika taifa hili. Kila mtu anayeshika mamlaka fulani anahakikisha kuwa amewaajiri watu wa kabila lake. Hakuna pahali ambapo hakuna ukabila. Kwa mfano, tangu nilipochaguliwa kila mhe. Waziri huwa ameajiri mfanyakazi wa kutoka kabila lake. Ikiwa si kabila lake, basi hawezi kumwaajiri. Ikiwa ni katibu au tarishi katika ofisi ni lazima awe ni wa kabila lake. Hata hivyo, katika ofisi yangu, haya yote ni kinyume. Hakuna mfanyakazi yeyote katika ofisi yangu wa kutoka kabila langu. Hii ni kwa sababu siamini mambo ya ukabila. Tangu nilipokuwa mhe. Waziri Msaidizi hadi nimekuwa mhe. Waziri sijawahi kuwaajiri watu katika misingi ya kikabila. Ni kwa sababu ninajua mambo haya ni mabaya. Ni heri tutafute njia ya kutengeneza Kenya. Ikiwa tutazungumza juu ya makosa yaliyotokea hapo mbeleni, hatuwezi kutengeneza Kenya wala maskini hatapata chakula. Tunajua kuwa fulani "alikulua" milioni kadha ya pesa na kadhalika.

Bw. Naibu Spika wa Muda, juzi tuliunda tume ya kufanyia marekebisha Katiba yetu. Tulisema mtu yeyote ambaye ana maoni ayapeleke mbele ya tume hiyo. Mtu ambaye hakuchaguliwa na wananchi hana ruhusa kuzungumza kwa niaba ya wananchi wetu au kuja kuzungumza hapa Bungeni. Mtu yeyote ambaye ana maoni juu ya Katiba yetu ni lazima ayapeleke mbele ya tume hiyo. Ninastaajabu kwa sababu wanamagazeti watasema Bw. Nassir alikuwa katika Bunge. Mimi nimezoa haya yote.

Bw. Naibu Spika wa Muda, lakini mambo ambayo yanahusu Wanakenya wote waliomchagua kiongozi wao ni lazima yaangaliwe kwa makini. Kwa hivyo, tuketi hapa Bungeni na kuunda tume itakayowauliza wananchi maoni yao juu ya kiongozi wao. Je, tunahitajika kubadilisha uongozi wa Serikali yetu au la? Ni vipindi vingapi rais wa nchi hii anatajikana kuongoza? Hii ni kwa sababu Rais Moi alichaguliwa na wananchi wengi awe kiongozi wa nchi hii. Alipopigiwa kura hakuambiwa kuwa kura hiyo alipigiwa kwa miaka fulani tu, kisha hafai kusimama tena. Ni aibu kuona kwamba tulikwenda mahotelini wakati wa IPPG na kupendekeza kuwa rais yeyote atatawala vipindi viwili tu. Hamkupewa ruhusa na wananchi wetu kufanya hivyo. Waswahili husema, "Ukweli ni uchungu." Ninawaambia ukweli hata kama mtakasirika. Lakini tulifanya makosa kufanya hivyo.

Mr. Ochilo-Ayacko: On a point of order, Mr. Temporary Deputy Speaker, Sir. Will I be in order to ask the Chair to rule that the hon. Minister be relevant to the issue before the House?

The Minister of State, Office of the President (Mr. Nassir): Bw. Naibu Spika wa Muda, tunazungumza juu ya ufisadi. Tukungumza juu ya mambo ambayo hayakupendezi, unauhdhika, lakini mambo uyapendayo, ni sawa. Unapenda tu kumtukana mtumishi wa Serikali na tukisema tulifanya makosa, hutaki kusikia.

Ukweli ni ukweli, ni lazima usemwe katika Bunge hili. Nyinyi ni matajiri wenye mashamba makubwa na mnaamini ya kuwa hakuna watu wengine nchini kama nyinyi. Ni lazima tuheshimiane na kusema haki. Ni lazima tufanye haki na tuelekane na mapendeleo. Nimesema tulifanya makosa katika nchi hii kwa kupendekeza rais aongoze kwa vipindi viwili tu. Hata kama nitakwenda katika mahakama kuu ya dunia, nitasema ukweli kuwa tulifanya makosa katika nchi hii. Rais Moi apende asipende, ataongoza nchi hii. Makosa yalifanyika tuliposema kuwa rais atatawala kwa vipindi viwili tu kwa sababu rais Moi alichaguliwa na zaidi ya wananchi milioni tatu. Sisi ni akina nani kusema Rais Moi hawezi akashikilia kipindi kingine baada ya hivi viwili? Mhe. Mbunge amepewa nguvu na chama chake, kwa hivyo akikosea, hatuna ruhusa kumkosoa kwa sababu alichaguliwa na wananchi. Diwani naye hatuwezi kumkosoa kwa sababu alichaguliwa na wananchi. Ni lazima tutafute njia mwafaka ya kuwasaidia wananchi wetu na ya kupunguza ukabila nchini.

Wakati wa zama za Hayati Rais Mzee Kenyatta, hakuna hata mhe. Mbunge aliyethubutu kusema Kenyatta aongoze kwa kipindi fulani. Ukweli ni lazima usemwe. Mambo ya ukabila katika nchi hii yaonekana wazi.

Ninawaomba wananchi wote kutoa maoni yao mbele ya tume ya Katiba. Lakini kama kila siku tunapendekeza maoni fulani katika Katiba yetu---

Mr. Kihoro: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Waziri anarejelea kifungu gani katika Mswada huu?

The Minister of State, Office of the President (Mr. Nassir): Bw. Naibu Spika wa Muda, mhe. Raila hakurejelea kifungu chochote katika Mswada huu. Hata hivyo, ukweli lazima usemwe hata kama unauma. Katiba yetu imefanyiwa marekebisho hapa na pale. Sisi tunataka kupata maoni ya wananchi wetu juu ya Katiba yetu.

Bw. Naibu Spika wa Muda, ni lazima tuwe na sheria za kuwaongoza watumishi wa umma badala ya kuwashtumu hapa kwa sababu hawawezi kujitetea. Ni lazima tutafute mipango ya kuongoza nchi yetu sawasawa. Waheshimiwa Wabunge wengine wanazungumza habari za watu wengine katika mikutano yao ya kisiasa na haya yote yanaonyeshwa katika televisheni. Ni lazima tuitunge sheria ya kulinda watu wengine kutokana na matusi ya watu kama hao. Jambo kubwa ni kuona kwamba watu wote wanaishi kwa amani. Nchi hii itaendelea kama Bunge hili litatoa mwongozo maalum.

Kwa hayo machache, ninaunga mkono.

Mr. Kihoro: Thank you, Mr. Temporary Deputy Speaker, Sir. I will make my contribution first by setting the context in which it becomes necessary to come up with the Public Service (Code of Conduct and Ethics) Bill.

It is important to know that 30 years ago, this country had a functioning public service. There were very high standards that our people in the public service had set for themselves and they made sure that they lived by them. But for the last 20 years, the service has declined because of various reasons. I do accept that the Ndegwa Commission in 1971 did a lot towards eroding the spirit of the public service that this country had inherited at Independence. In the world today, the British are well known for having a very good public service with very good administrators. This is what this country inherited at Independence. But what we have today is a "shell" of what we used to have; that is, a demoralised public service and one that cannot deliver, one that lives "under" and not "above" board.

Therefore, the Bill that has been proposed by the Government is very important towards reinstating our service to a level which some of our senior citizens in this country can remember. We must look for an honest, straight talking, fair and hard-working Civil Service. But that will remain a dream because even though in this country we have made strides in literacy that would support a functioning public service; that has not been taken advantage of. Sometime ago, our educational standards, even at the primary school level, were very high, but they have declined. Although Kenyans are supposed to be better endowed today, 37 years after Independence; that has not happened. So, literacy levels do support a better public service in this country.

Mr. Temporary Deputy Speaker, Sir, for such a small country with only 225,000 square miles and a population of 30 million people, we have got sufficient population density to run a country with a better Civil Service. I was in Botswana in April this year and it is the same size as Kenya with a population of 1.4 million people. The public service there is better than what we have got in this country. We have got a lot to learn from Botswana and it is good the President did go there recently. I hope the lessons from Botswana are going to assist in reinstating our public service.

It is very important to know that poverty also has gone a long way towards undermining the quality of the public service that we had. The *per capita* income in this country has been declining. We all know that from a level of about US\$900, we have come down to US\$350 per annum. That is the average income of a Kenyan. All that has contributed towards reducing the morale in our public service.

Mr. Temporary Deputy Speaker, Sir, the retrenchment programme has also gone a long way towards damaging the spirit of the public service in this country. It is very important to remember that those who have been retrenched have been left wondering whether the Government would honour its promise that each one of them gets a "golden" handshake of Kshs240,000. I am not sure whether it even qualifies to be called a "silver" handshake. It can only be called a "mud" handshake, when you talk about only Kshs40,000 for people who have worked for 15 years in the public service. It is a shame that this country continues to treat our people with such inequality; that after 15 to 20 years of service one can retire with only Kshs40,000.

Mr. Temporary Deputy Speaker, Sir, before I make my contribution on this Bill, I would also want to say that personally, I have worked in Britain as a public servant for a period of seven years. I am proud of my input, work record and the discipline that it instilled in me. When it comes to setting up the committee, I have a lot to say about it. But it helps to know and feel that you can hold your own. I am sure, maybe, 1 per cent or less of Kenyans today in the public service can hold jobs outside this country. There are very many issues that need to be taken on board and these are all contained in Section 18 of the Bill.

In addition to having worked for nine years in Britain, I have also worked in this country for a period of three-and-half years in the public service from 1975 to 1977. At that time, the public service was of a greater and better quality than what we have today. If you look at Section 18, it sets the stage about the state of our public service. In this

clause, the Minister is making recommendations for a good public service and one of them is that, dressing has become dismal. Maybe, there might be no personal hygiene. The question of working hours and punctuality has become an issue. I am saying that we just have a "beast" civil service; that is the stage at which the code of conduct has actually been prepared. Mr. Temporary Deputy Speaker, Sir, Section 18 is very clear about the kind of service we get from the public service today. The current public service has problems of punctuality, meeting deadlines, absenteeism, inefficiency, incompetence as well as lack of diligence, care, attention, professionalism and lack of service provision to the public. That is exactly what this Bill seeks to correct. Clause 18(1)(f) seeks the establishment of a meritocracy in the public service, something which was in place previously.

How come we do not have a meritocracy in the public service today? It only boils down to the issue of how decadent and decayed the public service has become. We have lost a very important asset in terms of quality service. We no longer say: "Do well and achieve high standards; you will do well in the public service as well as in life". We have now lost even that aspect. So, one of the objectives we are targeting is introduction of meritocracy in appointments. This way, qualifications will also become important, and enable us to move towards merit.

We have seen professionals behave and act in ignorance. For instance, we have seen, in the world of the profession that I know a lot about, namely, the valuation profession, differences that are incredible. Such valuations have been presented to the Public Investments Committee (PIC). We have seen different perceptions about the value of some property, of up to 1000 per cent. One valuer may say that a certain item is worth Kshs10, and another says that it is worth Kshs1,000; that is incredible. So, professionalism becomes very important in terms of setting up the standards that we want to see in our public service. Therefore, Clause 18 is very important in terms of what we should target in order to resuscitate the public service. We need to put some morale and work ethics in the public sector.

Mr. Temporary Deputy Speaker, Sir, I would like to refer to the First Schedule, on page 1082 of this Bill, where the setting up of a code of conduct and ethics for public officers is proposed. While scrutinising this Schedule for any omissions, I found a whole range of public servants to be affected by this legislation. There will be a big demand for compliance with the law once the Bill is enacted. I have noted that Members of Parliament and Ministers will also be affected. I must say that I also worked with the Parliamentary Select Committee on Corruption. Many of the proposals made by that Committee have, indeed, been incorporated into this Bill, which is very good. If this House can eventually be of assistance in the creation of an effective public service, that will be laudable. We want a country whose affairs are better managed.

Part (a) of the First Schedule talks about Parliamentarians, local authorities, teachers, judiciary, co-operative societies, state corporations, public universities and the disciplined forces. I can see that the Schedule is comprehensive in terms of who should comply with the code of conduct to be enacted by this House; this is a good range if we can bring these officers to operate within the discipline proposed in this Bill. That will go a long way towards reinstating a functioning public service.

Mr. Temporary Deputy Speaker, Sir, I also find that Section 3 of the Bill will establish the Public Service Code of Conduct and Ethics Committee. The composition of that Committee is proposed to have eight members - that is the Chairman, Vice-Chairman, four members, the Permanent Secretary and Secretary to the Cabinet and the Director of the Kenya Anti-Corruption Authority (KACA). Certainly, that is an even number, and firstly, it would not be right to have a committee with an even number of members. Secondly, and more important, it is the way in which the President again has been brought into setting up a committee like that one. The President is an important person; why do you want to bring him in, in setting up that Committee? Each of the members who could also sit on that Committee has to be appointed by the President and there is no provision for Parliament to vet the potential appointees to it.

When we go to the Committee Stage, I will too be proposing an amendment to that proposal - that is, firstly, it is the President who should have a first and final say on that matter. The range should be wider and, secondly, the members of that Committee should be vetted to see to it that in light of the First Schedule, all sectors of public affairs will be properly represented by people with sufficient knowledge about how they function and what could be going wrong. So, that will be important in tying up Section 3 with the First Schedule. We have a whole range of people within the Committee in light of those who were affected in the First Schedule.

I also find that Clause 3 Subsection (c) proposes that there will be four members who will be appointed from six members who will be proposed to the President by the Minister. I can predict that from a list of six persons nominated by the Minister to the President, at least, three shall be women. Thereafter, four members from that list of six nominees, shall be appointed by the President. In that case, there is possibility that only one woman might be appointed by the President and three men might end up on that Committee. Because I find that the Chairman, the Vice-Chairman, the PS in the Office of the President and the Director of KACA might be men, I thought that it is important to be clear in that section; that is, when the four members are appointed, at least, two "should be" women. As a possibility, there could be only one woman, but I would want a provision there that, at least, two out of the four members "should be" women. That will be important because we live in days and times when the Code of Conduct

also states as the Minister did mention, about Clause 19 in the Bill, about sexual harassment. It will be proper for a judgement to be made on an issue like sexual harassment when we have ladies in that Committee. It is important that we include more women in that Committee. I have got some misgivings about what is proposed in Section (c) not only in terms of numbers, but also in terms of composition.

Mr. Temporary Deputy Speaker, Sir, there is a provision in Section 5 about contracts, that any public officer who might be given a contract when he is an interested party, there are provisions to make sure that there is transparency and openness before that contract is actually awarded. I am wondering how much that Clause actually brings into the proposed Bill because I know the existing provisions have been there and we have seen them being flouted. My concern is that we might actually be proposing all these things which are good, but when it comes to what should be done, there are still loopholes that exist. If a public body will be involved in a public contract, or if it is a foreign business organisation; if there are any queries on such a contract, the people concerned must go before the proposed Committee.

Section 10 does provide that no gift or benefit shall be given to a public officer because of the work that the officer is supposed to be doing. It is good to outlaw gifts and benefits, but there are still very many ways of passing these gifts. There are very many ways of people in public affairs obtaining a benefit not for themselves, but maybe for a project that might be of concern or interest to them. That should be outlawed. The benefit does not have to be direct. Even an indirect benefit should be outlawed.

Cases of conflicts of interest: According to Clause 10(ii), a public officer shall declare an interest to his superior. I found that one also wanting in the sense that it is possible for a junior person to be colluding with his superior. You will find that the superior has been given opportunity under the proposed Bill to decide the issue such that the superior can be able to give directions on what should happen or will not happen. I find there is that possibility of collusion between the junior officer and the public officer.

Section 12 states: "Public officers shall be politically neutral." We have seen a lot of cases in this country where even today when we are supposed to have a neutral public service some senior public officers with proper connections and who are politically correct involve themselves in politics when they are still in public service. That is a very important aspect to take on board. That the criteria should remain objective at all times. We know officers, like those who work with the KPLC and the Registrar of Motor Vehicles who have actually been participating openly in the past, and their names are in the public minds when they were public servants peddling politics. That was prohibited, but I still do not know what should be done exactly to enforce that.

Mr. Temporary Deputy Speaker, Sir, I will briefly look at Clause 23 on what is recommended by the Bill in terms of punishment. To me, it appears as if there is a whole range of sanctions or actions that can be taken against the public officer, such as warning or caution, demotion, suspension, withholding of increments, deferment of increments, surcharge, dismissal and many others. I find that there is a good range of actions that can be taken, but my fear is that in light of the size of the public service; in light of the complaints that might be made, we might find that there will be a big backlog that in the meantime, even when a complaint has been made, there is no provision about what should happen to the person who is the subject of the complaint. Indeed, this has already happened with the Disciplinary Committee of the Law Society of Kenya (LSK), which has got only 4,000 members. You will find that the complaints that have been registered by the LSK are many and there is a big backlog that there is a problem about how to expedite the hearing of the complaints, make sure that they are attended to and answered within the correct time. So, when you talk about the public service that might end up with 100,000 people and with one committee dealing with complaints from Kenyans, it will create a problem on how to expedite all these complaints. So, in light of size of the public service and the complaints that might come, it will be very important to consider the full extent and whether the committee can also set up its own sub-committees to deal with certain complaints that will come from members of the public.

Mr. Temporary Deputy Speaker, Sir, before I conclude, I would like to make observations about the low salaries that we have got in the public service. I would like to say that some members of the public service do earn very low salaries and because of that they have been induced into corruption. For us to agree and make sure that the code will work, it is very important to look at the salaries that some of our public servants are given to make sure that somebody will not justify corruption by saying that even the salary he or she gets is too low, such that the Government does expect him or her to be corrupt in order to survive. It is also important to know that part of what needs to be done in this country to support a functioning public service is to reinstate our public services, especially health and education. That will be very important. That so long as we talk about the people who have been left to fend for themselves in terms of raising money when they fall sick and educate their children eventually, it will not be possible to peddle Harambees, which has become a legalised form of being corrupt. That you can beg without being ashamed and justify that you had somebody sick and there was nothing you could do.

It is very important to look at the whole range of public services that are available to our Kenyans, including farmers. We should also do something about the income of Kenyans. Unless we raise the level of living standard of an

ordinary Kenyan, it will not be easy not to be corrupt. The environment is not conducive. If you go to a public building, you will find that the environment that the public servant works in also becomes important. You will find poor maintenance of Government buildings and the offices look like abandoned places of work. This environment contributes towards failure to observe the necessary code of ethics.

So, my hope is that the proposed Bill will offer some "resurrection" to those who are on the verge of "delivery to heaven". I hope that we will have a good public service for the members of public in this country.

With those few remarks, I beg to support.

Mr. Ndilinge: Asante sana, Bw. Naibu Spika wa Muda, kwa kunipa nafasi hii ili nichangie Mswada huu. Hata ingawa sijisikii vizuri, Mswada huu ni wa maana sana. Ungeletwa zama zile ambazo matendo mengi yalienda kombo kombo. Matendo kama hayo hayangetokea. Mswada huu unahusu hata sisi Wabunge. Hivyo ni kumaanisha kwamba, hata kule tulikuwa tukienda kombo kombo, tunajirekebisha. Mswada huu unahusu wafanyakazi wa Serikali.

QUORUM

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. It looks like the House is empty! This is a very important Bill that we are discussing. Is there a quorum in the House?

The Temporary Deputy Speaker (Mr. Imanyara): Unfortunately, you are right. There is no quorum. Ring the Divisional Bell.

(The Division Bell was rung)

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

Proceed, hon. Ndilinge!

Mr. Ndilinge: Asante sana, Bw. Naibu Spika wa Muda. Huu Mswada ukipitishwa, na kwa sababu unahusu Wabunge, nikiwa mmoja wao, mambo ya kukosa idadi rasmi ya Wabunge Bungeni haitakuwepo. Hii ni kwa sababu Wabunge watajua kwamba Mswada huu unawahusu.

Bw. Naibu Spika wa Muda, jambo lingine ni kuhusu mtu kutangaza utajiri wake; wa bibi yake na wa mtoto wake. Hii ni sawa, lakini jambo hili linastahili marekebisha mengi. Tangu tuanze kuwa na usawa wa watu wote; wanaume kwa wanawake, siwezi kamwe kusema chochote kuhusu mali ya mke wangu wala mtoto wangu. Yafaa kila mtu ajisemee. Kama bibi yangu au mtoto wangu ana mali yake, nisiulizwe aliipataje na anaitumia vipi. Bibi na mtoto, wote ni wangu, lakini kuhusu mali yao, kamwe, siwezi nikaulizwa jinsi waliipata.

Kama mtoto amejisajilisha na kuwa na kitambulisho, ana haki ya kujitafuatia mali kwa njia moja au nyingine. Akipata mali kwa njia isiyofaa, sina haki ya kuulizwa.

Bw. Naibu Spika wa Muda, bibi yangu ana haki ya kuchuma mali. Hata hivyo, ni lazima ajitetee na kueleza alivyopata mali yake. Lakini bibi au mtoto wangu akifanya mambo mabaya au ya ufisadi, ni lazima hatua fulani ichukuliwe dhidi yake. Si haki kusema mwenye boma ndiye atachukuliwa hatua.

Bw. Naibu Spika wa Muda, Mswada huu unahusu watumishi wote wa Serikali. Ikiwa tunaweza kuwapa nafasi ya kutekeleza kazi zao bila kuwaingilia, basi nchi hii itaendelea. Watumishi hao, wawe ni askari, katibu wa kudumu au mtumishi yeyote yule, wana haki ya kufanya kazi bila kuingiliwa na watu fulani. Kwa kufanya hivyo, kazi itafanyika vilivyo.

Kama vile Waheshimiwa Wabunge walivyosema, mara nyingi sisi hulalamika kuwa askari fulani wanapenda kula hongo hapa na pale. Sitaki Serikali yetu ihalalishe ufisadi; lakini mishahara ya askari wetu ni ya chini sana. Ningeiomba Serikali yetu ifikirie juu ya mishahara hiyo. Kuna mzaha hapa nchini kuwa askari wetu watagoma, lakini tunajua hawawezi kufanya hivyo. Lakini masilahi yao yaangaliwe na Serikali hii.

Bw. Naibu Spika wa Muda, nikizungumza juu ya uajiri katika nchi hii, ningependa kusema kwamba haufanywi kwa haki. Mswada huu utasaidia kuona haki imetendwa katika nyanja hii. Hii ni kwa sababu nyakati zile wananchi wetu walikuwa wakifanya mahojiano ili kupata kazi zimepita. Siku hizi watu huaajiriwa bila kuhudhuria mahojiano au kuwa na alama zinazohitajika. Ni jambo la aibu kuona ya kuwa watu ambao wana alama nzuri hawaajiriwi kwa sababu, pengine hawamjui mtu anayeaongoza mahojiano hayo. Lakini sheria hii itawatia uwoga watu kama hawa na itawasaidia wananchi wetu kufanyiwa haki. Vijana wetu wataajiriwa kazi ikiwa wana alama nzuri, hata kama wametoka katika jamii maskini. Ikiwa mtoto wa mhe. Ndilinge hana alama nzuri, sioni haja yake kuajiriwa. Siku hizi wale watoto wameanguka mitihani ya kitaifa ndio wanaoajiriwa kazi. Wao wanafanya mahojiano na wanafaulu na walio na alama nzuri hawapati kazi. Ikiwa Mswada huu utapitishwa, basi mambo haya yatazingatiwa kikamilifu.

Bw. Naibu Spika wa Muda, nitasema machache kwa sababu Mswada huu ni wa maana sana na tungependa kusikiliza maoni ya kila mhe. Mbunge. Mswada huu hujakusudiwa Waheshimiwa Wabunge wa KANU au wa

Upinzani, lakini ni wa watumishi wote wa umma. Ningewaomba Waheshimiwa Wabunge watekeleze sheria hii ikiwa itapitishwa na Bunge hili. Mswada huu utafanya Bunge hili kuwa kitu kimoja na kuleta umoja wa kitaifa kwa jumla.

Bw. Naibu Spika wa Muda, ni lazima mishahara ya wafanyakazi wa Serikali ichunguzwe kikamilifu. Haifai kuona baadhi yao wakipata mishahara mikubwa kwa sababu wao hufanya kazi katika jeshi letu au utawala wa kimikoa. Wafanyakazi wa Serikali hutumiwa vibaya na viongozi fulani. Ninakukumbuka wakati mmoja nilipovurugana na askari mmoja kwa sababu alitumiwa vibaya na maadui wangu. Ni lazima tukomeshe tabia hii ya kuwatumia askari na wafanyakazi wengine wa Serikali vibaya. Mambo haya yote ni lazima yakome kabisa kwa sababu viongozi huja na kupita. Ni lazima sheria hii itekelezwe mara majo.

Kwa hayo machache, ninaunga mkono Mswada huu.

Mr. Ochilo-Ayacko: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to the on-going debate in respect of this very important Bill. The need for efficiency in the public service cannot be over-emphasized.

Currently, if you went to whatever Ministry or Department in the public sector, you will be unable to access efficient service in good time. That is known world over, regionally and locally. The need to improve efficiency can, therefore, not be a contentious issue. But we must first examine where we went wrong from the onset. I think we should not solely blame the public service, particularly the officers who occupy positions in the public service. The blame should equally be passed to the Government because of the emoluments given to these officers. The kind of salaries that are paid to these officers are a mockery. For instance, this afternoon, the Minister of State, Office of the President, Maj. Madoka, was embarrassed to tell us the earnings of police officers, because he knows that an Inspector of Police earns less than Kshs10,000 per month. With that kind of earning, that Inspector of Police is expected to live normally in Nairobi. Certainly, somebody will use his office to cushion himself against shortfalls that arise from inadequacy in earning. So, the blame with regard to the quality of service that is being offered by our public servants, first, rests squarely with this Government. This Government is to blame for inadequately paying officers in the public service. The "Dream Team" is said to be performing well because they are properly remunerated. We learnt in this House that the "Dream Team" takes away about Kshs10.8 million, monthly. Those people can sit in the office from morning to evening and do their work. With that kind of pay, you do not need to "sneak" out of the office to monitor your kiosk. But if you go to other places, say, the ordinary Permanent Secretaries, the ones that are categorised as "Category C", they are paid about Kshs36,000. Those are the kind of officers who will have parallel businesses. Those parallel businesses will encourage corruption.

But to come back home to the need to have the Code of Ethics among those who handle public matters, there is a very big problem in this Bill. If you look at the Schedule of persons that are supposed to make declarations of their wealth before the Committee that this Bill intends to constitute, that Schedule includes the Speaker of the National Assembly, Ministers, Assistant Ministers and Members of Parliament. Those are constitutional offices. If we are enacting a law that will make holders of constitutional offices kneel before a committee, are we not taking away constitutional privileges that we have given them? Are we giving them privileges with the right hand and taking them away with the left hand? Take, for instance, the Bill proposes that the head of the Civil Service will be a Committee member, and then, Mr. Speaker will appear before that Committee to be asked some questions that he will be compelled under the Act to answer. I think if we are to enact a proper law, then we must have a proper Bill that will take care of constitutional offices separately and also take care of other offices separately. For instance, as a Member of Parliament on an Opposition ticket, I am expected to appear before a Committee appointed by the head of another party, who is the President. That can easily be used to harass me or impinge my independence.

So, this Bill is flawed with a lot of mischief. Until that is rectified, then we will be trying to take away privileges that are conferred upon us by both the Constitution and other laws of the land. I know that "accountability" is the catchword presently. It is a well documented fact that there is need for accountability in this country. Politicians must be accountable both to the people who elected them, and for the services they are required to render to the electorate. But this need for accountability must be made in such a manner that politicians account to bodies that are independent.

Mr. Temporary Deputy Speaker, Sir, in America, for instance, if a politician is funded by a particular sector, such funds are examined by the Federal Electoral Commission. So, no Elected Member of the Congress or the Senate will be victimised because examination of such funds is done by an independent body. If the conduct of Members of Parliament, Ministers and members of the Executive were to be examined in Kenya, then the authority to do so should be vested on the Electoral Commission of Kenya. If you look at the said Schedule, it seems to be founded upon wrong jurisprudence. It seems to be founded on the fact that the Office of the President and the holder of that office should not be accountable to anybody. It does not state how the holder of the Office of the president will account for the properties he acquired before being elected to office. Are we trying to treat the Presidency of this country as an office that cannot account for its conduct or properties before anybody? This is a very serious deficiency in terms of the

authority that is being conferred upon the Committee. I believe this can be redressed, but not in this Bill.

In my view, this Bill must fail because it is fundamentally flawed and it cannot address any form of inefficiency. In this country, corruption arises either from proximity to the Office of the President or association with that office. Until that office and its holder are subjected to scrutiny, nothing much will happen. In fact, there are a lot of "sacred cows" both in this House and parastatals who are appointed by the Office of the President. Many people hold their jobs at the pleasure of the President. This Bill is, therefore, helpless because it cannot deal with that office. So, the proposal by the Minister should re-examine the Schedule to this Bill and take away the constitutional offices like those of Members of Parliament and judges. He should also bring in another Bill to create an authority to which those constitutional offices will be accountable. This Bill would have been good if it was restricted to public officers like the ones employed by the Public Service Commission and State Corporations because they do not enjoy constitutional privileges.

Mr. Temporary Deputy Speaker, Sir, when we look at the composition of the Committee we are supposed to account to, the President has been given unfettered power to appoint them. Their qualifications -except that of the Chairman - are not spelt out in this proposed Bill.

Mr. Temporary Deputy Speaker, Sir, in fact, at this particular juncture where we are so uncertain who will be the President beyond 2002, we cannot leave this kind of lacuna. We cannot leave it blank, so that the holder of that office is the one appointing each and every member of this Committee.

First, as Elected Members of Parliament and Kenyans at large, we cannot guarantee that people of quality will be appointed to this office. We are leaving this open to the holder of the office of the President. Towards the year 2002, you never know who will be the holder of that office. We even do not know whether there will be such an office as a President, because the Constitution may be amended and we may have some other person other than the office of the President. That is a very fundamental limitation, which if not properly addressed, will dilute quality in terms of those who are expected to constitute this Committee. We will also find a situation where the holder of that office might appoint people who may support him in a rather overtly partisan manner. For example, there were many complaints regarding the appointment of the Chief Justice. Those complaints had no redress. If such complaints are not redressed, they undermine the integrity of the holders of such offices in the eyes of the public.

This Bill should first be restricted to public officers in the sense of civil servants and parastatal chiefs. Secondly, it should have an element where the appointment is not left solely to the President. It should also spell out clearly who qualifies to be a member of the Committee. Such qualification should be one that people cannot accurately dispute as not being persons of integrity. There is need to amend that particular proposal and leave an avenue where Parliament, which represents all people in Kenya, has an input in the appointment of members of the Committee. As part of the membership of the Committee, there is the Director of the Kenya Anti-Corruption Authority (KACA). It states:-

"It is important for an *ex-officio* member i.e the Director of the Anti-Corruption Authority and Head of the Public Service to be present for quorum to be deemed as having been made".

This can present a very difficult situation. In my university days, I remember the University of Nairobi Act that made it imperative for the Dean of the Faculty of Law to be a member of the University Disciplinary Committee. And that, without the Dean of Law, that Disciplinary Committee's work would be void. If we make it imperative that an *ex-officio* member, namely, the Head of Civil Service or the Director of the Kenya Anti-Corruption Authority is a mandatory member for quorum to be there, assuming for some reasons they are directed not to attend - because they are answerable to other people - then technically, there would be no quorum even if the Chairman wanted to proceed. So, the suggestion that an *ex-officio* member is mandatory in the formation of quorum is likely to create a lot of problems in future. If this is not addressed in this Bill, then we are likely to have problems in future, which may not be solved.

The Temporary Deputy Speaker (Imanyara): Order, Mr. Ochilo-Ayacko! I am sorry I have to interrupt you. You will have 15 minutes when we resume this debate on Tuesday. For now, I have one application for "Zero-Hour", from Mr. Mwiraria, to the Office of the President.

MEMBER'S HALF-HOUR STATEMENT

DEMOLITION OF HOUSES BY
M/S MEMKO AUCTIONEERS

Mr. Mwiraria: Mr. Temporary Deputy Speaker, Sir, I wish to seek leave of the House to ask the Minister of State, Office of the President, in charge of internal security, to make a Ministerial Statement, to explain the incident that occurred at Konguni Village, Timau Division, on Monday, 20th November, 2000. On that day, a firm of

auctioneers from Nanyuki Town, known as M/S Memko, in the company of officers from Timau Police Station, went to Konguni Village and demolished six houses belonging to the families of a Mr. William Miricho and Ms. Mary Wanjiru. The auctioneers did not give any reason for the demolition that left the members of those families out in the cold during this rainy season. I would like the Minister to explain the circumstances that led to the demolition of those houses. Also, I would like him to assure this House that no more demolition of houses will take place before the affected people are forewarned and given reasons for any demolition that is supposed to take place, or given time to move out of the houses, if necessary.

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, the Minister of State, Office of the President, hon. Maj. Madoka, will issue the Ministerial Statement sought by the hon. Member on Tuesday, next week.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, for your benefit, may I point out again that "Zero Hour" is not Question Time. It is an opportunity for you to make short statements not lasting more than two minutes. If you turn such statements into questions, and if the Ministers concerned refuse to respond, they cannot be compelled to do so. "Zero Hour" is an opportunity to make short statements. So, if you turn such statements into questions, you run the risk of not getting responses; the rules provide for short statements. The Minister of State, Office of the President, will have an opportunity to give the Ministerial Statement sought by hon. Mwiraria on Tuesday, next week.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, having come to the end of our business today, the House stands adjourned until Tuesday, 28th November, 2000, at 2.30 p.m.

The House rose at 6.35 p.m.