

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 28th November, 2000

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

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) if 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) if 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 MP 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 beg to reply.

I think this is the third time I am answering this Question. We have checked the documents as presented by Mr. Anyona, and it is true that Mr. Wang'ang'a has been attending the MP Shah Hospital as an out-patient, but there is no evidence to show that whatever injuries he received were as a result of torture by any particular individual.

Mr. Anyona: Mr. Speaker, Sir, the report itself does mention assault. In case the Minister does not know, assault is a form of torture. Has the Minister determined who caused that assault?

Maj. Madoka: Mr. Speaker, Sir, he could have been assaulted anywhere by anybody. All I am saying is that I do not know who caused the assault.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. This is a very serious matter which the Minister was supposed to investigate and establish the truth and yet, he comes here and says that he does not know. Really, is it fair to treat this Question like that?

Maj. Madoka: Mr. Speaker, Sir, Mr. Wang'ang'a has not complained to anybody to say whoever assaulted him. So, I really do not know. Mr. Wang'ang'a is not available and we cannot trace him.

Mr. Muchiri: Mr. Speaker, Sir, I would like to know from the Minister whether, if Mr. Wang'ang'a complained tomorrow, he would take action against the police officers who tortured and caused grievous bodily harm to him?

Maj. Madoka: Mr. Speaker, Sir, if Mr. Wang'ang'a reports, we will investigate.

Mr. Anyona: Mr. Speaker, Sir, quite frankly, we shall have to take this Parliament more seriously. In the original Question, I even gave the names of the policemen who tortured him at Karen Police Station and yet, the Minister says he does not know them.

Mr. Speaker, Sir, could I get a guarantee that when Mr. Wang'ang'a makes his statement, the Minister will investigate and come to this Parliament and tell us what happened?

Maj. Madoka: Mr. Speaker, Sir, I have said that if Mr. Wang'ang'a makes a complaint and records a statement, we will investigate.

Mr. Speaker: Next Question!

Question No.660

CONSTRUCTION OF OLD COMRADES ASSOCIATION CANTEEN IN NYANZA

Mr. Otula asked the Minister of State, Office of the President when the Kenya Armed Forces Old

Comrades Association Canteen will be built in Nyanza Province.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, we answered this Question again last week, and I was required to come and quote the relevant section of the law under which the District Commissioners---

Mr. Speaker: Sorry, sorry, Minister! We are on Question No.660 about a canteen for Kenya Old Comrades Association.

The Minister of State, Office of the President (Maj. Madoka): Sorry, my apologies, Mr. Speaker, Sir. If we give my colleague time, he should be here to answer that Question.

Mr. Speaker: Next Question!

Question No.403

DISTRICT COMMISSIONERS'
MANDATE TO CHAIR DSC/DDCS

Mr. Speaker: Dr. Kituyi is not in? Next Question!

Question No.713

ILLEGAL COLLECTION OF FUNDS
FROM MASINGA RESIDENTS

Col. Kiluta asked the Minister of State, Office of the President:-

- (a) if he is aware that conmen have been collecting money from unsuspecting wananchi in Masinga, promising them land at Ndithini Division of Masinga Constituency; and,
- (b) if he could, as a matter of urgency, apprehend the people involved.

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

(a) I am not aware of the specific conmen alleged by the hon. Member of Parliament to be collecting money and promising land in Ndithini Division of Masinga Constituency. However, I am aware that the Rt. Rev. Archbishop Stephen Thuo of Kenya Israel Evangelist Church of East Africa, in August this year, appealed to His Excellency the President to intervene in what he alleged to have been squatters that were removed from pieces of land that belonged to the Government, by prominent personalities. We carried out investigations on this allegation and found out that the parcels of land were private pieces of land, and those that belonged to the Government were already given out to deserving persons.

(b) As a result of the answer in part "a", there is no action to be taken against anybody.

Col. Kiluta: Mr. Speaker, Sir, I really do not know which answer to take because the Assistant Minister has admitted that, one Mr. Thuo wrote to the President. In fact, I have a copy of the letter that he wrote to the President. Mr. Thuo is collecting money from unsuspecting people, promising them land in Ndithini. As a result of that, the police arrested him. He has a case pending in Machakos Court.

Mr. Speaker, Sir, now, when the Assistant Minister says that he is not aware, and here we have a fellow who has been arrested, whom do we believe?

Mr. Speaker: As a matter of interest, from the Chair, and if what you are saying is true, that Rev. Thuo has been arrested by the police for conning the public, and the matter is in court, then why should you continue with this Question?

Col. Kiluta: Mr. Speaker, Sir, I am worried that the police are being used to terminate the case prematurely. By authority of a letter which I have, the police have gone to ask the Criminal Investigations Department in Machakos to terminate the case.

Could the Assistant Minister assure this House that this case will not be terminated?

Mr. Speaker: Just as a matter of law, are you suggesting that the House should put pressure on the courts to convict suspects?

Col. Kiluta: Mr. Speaker, Sir, the Executive arm of the law is pressurising the magistrate to terminate the case before it is heard.

Mr. Speaker: Mr. Samoei, are you "pressurising?"

Mr. Samoei: Mr. Speaker, Sir, I said that I am not aware about conmen in Masinga Constituency. In fact, Rev. Thuo resides in Kariobangi, Nairobi. As the hon. Member has said, we arrested him on charges of making documents without authority and collecting money. We are committed to taking Rev. Thuo the full length of the law for the charges that have been preferred against him. We have no intention whatsoever to withdraw the charges preferred against him.

Mr. Speaker: Does that satisfy you, Col. Kiluta?

Col. Kiluta: Mr. Speaker, Sir, with assurance, I think we should let the Assistant Minister pursue the case and ensure that this fellow does not collect money from unsuspecting people.

Mr. Speaker: Very well! Next Question!

Question No.619

REPAYMENT OF AFC LOANS IN UKAMBANI

Mr. Kalulu alimuuliza Waziri wa Kilimo:-

(a) kama anafahamu kwamba wakulima wengi kutoka sehemu za Ukambani ambao walipewa mikopo na Agricultural Finance Corporation katika miaka ya 1970s sasa wameshindwa kulipahiyo mikopo; na,

(b) ana mipango ipi ya kuifutulia mbali hiyo mikopo.

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

(a) I am aware that some of the AFC loans under Machakos-Makueni---

Mr. M.A. Galgalo: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to reply to this Question in English when the Questioner has asked it in Kiswahili?

Mr. Speaker: Perfectly in order!

Mr. Achola: On a point of order, Mr. Speaker, Sir. Although the Assistant Minister is in order, are we being fair to the Questioner? This is because if the Assistant Minister answers in English, he may not be able to follow.

Mr. Speaker: Order, Members! Hon. Members, although sometimes we like to enjoy a little, I think this is very straightforward. When you come to this House and there is any debate going on, or any communication, you choose one language; either English or Kiswahili. The only limitation is, once you have made the choice, you stick to it. Secondly, there is no hon. Member who can possibly be in this House without understanding either Kiswahili or English because all of you were examined for that matter of constitutional requirement.

The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo): Mr. Speaker, Sir, I am sure we were all issued with certificates for English proficiency before we came to this House. However, I beg to reply.

(a) I am aware some of the AFC loans under Machakos, Makueni and Kitui District date back to 1969. The total loan portfolio as at 31st August, 2000 was Kshs71,470,104 of which Makueni District holds Kshs8,941,511. Machakos District holds---

Mr. Kalulu: Jambo la nidhamu, Bw. Spika. Swali langu ni kwamba wale watu waliopewa mikopo mwaka wa 1974 ni watu wa mapato ya chini. Je, hii mikopo inaweza kufutiliwa mbali na Wizara ya Kilimo?

Mr. Sumbeiywo: Mr. Speaker, Sir, Makueni District holds Kshs8,941,511; Machakos District holds Kshs24,708,828 and Kitui District holds Kshs37,819,765. It has become difficult for the Corporation to sustain its lending activities because of the high rate of defaulters. However, the Corporation recognises the need to waive these loans. This is part of the recommendations contained in the Cabinet Memorandum under preparation by my Ministry on the restructuring of AFC loans.

Mr. Kalulu: Bw. Spika, mnamo mwaka wa 1988, Rais Moi aliamrisha mikopo hiyo ifutiliwe mbali. Agizo hilo lilitokelezwa katika sehemu fulani katika Mkoa wa Rift Valley. Je, Waziri Msaidizi anaelewa kwamba watu katika sehemu ya Ukambani walikopa Kshs15,000 lakini leo wanadaiwa Kshs200,000?

Mr. Sumbeiywo: Mr. Speaker, Sir, I am not aware of any directive given by the President to write off AFC loans---

Mr. Kalulu: Jambo la nidhamu, Bw. Spika!

Mr. Speaker: Order, Mr. Kalulu! Hon. Members should stop making unnecessary interruptions just because something which they do not agree with has been said. Just be patient, rise on your feet, and I will give you the chance to say what you want to say. Otherwise, we will never communicate!

Proceed, Mr. Sumbeiywo!

Mr. Sumbeiywo: Mr. Speaker, Sir, as I have indicated, I am not aware of any directive given by the President to write off AFC loans. As I stated earlier, I am aware of a memorandum being prepared by my Ministry to address the problem faced by farmers in Makueni and other parts of the country.

Mr. Munyao: Mr. Speaker, Sir, if the Assistant Minister is not aware, I will remind him that this directive by the President in 1998 was made during the Nakuru Agricultural Society of Kenya (ASK) Show. Could the Assistant

Minister consider waiving the loans owed by Ukambani farmers just like they have done to farmers in Rift Valley Province?

Mr. Sumbeiywo: Mr. Speaker, Sir, no farmer in the Rift Valley has had his AFC loans written off. The Cabinet is considering writing off all AFC loans accumulated by farmers throughout the country.

Mr. Sambu: Mr. Speaker, Sir, this Question deals with Guaranteed Minimum Returns (GMR) loans. Could the Assistant Minister tell the House whether any loans under the GMR, the Seasonal Crop Credit or Capital Development have been waived by the AFC. If there have been any waivers, where have they taken place and how much was involved?

Mr. Sumbeiywo: Mr. Speaker, Sir, there has never been any waiver on loans in the country, including those of GMR.

Col. Kiluta: Mr. Speaker, Sir, the whole of Ukambani is surviving on relief food. They cannot afford to pay anything. They cannot even feed themselves. Could the Assistant Minister consider stopping the harassment these people are being subjected to by AFC officials? He should also do away with the interest being charged on this money.

Mr. Sumbeiywo: Mr. Speaker, Sir, the interest is being charged according to the laws of this country. I can only assure this House that whatever harassment those people have been subjected to will come to an end. I will see to it that it stops forthwith.

Mr. Wamalwa: Mr. Speaker, Sir, I am pleased to hear the Assistant Minister say they are considering writing off these loans, but could he consider the fact that since the AFC was originally set up to advance annual credit to the farmer, who would use it to grow crops and then pay it back; and that since the AFC no longer gives these loans to any farmer, or those wishing to purchase land; and that whatever money AFC is collecting from farmers is just to pay the office staff; could he consider scrapping the AFC altogether and retrenching everybody in that department?

Mr. Sumbeiywo: Mr. Speaker, Sir, that is a recommendation that will have to be made by the Ministry to the Government. But for the time being, the farmers who have been advanced these loans have not been fair to the Government because they have not been repaying their loans. I sympathise with the Makueni farmers and others who are faced with the same problem. I cannot confirm that it is going to be scrapped, but I am sure that the Government will privatise it.

Question No.703

RICE CULTIVATION IN BUNYALA
IRRIGATION SCHEME

Mr. Wanjala asked the Minister for Agriculture:-

- (a) whether he is aware that Bunyala Irrigation Scheme in Budalangi Constituency has not been facilitated by the National Irrigation Board to cultivate this year's rice; and,
- (b) what urgent steps he is taking to ensure that the crop is planted to alleviate poverty among the rice farmers in the division.

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

(a) Yes, I am aware.

(b) The Government is in the process of discussing with the farmers the modalities of cost-sharing. Farmers are being requested to provide, through their co-operative societies, the following:-

- (i) Operate and maintain secondary and tertiary irrigation infrastructure.
- (ii) Carry out land preparations.
- (iii) Purchase and supply farm inputs.

The Government, on its part, is ready to provide the following services:-

- (i) Development of new irrigation projects
- (ii) Operation and maintenance of major irrigation infrastructure.
- (iii) facilitate production and supply of certified paddy seed.
- (iv) Offer extension services.

Mr. Speaker, Sir, the planting season for Bunyala Irrigation Scheme begins between January and April. Therefore, there is enough time to work out the modalities.

Mr. Wanjala: Mr. Speaker, Sir, the Assistant Minister has clearly stated that the planting season for Bunyala Irrigation Scheme is between January and April. That time has already passed for this year's crop. The poor farmers

have no money because they have been impoverished. How long can it take the Government to negotiate those modalities so that these farmers can plant their crop?

Mr. J. D. Lotodo: Mr. Speaker, it will not be possible for the Government to put those modalities in place for this year. That is why the Ministry is set to address this problem in the next planting season.

Dr. Omamo: Mr. Speaker, Sir, could the Assistant Minister admit that the Budalangi farmers were ambushed by the Government in mid-stream when it withdrew its services without preparing the farmers to take over the scheme, and that this action by the Government was most inhuman? The farmers in Budalangi, Ahero, Perkeria and West Kano have suffered because of this action by the Government. Could the Assistant Minister liaise with the Office of the President so that relief food can be provided to the people of Budalangi, Ahero, West Kano and Perkeria?

Mr. J.D. Lotodo: Mr. Speaker, Sir, it is true that there was general crop failure in the country this year. That is why the Government made provisions for famine relief food. So, we will take the request by the hon. Member into consideration.

Mr. M.A. Galgalo: Mr. Speaker, Sir, arising from the Assistant Minister's reply, could he admit that the National Irrigation Board has become a "toothless bulldog?" Could the Government consider assisting the farmers in Hola, Ahero, Budalangi and Mwea to take over those farms?

Mr. J.D. Lotodo: Mr. Speaker, Sir, the Government is aware of the shortcomings of the present Irrigation Act, Cap. 347, and is in the process of amending it to reflect the current irrigation development and future direction.

Mr. Nderitu: Mr. Speaker, Sir, I am glad that the Assistant Minister can admit that the NIB is "dead." First, hon. Members asking this question are wondering what they should be telling their farmers on how to carry out irrigation. Otherwise, the Ministry will not be able to do anything for the farmers in Perkeria, Ahero and Hola irrigation schemes and in other places. Could I ask the Assistant Minister to---

Mr. Speaker: Order, Mr. Nderitu! That is your opinion. Do not express your opinion on the Question. Just ask your question.

Mr. Nderitu: Mr. Speaker, Sir, could I ask the Ministry of Agriculture and Rural Development, at least, to hand over the schemes? Will it be possible for the Ministry to hand over Perkeria, Ahero, Budalangi and Hola irrigation schemes to Mwea Rice Growers Multipurpose Co-operative Society in order to assist those farmers?

Mr. J.D. Lotodo: Mr. Speaker, Sir, handing over those irrigation schemes to co-operative societies is impossible because, for example, the Mwea Irrigation Scheme has had a lot of problems. I am sure the hon. Member who asked the question knows it. Therefore, we are not ready to facilitate more problems to the farmers.

Mr. Wanjala: Mr. Speaker, Sir, considering the poverty level in Budalangi and with floods occurring twice in a year, and you have heard the Government is holding seminars using Kshs140 million provided by the UNDP while Bunyala irrigation scheme requires only Kshs30 million, could he consider giving Budalangi Kshs30 million from the Kshs140 million in order to eradicate poverty since we have identified that, that is the only way to eradicate poverty instead of holding seminars?

Mr. J.D. Lotodo: Mr. Speaker, Sir, as far as the Ministry is concerned, that money was meant for poverty eradication, and the scheme is there. I am sure that we are not ready to give Budalangi that particular money.

Mr. Shill: Mr. Speaker, Sir, is it in order for the Assistant Minister to mislead this House by saying that the NIB is doing well when we know that there is not one single irrigation scheme that has been successful in this country?

Mr. Speaker: Order! That is his opinion, and that is yours.

Mr. J.D. Lotodo: Mr. Speaker, Sir, I did not say that the irrigation scheme is successful, given the fact that we have undergone through drought and famine over the last three years. So, we expect such a problem. But in the case of Mr. Wanjala asking that the money meant for poverty eradication be given to those farmers at Budalangi Irrigation Scheme, that question does not arise.

Question No.694

DESTRUCTION OF MUGIKO SCHOOL
CLASSROOM BLOCK

Mr. Gitonga asked the Minister for Education:-

- (a) whether he is aware that in the month of September, 2000, a classroom block at Mugiko Primary School in Kamae Location of Lari Constituency, was burnt down by unknown person(s); and,
- (b) whether he could inform the House the progress made in apprehending the people responsible for the act.

The Assistant Minister for Education, Science and Technology (Mr. Awori): Mr. Speaker, Sir, I beg to

reply.

(a) I am aware that a block of classrooms was burnt down by unknown persons - not in September, but on the 16th of July, this year. The matter was reported to Lari Police Station and investigations are going on.

Mr. Gitonga: Mr. Speaker, Sir, a block of four classrooms was burnt about 4.00 p.m. in the afternoon, and it is now four months since the arson took place. What kind of investigations are the police carrying out up to now?

Mr. Awori: Mr. Speaker, Sir, they are trying to investigate whether the suspects who have been arrested caused the arson. What happened was that last December, a watchman was sacked, and right upto July, he had not been paid his dues. He held a grudge against the school. Secondly, there was a certain group of people who grabbed part of the school land, and they subdivided it. The parents got incensed and they went and put up a small secondary school on the subdivided plot. We believe that those land grabbers were also so incensed that they are the ones who burnt the school. It is now taking time to get the evidence on that matter. The investigations are still going on.

Mr. Kariuki: Mr. Speaker, Sir, realising how poor our people are, does the Ministry of Education, Science and Technology, have an emergency fund to take care of the exigencies such as fire, wind and lightening that have perpetually affected schools and brought them down to zero? If so, what has the Ministry provided for this school and my own school - Mbangathe - which was recently hit by wind?

Mr. Awori: Mr. Speaker, Sir, the Ministry has not got that emergency fund, but we normally advise the school committees or headmasters that we have got the Kenya Charity Sweepstake and it has an emergency fund. Many times, it has helped in a situation such as that.

Mr. Gitonga: Mr. Speaker, Sir, arising from the Assistant Minister's reply, it would appear that they have established the motive behind the burning of the block of classroom. If that is the case, have some of those people been arrested by the police for questioning?

Mr. Awori: Mr. Speaker, Sir, regrettably no. There have been inquiries, but because we have not yet established a definite connection with the people whom we suspect, they have not been arrested.

Mr. Gitonga: Mr. Speaker, Sir, the Assistant Minister is trying to avoid my Question. Since the Ministry appears to have established the motive behind the burning of classrooms, has the Ministry arrested some of the people who have been mentioned by the hon. Members so that they can be interrogated by the police?

Mr. Awori: Mr. Speaker, Sir, people have been interviewed. You do not arrest people on suspicion. As soon as they are linked to the incident - a definite link - and as we suspect them, they will be arrested.

Mr. Gatabaki: Mr. Speaker, Sir, considering the various schools in Central Province which have been burnt down, is the Assistant Minister not misleading this House by saying that these are "accidents" when we know very well that it is a conspiracy against the people of Central Province by this Government?

(Laughter)

Mr. Speaker: Next Question, Mr. Munyasia!

Question No.705

RETIREMENT OF MR. AVEDI BULIVA

Mr. Munyasia asked the Minister for Education why the Provincial Director of Education, Western Province, Mr. Avedi Buliva, is still in office after he was retired on 26th August, 2000.

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

The Provincial Director of Education, Western Province, Mr. Avedi Buliva, is still in office as he will retire with effect from 1st January, 2001.

Mr. Munyasia: Mr. Speaker, Sir, that is a very disappointing answer. It is sad that the people of Western Province have to do for another two months with that man called Mr. Avedi Buliva. Is the Assistant Minister aware that this time, the man has been seriously undermining boards of governors, especially the one of Maliki, where the board of governors, having interdicted a teacher for attempted rape, were told that they must receive that teacher two months after the teacher had been interdicted by the Board? Mr. Buliva knew that he was on his way out, and he was, therefore, "mending fences" with those teachers, so that they keep him comfortable a little longer.

Dr. Wamukoya: Mr. Speaker, Sir, I wish the Question was formulated in the way he has done it and I would have dealt with it that way. But the Question on the Order Paper has something to do with his retirement, and I have given him the date of his retirement as calculated from his date of birth.

Mr. Munyasia: Mr. Speaker, Sir, could the Assistant Minister confirm or deny the fact that Mr. Avedi was supposed to be replaced by a Mr. Vododi from 1st September, 2000?

Dr. Wamukoya: Mr. Speaker, Sir, if he was to be replaced, it was to do with transfer and nothing to do with retirement. His retirement is on 1st January. So, the question of being replaced does not arise.

Mr. Anyona: Mr. Speaker, Sir, a serious allegation has been made that this particular gentleman was helping people who were harassing girls. The Assistant Minister says that if he had known it was that way, he would have done the right thing. That is a serious allegation in Parliament! What will he do about it?

Dr. Wamukoya: What I meant was that this case of harassment has not been brought to my notice. Since it has been brought to my notice now, I can deal with it, but not in this Question.

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

Mr. Speaker: Order, Mr. Munyasia! I am agonizing about this poor Mr. Avedi Buluma and all these very serious allegations. The two of you come from Western Province. If it is that parochial, I think the two of you can talk about it, sort it out and save the National Assembly this parochial talk.

Next Question!

Question No.665

DESILTING OF DAMS IN KANYAMKAGO

Mr. Omamba asked the Minister for Water Development:-

- (a) if he is aware that water dams within Kanyamkago in Uriri Constituency are silted; and,
- (b) what plans he has to de-silt them.

The Assistant Minister for Environment and Natural Resources (Mr. Kofa): Mr. Speaker, Sir, I beg to reply.

(a) I am aware.

(b) My Ministry has allocated Kshs3.3 million during the 2000/2001 financial year for the rehabilitation of three dams in Migori District. The dams are mainly from the poverty-stricken lower areas of the district, namely; Karungu and Nyatike Divisions. In total, Migori DDC has prioritised 40 dams for the rehabilitation, including 13 dams from Uriri Constituency for implementation under the MTEF Programme. These dams will be rehabilitated as soon as funds become available and on priority basis.

Mr. Omamba: Mr. Speaker, Sir, the reply is misleading because there are more than 13 dams in Uriri Constituency. At the moment, there are 15 dams and some were washed away. The three existing ones are shared with animals. These dams were constructed during the colonial time. Why should the people suffer like that for all that time? The water available is unreliable. How much money has been put aside for Uriri Dam?

Mr. Kofa: To be specific, these dams were built in the 1950s and there were 14 of them. They are all silted. The de-silting will be possible according to the priority of the DDC and when funds are available.

Mrs. Ngilu: Mr. Speaker, Sir, most of the dams in this country were sunk during the colonial days and they were continuously de-silted either manually or by the Government. What programmes - and not just the funds that have been made available - has the Government put in place to make sure that they do not wait until dams are silted and then they start de-silting them using a lot of money?

Mr. Kofa: It is the Ministry's policy that the communities which are the beneficiaries get involved in the de-silting of the dams.

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, the Assistant Minister said that about Kshs3 million has been set aside for de-silting of dams in Migori District. Could he be more precise and say "what aspect" of the Kshs3 million is specifically set aside for the dams in Uriri Constituency?

Mr. Kofa: Mr. Speaker, Sir, could the hon. Member repeat his question?

Mr. Ochilo-Ayacko: How much of the Kshs3 million set aside for the dams in Migori District will be utilised for de-silting of dams in Uriri Constituency?

Mr. Kofa: Mr. Speaker, Sir, this was done way back in 1998 and there are 14 dams that will be de-silted.

Mr. Otula: Mr. Speaker, Sir, is it in order for the Assistant Minister to evade answering the question when he has been asked to give the exact amount of money that has been set aside for de-silting dams in Uriri Constituency?

Mr. Speaker: How much money is allocated to Uriri Constituency?

Mr. Kofa: In the case of Uriri, since the dams were 30 per cent silted, the Ministry has earmarked Kshs200,000.

Mr. Speaker: Order! Hon. Members, I still have four Questions by Private Notice, two ordinary Questions and several Ministerial Statements on line to be delivered. If I am not so generous on giving latitude in Questions, please understand.

Next Question!

Question No.710

MEMBERS OF EMBU LAND APPEALS TRIBUNAL

Mr. Murungi asked the Minister for Lands and Settlement:-

- (a) who the members of the Land Appeals Tribunal at Embu are;
- (b) how many cases have been filed before the Tribunal in the last 24 months; and,
- (c) how many appeals have been determined by the Tribunal during the said period.

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Speaker, Sir, I beg to reply.

(a) The following are the members of the Land Appeals Tribunal for Eastern Province:-

<u>Name</u>	<u>District</u>
1. Jasper Nzangi Matu	Makueni
2. Pancreas Miriri	Meru North
3. Gideon M'Toithari	Meru North
4. Samuel Nzuki Mwinde	Machakos
5. Juda Muoka	Machakos
6. Dominic Barantoi	Marsabit
7. Hussein Shike Bode	Marsabit
8. Mwachani Mbaka	Nithi
9. Erosius Gachuni Kanambiu	Nithi
10. Peter Namu Njuki	Embu
11. Suleiman Nyagah Daudi	Embu
12. Zachary Kimathi	Meru Central
13. Festus Muriuki	Meru Central
14. Daniel Mukolo	Kitui
15. Patrick Duu	Kitui
16. Haji Izak	Moyale
17. Ibrahim Katolo	Moyale
18. Angelo M'Ithuma M'Tuchichio	Isiolo
19. Abdi Nasia Osman	Moyale
20. Adriano Ngondi	Mbeere
21. Mbie Marondo	Mbeere
22. Paul Muchee Runguma	Tharaka
23. Daniel Kichenge Rungiri	Tharaka
24. James Mwikayaya Matika	Mwingi
25. John Manzie Munge	Mwingi

(b) A total of 275 cases have been filed before the Tribunal in the last 24 months.

(c) The Tribunal has not determined any case since it was appointed in December, 1999.

Mr. Murungi: Mr. Speaker, Sir, it is quite clear from the Minister's answer that this is a useless and bogus "kangaroo" court. Could the Minister explain to the House why this court has not determined a single case for a whole year?

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Hon. Murungi is one of the most learned Members of this House. "A kangaroo" court executes unfair justice. If it has not met, it cannot be "a kangaroo" court.

Mr. Speaker: Will you stand corrected, hon. Murungi?

Mr. Murungi: Mr. Speaker, Sir, the hon. Member does not know that sometimes a "kangaroo" court may not meet.

Mr. Speaker: Well, what about a court that never meets? How can it be "a kangaroo" court?

(Laughter)

Mr. J. Nyagah: Mr. Speaker, Sir, that confirms that this is not "a kangaroo" court and I thank my friend, the MP for Kimilili Constituency for challenging hon. Murungi. We accept that there has been a delay in getting the

committee in Eastern Province to start its operations. I would like to inform this House that a seminar to educate them on their responsibilities was held early this year, and we have now instructed the officials concerned to come, collect money and start operations as soon as possible. I would like to point out that we are dissatisfied with their performance.

Mrs. Ngilu: Mr. Speaker, Sir, from the list that the Minister has given to this House, it would appear that there is not a single woman in that "kangaroo" court. But I would also like the Minister to state the powers of the Land Appeals Tribunal because I have a lady in my constituency whose case was determined in a Kitui court and she was given back her land, but the Land Appeals Tribunal which sits in Embu gave the land to somebody else. Does this mean that the Land Appeals Tribunal which sits in Embu has more powers than our ordinary courts?

Mr. J. Nyagah: Mr. Speaker, Sir, again, I would like to confirm that this is not a "kangaroo" court. Secondly, I would like to confirm that it is true that there are no women in the list, because when the districts were asked to propose names to the Land Appeals Tribunal, not a single district in Eastern Province forwarded a name of a woman. I think this is in keeping with the traditions of the province.

(Laughter)

Mr. Anyona: Mr. Speaker, Sir, maybe, there is something wrong with my ears. I thought that there was the name of "Esther" in that list, and I thought that this is the name of a woman. In any case, can a Land Appeals Tribunal fail to meet, because I thought that there are rules which say that it will meet so many times?

Mr. J. Nyagah: Mr. Speaker, Sir, we have now instituted rules at the Land Control Boards to ensure that we have women representation in the Divisional Land Control Boards, in keeping with modern times. I will check the answer to the last question, which I do not wish to answer now, in case I look stupid.

I do not know the distinction between the High Court and the Tribunal. I was under the impression that a decision passed by an appeal system is then given to the court and it becomes final. That was my understanding, but I am not a lawyer and I do not want to look foolish.

Mr. Murungi: Thank you, Mr. Speaker, Sir. As a matter of fact, these names were not forwarded by the people from Eastern Province, but by the DCs. That is why there was no name of a woman in that list. Could the Minister ensure that proper rules and guidelines are set down for both the District Land Tribunals and the Provincial Land Appeals Tribunal so that the *wazee* who are there can know what they are supposed to do? Could those rules be made?

Mr. J. Nyagah: Mr. Speaker, Sir, we are doing that.

(Mrs. Ngilu stood up in her place)

Mr. Speaker: We do not act like that, Mrs. Ngilu, but since I can see that you are offended by the absence of women in this list, I will "see you".

Mrs. Ngilu: Thank you, Mr. Speaker, Sir. In fact, that is exactly why I stood up. Could the Minister assure this House that he will ensure that at least, one-third of the members in those committees are women?

Mr. J. Nyagah: Mr. Speaker, Sir, I love and admire women greatly, but my hands are tied up. But we have given appropriate instructions to ensure that--

Mrs. Ngilu: On a point of order, Mr. Speaker, Sir. I do not think that we "care" for the answer that the Minister has given this House that he "loves" women. He can keep that "love" because we want action. Could he assure this House that he will ensure that one-third of the members in those committees are women?

Mr. J. Nyagah: Mr. Speaker, Sir, I am aware of the Act that I will use to ensure that one-third of the members are women. But we have instituted a mechanism to ensure that women participation increases beginning from the divisional level. Women participation will be increased, but not by one-third because there is no such a law.

Mr. Speaker: Let us move on to Mr. Otula's Question for the second time.

Question No.660

CONSTRUCTION OF OLD
COMRADES ASSOCIATION CANTEEN IN NYANZA

Mr. Otula asked the Minister of State, Office of the President when a Kenya Armed Forces Old Comrades Association canteen will be built in Nyanza Province.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, may that Question be deferred?

Hon. Members: Why?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, this is because my

colleague who was supposed to answer it is not here.

Mr. Speaker: Very well. Mr. Otula, I will defer the Question to next week.

(Question deferred)

Let us move on to Dr. Kituyi's Question for the second time.

Dr. Kituyi: Mr. Speaker, Sir, I apologise to the House for coming a bit late.

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, I did answer this Question earlier on, but I was required to come and show under what law DCs chair the various committees. The executive authority of the Government is vested on the President. Section 23 of the Constitution states that the President can exercise that authority directly or through his appointees and the DCs are his appointees.

Dr. Kituyi: Mr. Speaker, Sir, part of the process of democratisation is to abandon the rule of impunity that a person can appoint a person who by fiat can dictate things that are criminal and get away with them, the way Mr. Oreta is doing in Trans Nzoia District. Last week, the Minister specifically said that there is a section of the Constitution which does not just say that the President forms the Government which we know, but it can authorise him to create an office which can authoritatively allocate resources and punishment, like these small "paramount chiefs" called "DCs". Could he quote the section of the Constitution which allows or states--- What he is referring to does not answer my Question.

Mr. Speaker: Order! Order! We will not get to that now.

Dr. Kituyi: I have not finished asking my question.

Mr. Speaker: But you see we will not keep on going in circles. If it is not there, and you know that, why ask him again?

Dr. Kituyi: Mr. Speaker, Sir, since there is no provision in the Constitution or in the statute books that allows the President to create an office with executive authority that DCs enjoy in this country without the qualification for it, will the Minister undertake that either a relevant law be introduced or they abandon this impunity?

Maj. Madoka: Mr. Speaker, Sir, what is being done is quite legitimate. There is nothing which is not within the Constitution. Section 23 of the Constitution states:

"The executive authority of the Government of Kenya shall vest in the President and subject to this Constitution, may be exercised by him either directly or through officers subordinate to him".

So, whatever is being done is perfectly legitimate.

Mr. Raila: Mr. Speaker, Sir, I am concerned with the second part of the Question; about the District Development Committees (DDCs). In the county councils, we have elected councillors and chairmen. We have the district commissioners chairing the DDCs.

Does the Minister not agree with me that the Provincial Administration is a duplication that interferes with the Local Government; and that, the district commissioners should be *ex-officio* members of the DDCs? Those committees should be chaired by chairmen of those councils!

Maj. Madoka: Mr. Speaker, Sir, the DDCs were established under the District Focus for Rural Development Strategy in 1983. When those DDCs were established, it was agreed that the DCs should chair them. But we have a provision that once we amend the Constitution, we can decide who chairs the DDCs.

Mr. Murungi: Mr. Speaker, Sir, as a matter of fact, I appeared before the Nyeri District Security Committee to represent Rev. Njoya. When we told them that it was an illegal committee, because it was not formed under any law, they "physically" carried me out of the building. They were left grilling my client!

Does the Minister not think that it is now proper, now that we have the National Security Intelligence Security Act, for the DCs to be removed from the chairmanship of those committees and that, the NSIS chairs all the security committee meetings

in this country because they have a role in dealing with the security?

Maj. Madoka: Mr. Speaker, Sir, we are looking at how best they can be set. But at the moment, they will continue to be chaired by the DCs.

Dr. Kituyi: Mr. Speaker, Sir, according to the Minister's reply, the power exercised by the DCs is a transfer of authority at the discretion of the President. Is he suggesting to this House that the President is supposed to chair the DDCs?

Maj. Madoka: Mr. Speaker, Sir, he exercises his executive authority. The DCs are the representatives of the President in the districts.

Mr. Speaker: Very well! Order, hon. Members! I am afraid that I have over-shot the time, without a single Question by Private Notice being answered. I think I will put all of them for tomorrow morning. Which hon. Member is not happy for tomorrow morning? Are you not happy, hon. Kathangu?

Mr. Kathangu: Mr. Speaker, Sir, the Committee on Broadcasting is currently writing a Report. I am supposed to be there. Today, I was supposed to lay on the Table of the House---

Mr. Speaker: Okay! Very well! So, you are not happy! Will you be away the whole of tomorrow?

Mr. Kathangu: Mr. Speaker, Sir, I will be away!

Mr. Speaker: How about on Thursday?

Mr. Kathangu: Mr. Speaker, Sir, I will not be available!

Mr. Speaker: Alright. I will allow you to ask one or two questions. I will defer Messrs. Kamande, Sungu and Donde's Questions to tomorrow morning. I do not like to do this!

Mr. Donde: On a point of order, Mr. Speaker, Sir. May I request that you put my Question in the afternoon.

Mr. Speaker: Very well! I will accommodate that! It will be on, tomorrow afternoon. I would like us to finish Question Time by one hour. So, please understand. If I allocate 60 minutes to 15 Questions, that works to about four minutes per Question. Please understand! Hon. Kathangu, I will allow you to lay certain documents on the Table!

Mr. Kathangu: Mr. Speaker, Sir, I will do that after the Minister tells us what the "Sink" and "UB" funds are!

Mr. Speaker: Correct! You are right! Maj. Madoka, you are supposed to tell us what the "Sink" and "UB" funds are!

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, the "Sink" fund is a deduction from the co-operative union. I believe the co-operative societies deduct from their members Kshs50 and puts it in that fund. So, when they have a problem like death, they can be paid Kshs10,000 to help them in funeral arrangements. Then, they can apply for normal loans later.

Mr. Speaker, Sir, I have not yet got a feedback for the other "UB" deduction. But there can be no deduction in anybody's payslip, unless he agrees. So, if any member is dissatisfied with the deduction, he should bring that issue up.

Mr. Speaker: Order! Mr. Kathangu, I do not want you to say that you are dissatisfied. I do not think even the Chair is satisfied! It is a very important issue. We must understand why public servant salaries are being deducted! It is not correct that a policeman, who is an ordinary constable, can walk to the Commissioner of Police, salute and say: "Sir! Why are you deducting Kshs50 from me?" I do not think it is practical. So, could I give him a chance to get all those details?

Mr. Kathangu: Mr. Speaker, Sir, the Minister has a very big problem. The problem is "part of shame" on the part of the Government, that allowances decided upon by the colonial government in 1935, are the same ones that are given to the Kenya Police in the year, 2000! A dog handler is given Kshs56 a month---

Mr. Speaker: Why do you not wait until the Question comes?

Mr. Kathangu: Mr. Speaker, Sir, what I wanted to propose - I know it is your concern also - is that, when the Minister comes to answer on Tuesday, let him tell us whether, after reading all the 15 allowances, why the salary of a policeman will not "tilt" from Kshs5,000?

Mr. Speaker: Very well! Is Tuesday alright with you?

Maj. Madoka: Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well! It will be exciting to hear what "UB" is all about!

QUESTIONS BY PRIVATE NOTICE

ALLOWANCES FOR KENYA POLICE FORCE STAFF

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

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

(b) What are their statutory/administrative deductions?

Mr. Speaker: Due to lack of time, the Question is deferred to tomorrow.

(Question deferred)

DISTRIBUTION OF FAMINE
RELIEF IN MAKUYU

(Mr. P.K. Mwangi) to ask the Minister of State, Office of the President:-

- (a) Is the Minister aware that 120 bags of maize meant to be distributed to famine relief in Makuyu Division, Maragwa Constituency have disappeared mysteriously?
- (b) Is he further aware that vehicle No.KAH 643W collected 60 bags on 1st August, 2000, from Sagana and vehicle No.KZU 212 collected 60 bags from Thika National Cereals and Produce Board warehouses respectively?
- (c) What immediate action is the Government taking to ensure that all food meant for famine relief reaches the intended destination?

Mr. Speaker: Due to limited time, the Question is deferred to tomorrow.

(Question deferred)

MEASURES TO PREVENT CHILD ABDUCTIONS

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

- (a) Is the Minister aware that one, Mr. Samson Sila Mukanji attempted to abduct a child by the name Catherine Aduwa, daughter of Sarah Nambuya at Manyatta Estate in Kisumu Town on Monday, 13th November, 2000?
- (b) Is he further aware that neighbours who went to rescue the child were dispersed by police who fired gunshots at them?
- (c) What urgent measures has the Minister taken to investigate and prevent such incidents, and apprehend the culprits?

Mr. Speaker: Due to limited time, this Question will be answered tomorrow.

(Question deferred)

CONTRACT AWARD TO INTERTEK
TESTING SERVICES

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

- (a) Is the Minister aware that a company known as Intertek Testing Services, which was recently allegedly involved in one of the biggest laboratory testing fraud in the United States of America (USA) regarding radio active material, is just about to be awarded a contract to do business with the Government of Kenya?
- (b) In view of this adverse report on this Company, could the Minister shelve this contract?

Mr. Speaker: Due to time factor, this Question will be deferred until tomorrow afternoon.

(Question deferred)

That is the end of Question Time.

POINTS OF ORDER

REBUTTAL OF ALLEGATION
ABOUT MR. CHERUIYOT

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Last Thursday, after I left the Chamber, the Minister of State, Office of the President made an outrageous allegation to the effect that the previous day, I had mentioned one Zachaeus Cheruiyot as being involved in transporting "kumi kumi". I have looked at the HANSARD and also recollected what I said in the House. It is very inconsistent with my conduct in this House that I can so "loosely and glibly," besmirch the names of other persons. I would like the Minister to be given an opportunity to withdraw that uncalled for unfortunate remark!

Mr. Speaker: Well, I suppose you are right Dr. Kituyi, unless the Minister thinks otherwise. Personally, I followed the debate and I never heard you say anything of the sort. I did inform the Minister that it was hon. Mwenje who did it. So, I think the Minister is duty-bound to withdraw and apologise.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I did not mention the hon. Member's name. I thought I heard him say the name. But as it transpired, he did not mention Mr. Cheruyoit's name. So, I do withdraw the remark.

Mr. Speaker: Order! Order! There is nothing as good as an apology for the House. In fact, nothing follows after a Member has apologised. But I had instructed you to withdraw those remarks and apologise. You have apologised; then withdraw!

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, if you can check from the HANSARD, even now, I did say, "I withdraw"! That was my last statement before I sat down.

Mr. Speaker: Very well. He has withdrawn and apologised.

END OF YEAR EXAMINATION
IN KALAWA

Mr. Munyao: On a point of order, Mr. Speaker, Sir. Through the Chair, I demand a Ministerial Statement from the Minister for Education. This time let it not be a "nagging" Statement; let it come "immediately!" Before schools closed, in Mbooni Constituency, Kalawa Division, Standard Six children, like all other children, paid some fee for end-of-year examinations. In Kalawa Division, about 500 Standard Six children paid examination fee, but they never sat for the examination. Now, the District Education Officer (DEO) is using underground methods to bring the children back to school so that they can do an examination which has been done by other children in another division. Could the Minister make a Ministerial Statement to clear the air about the matter because parents are worried about this anomaly?

(Mr. Awori gestured to hon. Dr. Wamukoya)

Mr. Speaker: They are all pointing at each other. So, I will give them the opportunity to sort it out and come back to give a statement.

MINISTERIAL STATEMENT

RETRENCHMENT AND LOAN
WRITE-OFFS AT THE AFC

The Minister for Agriculture (Mr. Obure): Mr. Speaker, Sir, on Thursday, 16th November, 2000, hon. Kiraitu Murungi, Member for Imenti South sought a Ministerial Statement on alleged retrenchment of workers at the Agricultural Finance Corporation (AFC), as well as write-offs of loans by that organisation.

I would like to say very briefly that, there has been no retrenchment of any staff at the AFC. What has gone on is merely the usual staff turnover, owing to retirement, resignation, termination of services or expiry of contracts.

In respect to loan write-offs, I would like to say that there have been no loans being written off by the AFC except those which were done in 1984 and 1988 due to drought and the writeoffs of 1997 involving Ramisi Sugar Company in Kwale. There has been no authority whatsoever for AFC to write-off any loan.

Mr. Sambu: On a point of order, Mr. Speaker, Sir. Is the Minister in order to contradict his own Assistant Minister who denied earlier on, in answer to Question No.619, that there has been no writing off or waiving of loans? The Minister says that loans have been written off when earlier on the Assistant Minister for Agriculture said that there have been no loans written-off or waived. Is the Minister in order to contradict the House? What is the right position between the Minister and the Assistant Minister?

Mr. Speaker: I really do not know. Maybe, the Minister can tell the House.

The Minister for Agriculture (Mr. Obure): Mr. Speaker, Sir, if the hon. Member for Mosop Constituency listened carefully, there is absolutely no contradiction between the statement made in this House earlier on and the one I am making now. I am saying that there has been no write-off of loans and I believe that is what the Assistant Minister said.

Mr. Murungi: Mr. Speaker, Sir, we are happy to learn that there is no retrenchment and there is no loan write-off at the AFC. Could the Minister explain why this staff turnover is only affecting the Kikuyus and the Luos at the AFC and nobody else?

The Minister for Agriculture (Mr. Obure): Mr. Speaker, Sir, I have never wanted to stand before this House or anywhere else to talk about ethnicity; I like talking about Kenyans in general.

Mr. Speaker, Sir, let me give this House a breakdown of the staff turnover. As I said---

Mr. Speaker: Just as you do that---

An hon. Member: No, no! Let him give us the breakdown first!

Mr. Speaker: Order! Hon. Members! Just before you give the breakdown, could I bring to the attention of the House and particularly to hon. Murungi that in 1969, the Speaker did rule that it is out of order to bring tribal debates in the House. I affirm!

POINT OF ORDER

TRIBAL DISCRIMINATION ILLEGAL

Mr. Orengo: On a point of order, Mr. Speaker, Sir. I am seeking the Chair's guidance because this is a very important matter. Under Section 82 of the Constitution, discrimination is barred. If a particular group is being targeted on account of ethnicity, which may be tantamount to genocide, how can you bring this matter to the attention of the House? For example, during tribal clashes, we know the Kikuyus and the Luos were being targeted in the Rift Valley and the Coast Provinces. You cannot run away from it because the Constitution does not allow you to do it. I think what is not allowed is to articulate views that defend tribal positions. But if the Kisiis are being targeted, I am sure if hon. Obure does not raise it, he will not "see this House" again!

(Applause)

Mr. Speaker: Order! Order! Since the Minister will respond to this, I do not want to get involved in it. Maybe in 1969, we were less tribal than we are now.

An hon. Member: Yes!

Mr. Speaker: But I really do not know because I do not have a "tribal meter."

The Minister for Agriculture (Mr. Obure): Mr. Speaker, Sir, I would like to say from the outset that there has been no single tribe or group of tribes which have been targeted by the AFC. I want to reiterate the fact that we have experienced normal staff turnover at the AFC owing to retirement, resignation, termination of services, expiry of contracts or deaths in the usual way. That happens everywhere.

For example, during the last ten months this year, since January to the end of October, the following people have left the AFC: 24 Kalenjins, 24 Kikuyus, 12 Luos, seven Luhyas, five Kambas, four Kisiis, four Taitas, two Giriama, one Meru, one Maasai, one Pokot and one Borana. All these people left the AFC for one reason or another. You can see that it is very normal thing and it is unfair to make allegations that the AFC has been targeting any particular tribe.

NOTICE OF MOTION FOR THE ADJOURNMENT UNDER STANDING ORDER 20

VIOLENT DISRUPTION OF MEETINGS BY POLICE

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. I rise to seek leave to move a Motion of Adjournment to discuss a definite matter of national importance with regard to violent disruptions of public meetings and the general licensing of public meetings.

Mr. Speaker, Sir, this has been inspired in view of what happened recently in Homa Bay, Kitale, Kisumu and several other parts of the country.

(Applause)

Mr. Speaker: You are not debating yet. Can I now decide?

Dr. Ochuodho: Mr. Speaker, Sir, I wish to seek leave of the House to allow that Motion to be moved.

Mr. Speaker: Order, hon. Members! Well, considering the application given to me by Dr. Ochuodho, I do find that the matter is definite. I think it is urgent because I am surprised at the frequency with which the police visit violence on either hon. Members or members of the public and, much more so, even in defiance of the Head of State's directive. So, I do find that it is a matter that can come under Standing Order 20.

Do you have support?

Dr. Ochuodho: Yes, Mr. Speaker, Sir.

*(Several hon. Members stood up
in their places)*

Mr. Speaker: Enough! Order! Order! You can sit down! I think that is more than the requisite number of 15 hon. Members. I will allocate that Motion for today, at 5.30 p.m., for one hour.

(Applause)

POINTS OF ORDER

INFORMAL DISCUSSION ON BILL

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. I rise to seek your guidance on a matter from you regarding past developments whereby the Chair has been portrayed by the Press as inviting members of the leading political parties to discuss the Interest Rates Bill. Your office is being seen as being compromised by the banks regarding the interest rates debate. Can you clarify that because of the Press statement?

Mr. Speaker: Order! There is really a growing dishonest attack on the Chair. It is an attempt to malign the Chair all the time. If hon. Gatabaki had bothered to consult the representatives in the Sessional Committee, he would have known that the Chair never at any time called the so-called meeting. In fact, when the meeting was called or the idea mooted, I do not know how it was done because I was not present.

However, I will give hon. Ms Karua a chance because she was there to let the House know. I was not there! It is the House Business Committee that called the meeting. Now, why this unnecessary attack on the Chair all the time? Maybe, for the avoidance of doubt, because apparently, it is just becoming a season of trying to throw to the Chair some dirt and even if it does not have any, smear it somehow. Maybe hon. Karua can tell this House what transpired because I was not there and I did not call the meeting. Mrs. Karua can you do that?

Ms. Karua: Mr. Speaker, Sir---

Mr. Speaker: No; sorry! Ms. Karua, can you proceed?

(Laughter)

Ms. Karua: Mr. Speaker, Sir, the Chairman of the House Business Committee can also explain, but since I am a Member, I can say that the suggestion was made after some consultation by the Members themselves as we always do when there is an important Motion and the time for debate was to be 6.00 p.m. today and I believe it is still the same thing today. So, contrary to the Press reports, there was no attempt by the Committee to circumvent the debate and the Speaker was not present. However, it was suggested that there should be a discussion among the members on the Bill.

The Vice-President (Prof. Saitoti): On a point of order, Mr. Speaker, Sir. As the Chairman of the House Business Committee, I want to clearly exonerate the Chair from the very issue of convening a meeting among the political leaders here in Parliament. It is, indeed, true that in the course of the discussion almost three weeks ago and you were not present at the House Business Committee, that what hon. Ms. Karua has said is true. It was that the House Business Committee did discuss as to when the Bill should come to the Floor for deliberation by this Parliament. Then after some exchange, it was then proposed by one hon Member, and I believe it must have been hon. Wamalwa - I cannot remember exactly who that we should have a consultative meeting fairly informal, which is very proper in parliamentary democracy, to discuss the issue over lunch.

Mr. Speaker, Sir, you were not involved. The Members were called in and we had lunch. We have exchanged the views. Hon. Ngilu and hon. Raila were there and I want to inform this House for the avoidance of doubt, that after that agreement, the consensus was: Let this Bill come to the House as soon as possible.

Hon. Members: Tomorrow!

The Vice-President (Prof. Saitoti): Mr., Speaker, Sir, I am not authorised to say whether it is tomorrow. The House Business Committee is going to be meeting at the rise of this House.

An hon. Member: You are a dictator!

The Vice-President (Prof. Saitoti): I am not a dictator!

Mr. Speaker: Proceed! Order! I think the position is clear. I think the only thing the Chair or the Speaker was supposed to do was to facilitate that consultative meeting. I think there is absolutely nothing wrong with the Chair facilitating the Members of this House to do whatever they please to do.

Mr. Muniyao: On a point of order, Mr. Speaker, Sir. I recall when this House was discussing the Ketepa Tea Bill, there was a meeting organised by the Agriculture Committee in Kericho to discuss a matter which had been published here and the Chair ordered that, that matter was totally in order. The clarification I am trying to get from the Chair is: This matter came here and it was referred to the right Departmental Committee dealing with finance matters. Now, where does this other Committee of party leaders feature within the Standing Orders?

(Applause)

Mr. Speaker: Order! First of all, get it absolutely right. No Committee of this House, departmental or otherwise, has a sole proprietorship of any Bill to the exclusion of other Members. So, the Members of this House have a right to consult among themselves on any Bill anywhere they can, because that is how you convince one another. So, even if a matter is before a Committee of the House, there is nothing to stop hon. Dr. Kituyi taking hon. Mr. Munyao to that corner there are some other place and try to convince him to accept his position.

However, when it involves outsiders, that is Members going to discuss a matter that is pending before a Committee, that is a totally untraditional. However, get it from me here again, as stated by hon. Ms. Karua, I was not present when this matter was conceived. I do not know what were the terms of reference. I did not even know who were going to eat that lunch. All the Clerk did in my name and in terms of the request by the House Business Committee, was to inform all those who were supposed to consult to meet on "x" day at "x" place and that was all. I was not there. You see, I am not an Angel either. That is the end of that business now.

Mr. Speaker: Next Order!

FAILURE BY MINISTER TO ISSUE
MINISTERIAL STATEMENT

Dr. Ali: On a point of order, Mr. Speaker, Sir. The Chair is very much aware that I sought a Ministerial Statement several weeks back, but the Minister has been postponing to give it. Even today he was supposed to issue the Ministerial Statement, but he has declined. What is happening?

Mr. Speaker: Dr. Ali, you are right. Mr. Minister, this matter has been in your hands for a long time. What do you say now?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I really do regret that I am not ready for it.

Dr. Ali: Mr. Speaker, Sir, could the Minister tell us why he is not ready to give a Ministerial Statement and yet, he had sufficient time to get ready before he came to this House?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, as I said, there are some consultations I am making with my colleague in the Minister for Foreign Affairs and International Co-operation and he has been away. However, I undertake to issue a Ministerial Statement tomorrow.

Mr. Speaker: Morning or afternoon?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I will issue it tomorrow afternoon,

Dr. Ali: Mr. Speaker, Sir, how do I trust the Minister when you know very well that we even sat back there and discussed the matter for several days. The Minister promised to issue a Ministerial Statement today. How do I trust him?

Mr. Speaker: I really do not know! How do I trust you, Mr. Minister?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I am very trustworthy.

Hon. Members: No! No!

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, as I said, my colleague was not available; that is really why it has taken us some time.

ABDUCTION OF CHILDREN IN THE COUNTRY

Mr. Muchiri: On a point of order, Mr. Speaker, Sir. The same Minister promised on Thursday to issue a Ministerial Statement concerning the abduction of children in this country. Could he now read out the statement?

The Assistant Minister, Office of the President (Mr. Samoei): Speaker, Sir, the Ministerial Statement on the abduction of children is ready and I can read it now.

Mr. Speaker: Mr. Samoei, tomorrow morning after Question Time, you will read that statement. That is an order.

Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Musila) took the Chair]*

THE PARLIAMENTARY SERVICE BILL

(Loud consultations)

The Temporary Deputy Chairman (Mr. Musila): May we have some order, please? Those hon. Members who wish to withdraw may do so quietly.

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10,
11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21,
22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32,
33, 34, 35 and 36 agreed to)*

(First Schedule agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Parliamentary Service Bill and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

REPORT AND THIRD READING

THE PARLIAMENTARY SERVICE BILL

Mr. Musila: Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered The Parliamentary Service Bill and approved the same without amendments.

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Vice-President (Prof. Saitoti) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Information, Transport and Communications (Mr. Mudavadi): Mr. Speaker, Sir, I beg to move that The Parliamentary Service Bill be now read the Third Time.

Mr. Oloo-Aringo seconded.

(Question proposed)

Mr. Oloo-Aringo: Mr. Speaker, Sir, I will be very brief.

First of all, I congratulate you because this is part of your legacy as Speaker of this House. It will remain a permanent reminder of the contribution of the Eighth Parliament to the democratisation process in our country.

Secondly, I would like to congratulate hon. Members for the unity they have demonstrated in working together to achieve the objective of having an autonomous Parliament. It shows what can be achieved if we work together. I know of the many hours we spent at Safari Park as Members of Parliament in the various working groups; this Bill has been manufactured by the collective wisdom of hon. Members. Now, we have the autonomy to manage the funds provided for Parliament. We can now hire and fire our staff. We will also take care of our facilities. But equally important, we must move progressively and take charge of the calendar of the House. The resolution has already been passed by this House. It is my sincere hope that Members will again unite to ensure that the calendar of the House is run by this House.

Mr. Speaker, Sir, I am overwhelmed with joy and I know many of us are, that we have taken the next most important step. In the future, more people will be happy to be Members of Parliament without seeking any other ministerial appointment. In fact, it is much harder now to lure hon. Members to be appointed Assistant Ministers. This is as it should be. I discovered that in other Parliaments, Backbenchers are paid very well to do the work of the people. Therefore, they do not seek to be in the Front Bench. We are creating a new culture where some of us will come to Parliament just to work for the public instead of aspiring to have an executive office or to be Ministers in the Government. When that time comes, we shall play our role effectively as the check on the Executive Government. We are just restoring those powers which rightly belonged to Parliament.

I am very pleased because even within this Bill, there is a provision on how remuneration and allowances of Members of Parliament can be effected. Clause 23 is very explicit. For example, if hon. Members deserve any increase in their allowances, the provision is already in the Bill. We can do so because remuneration of Members of Parliament is a public policy issue. The public have a right to debate our remuneration and allowances and we must not feel shy about it. It is for that reason that on your behalf, Mr. Speaker, and on behalf of this House, we were able to explain the allowances for hon. Members. I feel strongly that we have made progress even in that regard. There is no secrecy as to what a Member of Parliament earns. Let the public debate it, but also debate the second question: What sort of Parliament do we want? Remuneration also relates to the sort of Parliament we want. What sort of parliamentarian do we want? Do we want a pauper who lives on handouts or do we want a Member of Parliament who will devote more time to his/her duties as a Member of Parliament? That is the question Kenyans must ask themselves. Do we want a pauper who lives and thrives on handouts or Members who, properly remunerated, will spend more time discussing matters that affect the public?

With those few remarks, I beg to support.

The Vice-President (Prof. Saitoti): Thank you very much, Mr. Speaker, Sir. I too wish to commend Members of Parliament for having come a long way, right from the time the constitutional amendment was made to provide for the establishment of the Parliamentary Service Commission.

Mr. Speaker, Sir, the Bill that we have just passed is essentially a coronary, so to speak, of that constitutional amendment because it does set out clearly the modalities through which this House shall directly access funds from the Consolidated Fund. Now, that the independence of Parliament has been properly entrenched in the Constitution in practical terms, it clearly affirms the separation of powers and the Constitution. Let me caution my colleagues that what we do with that freedom or independence will come under a great deal of scrutiny from members of the public who brought us here. I think that must be very clear. The manner in which we manage the resources will be under great scrutiny since we shall get our funds directly from the Consolidated Fund and then decide on how to spend them. Therefore, we will be under greater scrutiny than before. We will set out the salaries and allowances for ourselves, therefore, let us be extremely judicious in the manner in which we carry ourselves. That very trust of the mwananchi that was bestowed upon us to come here and defend their interest, should never be betrayed.

Finally, Mr. Speaker, Sir, I want to conclude by saying that we, Members of Parliament, are not here for ourselves alone. We are here as trustees of the future.

(Question put and agreed to)

*(The Bill was accordingly read the
Third Time and passed)*

Mr. Speaker: 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 23.11.2000)

Mr. Speaker: Mr. Ochilo-Ayacko, you were on the Floor. You have 15 minutes.

Mr. Ochilo-Ayacko: Thank you, Mr. Speaker, Sir.

The Bill that we are debating is divided into six parts. Having laid the foundation for my contribution, I would like to quickly look at how the parts are dealt with. I will begin with Part II that sets out the establishment of the Committee. I would like to say that in a country where we have multiparty democracy and leadership reflecting different shades of opinion, it is incumbent upon us as a House to pass a Bill which sets up a Committee that reflects the difference in ideology that we have in this country. I, therefore, suggest that the appointment of Committee members should not be left to the President alone.

Therefore, I would suggest that the appointment of the committee members should not be left to the President alone; members of the committee should be appointed by this House and approved by the President, or vice-versa. In a country with competitive politics such as Kenya, if the President becomes the sole appointing authority of the Members of such a Committee, there is every likelihood that the entire membership of the committee will comprise of persons with affiliation, or some kind of loyalty, to the person of the President; such persons are likely to deal with people with different opinions unfavourably. I am saying so because, once this Bill is passed into law, the proposed Committee will act as a jury and judge many of us to find out whether we are in breach of the law. Just like juries are set in other countries, the composition of the proposed committee must reflect the diverse opinion of this country's people. So, it will be necessary to suggest amendments to this Bill at the Committee Stage in terms of who will have the final say in the composition of the membership of the proposed Committee.

Mr. Speaker, Sir, I would now like to proceed to part 3 of this Bill - declaration of income, assets and liabilities by the persons mentioned in the Schedule. It would be very good for public officers to declare the income, assets and liabilities that they have. This will make leaders transparent and accountable and enable organs of investigation know where to get information regarding public officers. I would, however, like to point out that the proposals contained in this Bill are not adequate. The Bill does not make it mandatory for the Committee to know how one came to own which property. It is imperative to have such a provision, because this Bill may be used to sanitise whatever has been stolen from the public. In fact, the Bill proposes to bar the proposed Committee from investigating property that was acquired before its passage.

So, this Bill may be used to sanitise ill-gotten wealth and what in political parlance is called "land that has been grabbed from the public". It is, therefore, important for an amendment to be brought in the Committee Stage, suggesting that the "committee shall have authority to investigate the honesty and sincerity with which assets were acquired from the time that this country came into existence", so that hon. Members of this House and public service officers can say proudly that they are clean. I know that some hon. Members of this House who thump their chests and say that they are as clean as snow, but we would like to have a situation where the proposed committee will have authority to examine the extent to which such people are clean. In fact, this Bill also suggests that such declarations remain a secret. If that were to be the case, the purpose of this Bill would not be realised. The purpose of this Bill is for all Kenyans to know their leaders well and the extent to which they own property and to which they have been involved in grabbing. It will, therefore, be necessary to suggest an amendment, at the Committee Stage, which will not make such declarations secret; the proposed declarations must be known to the public. We would, for instance, like to know which Minister owns what and how he came to own it.

[Mr. Speaker left the Chair]

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

Leaders in this country are known to donate hefty sums of money at fund raiser meetings. I am sure that Kenyans ask themselves: "How did these people come by all that money". It is the proposed Committee that will establish how individuals came to own the property they purport to own and how clean they are. Therefore, it would be proper for this House to suggest an amendment which will make whatever is owned by public officers known to the public, so that those who purport to be clean can also be clean in the eyes of the larger public, and those who are

corrupt can be seen to be corrupt. It would also be necessary to suggest that, at this level of declaration, the Commissioner-General of the Kenya Revenue Authority (KRA) will have direct access to the income, assets and liabilities of all public officers, so that one does not understate his income in a bid to evade paying tax. So, the Office of the Commissioner-General should also be afforded direct and unfettered access to information regarding assets and liabilities of public officers.

Mr. Temporary Deputy Speaker, Sir, I would now like to move to the fourth part of the Bill, which is on prohibited conduct. This Bill, as proposed, spells out a list of matters of conduct that are prohibited among public officers. The only area this Bill does not, squarely, address is on the issue of sanctions. Once the proposed committee determines that a public officer has violated a code of conduct spelt out in this Bill-- For instance, the Bill purports to cover Members of Parliament, Ministers, the Speaker of the National Assembly and the Judiciary. The Bill goes further to suggest actions to be taken against such officers including their dismissal. I find this proposal very hard to implement. Suppose the proposed Committee finds a Member of Parliament guilty of breaching a particular code of conduct, how will it procure the hon. Member's dismissal?

Therefore, the proposed sanctions to be taken against public officers who may violate the code of conduct and ethics should be harmonised with other laws and be made practicable in terms of implementation. Also, the particular proposed Committee should be given adequate powers to mete out severe punishment that would discourage people from, wilfully, violating the code of conduct and ethics. So, there is need to tighten the rules and come up with very adverse sanctions against those who will violate the spelt out code of conduct and ethics.

There is also need to make the vision of the proposed Committee final, so that its decisions do not become a circus. For instance, the decisions made by this House's watch-dog Committees are laughed at by hon. Members on the Government Front Bench, because the decisions taken by the Committees are not adequately backed by law. So, the proposed Committee's sanctions imposed against any offender, as spelt out under this particular part of the Bill, should be final, without making reference to any other authority.

Mr. Temporary Deputy Speaker, Sir, let me now come to part 5 of the Bill, which talks about the proceedings of the Committee. It is suggested in this Bill that in order for quorum to be achieved, *ex-officio* members - meaning the Head of the Public Service and Secretary to the Cabinet or his nominee and the Director of the Kenya Anti-Corruption Authority (KACA) or his nominee should mandatorily be members of the Committee. That kind of situation is not tenable. The quorum should be made flexible, and since this Committee intends to be effective and effectively deal with a very large population in Kenya, in terms of the so-called public officers, there is need to have numerous committees, like we have courts in various regions. There is need to have not just a single committee, but committees that can tackle misconduct by a population of around 300,000 persons. If we just had a single committee, I doubt whether they would be able to expeditiously deal with matters that come before them. It should be suggested, and I believe it will be suggested, that there should be numerous committees which will be able to deal with issues, or complaints as they arise and deal with them as quickly as possible.

Lastly, there is an aspect of this Bill that must be addressed. This Bill purports to bring a semblance of discipline among public officers, but nowhere in this Bill will you find reference being made to scrutiny of the person who holds the Office of the President. I believe that all public officers in this country, particularly civil servants, according to the law, are holding public offices at the pleasure of the President. So, if we have a Bill that is conveniently side-stepping the Office of the President, then, we cannot deal with issues of ethics and corruption in this country. So, we must find a way of subjecting the holder of the Office of the President to scrutiny. For instance, Kenyans would love to know how much property Mzee Kenyatta had, and how much President Moi has now, and how much whoever will be the next President will have, after the year 2002 and how all of them came to own such property.

So, if Kenyans know that, then, they will be able to make a right decision and will not clap for somebody who donates a lot of money in public Harambees - money that he acquired improperly from them. So, this is an aspect that must be brought to the fore in this Bill, and once that is done, then, all offices will be accountable. For that to be properly done, we must look again at the Constitution, particularly, section 14 that purports to give the President immunity from criminal and civil liabilities in this country. That must be re-looked at. We cannot have a creature of the law who violates the same law and cannot account to any institution in this country. I believe that this Bill must be looked at against that background, and once that is harmonised, then, all holders of public offices will be accountable to Kenyans. Their worth will be known than what they donate because currently, people do not know how such people have acquired their wealth.

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

The Assistant Minister for Agriculture and Rural Development (Mr. Khaniri): Thank you, Mr. Temporary Deputy Speaker, Sir, for also giving me the opportunity to add my voice onto those who have spoken earlier in support of this Bill.

At the very onset, I want to state that I support this Bill, with reservations. By that, I mean that there are some aspects of the Bill where I strongly believe that amendments must be made at one stage or the other - maybe at the

Committee Stage. But first, I will start by the positive aspects of this Bill. I want to start by saying that this Bill is long overdue. This is a Bill that should have been brought to the Floor of this House some 20 years ago. This Bill is coming when most of the public and research land has been taken away by top and well-connected civil servants and leading politicians. I believe that if the Bill came up some 20 years ago, it should have acted as a very good remedy for those kind of ills.

I urge hon. Members to support and pass this Bill because I believe that this Bill will go a long way in trying to stop corruption in this country. We all know the devastating effects that corruption has caused to our country. Corruption has left our people languishing in poverty, our Government broke and unable to implement some of the planned projects, and, therefore, anything that will help in reducing corruption in this country should be supported. I believe that this Bill will go a long way in eradicating corruption.

Mr. Temporary Deputy Speaker, Sir, if I may go to the Bill, I would like to draw your attention to part 2, Clause 3 (10). That is on page 1060 of the Bill. That Clause states:-

"Members of the Committee and of the secretariat appointed pursuant to section 4 shall be paid such allowances and benefits as the President may in consultation with the Directorate of Personnel Management determine and such remunerations and benefits shall be comparable to but shall not exceed the scales payable to judicial officers and shall not be reduced during continuance in office of the member concerned."

It is my opinion that for the members of this Committee to execute properly their duties, they should be well paid. One of the main reasons for the escalating corruption in this country is the issue of payments and remuneration to civil servants. If you pay them low salaries, then, they will look for other means of making money, and that will, obviously, lead them into some of these corrupt activities. I, therefore, recommend that the Committee members who are going to execute this Bill should be well remunerated and that should apply to all public servants, including hon. Members. They should be well-paid in order for them to perform their duties effectively so that they may not also engage themselves in other activities in order to earn some extra resources.

I will also draw your attention to part 3 - Clause 6(3) - on page 1063 of the Bill.

Mr. Temporary Deputy Speaker, Sir, Part III, Clause 6(3) on page 1063 says that no investigation shall be made and no explanation shall be required by or before any person or authority as to how a public officer acquired any of the properties specified in the officers initial declaration under this section. This does not make sense to me. It defeats the whole purpose. One of the fundamental reasons for having this Bill in place is to make people accountable. We want to know how they acquired their property. When you say that they are not bound to explain how they acquired their property, then it is not helping us. It is important that all those people in public offices should declare their wealth and tell us how they acquired it, as stated in Schedule III.

I will also draw your attention to Part IV, Clause 10(5) on page 1066. It states:

"Subject to Sub-section 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 institution represented by such public officer."

I strongly oppose this. This is one of the clauses that I thought should be deleted. In our African culture, one way of saying "thank you" is by giving a small token. When you go to a Harambee, you are given a bull of a cock for that matter. This Bill says that if you are given that kind of a token it should be the property of the Government. This is wrong. This particular section must be amended at the Committee Stage, otherwise, some people will be victimised for no reason at all. The same Part IV, Clause 12(3), on page 1067 states:

"A public officer shall not deceive or knowingly mislead Parliament, any Minister or the public."

I support this. In the past we know of cases where civil servants have given Ministers wrong answers to Questions asked in this House. Although our Standing Orders say that Ministers are directly responsible for the answers they give in this House, it is public knowledge that it is not the Minister who does the research in all the Questions that are asked here. We have our civil servants who do the research and give us the answers. In some cases, some civil servants have deliberately given wrong answers to the Ministers. The Ministers then end up giving wrong promises in this House. If this particular clause is fully enforced, then this will stop those kind of answers being given in this House.

I will again take you back to Part IV, Clause 12(5) on page 1068 of the Bill. This

clause reads as follows:-

"Provided that such an officer shall be required to resign his position before engaging in any elective process leading to such an officer being offered as a candidate and in the event that such an officer does not resign as required, such officer shall be deemed to have resigned from the day that he participated as a candidate in an elective process."

We know of cases in the past where some public servants have gone to run for an elective post; parliamentary or civic and when they lose they just revert to their positions. I think this particular clause should be fully enforced so that should a public servant want to quit and go to politics, he does it once and for all instead of abandoning his job for some time to go and stand in an election then after losing he comes back and takes the job. This should be fully

enforced to stop them from doing that.

Again on Part IV, Clause 12(5), page 1068; this has to do with usage of public vehicles. We know of cases where Government or parastatal vehicles have been misused by top civil servants and Chief Executives. We know of cases where Permanent Secretaries are assigned five vehicles; one for the wife, one to take the children to school, one to take him home over the weekend and one to take him to the office. If this particular clause is enforced, then this will stop them from those kind of activities. The same Part IV talks of misuse of imprests and allocation of public land. This is in Clause 16(a) and (b) on page 1070. Our Government is "broke" today because people have misused imprests. They go for unnecessary trips, take a lot of imprests and then they just come and surrender receipts. Previously this was accepted, but it should stop. If this clause is enforced, then this will deter them from doing that. On the issue of allocation of public land, we know of cases where land has been allocated to people who are able to sell it to Asians and make money. If there is any public land to be allocated, then it should be given to the poor and not to the rich to sell and make more money. Therefore, I support that particular clause.

The Bill has got its shortcomings. One of the major shortcomings that I observed in the Bill - and the Minister should seriously do something about it - is that it says one of the disciplinary measures is one's dismissal from duty. In this Bill, it has been stated to us that Members of Parliament are public servants. When you say that you will dismiss a Member of Parliament, it does not make sense. They must find other ways of punishing those kind of perpetrators.

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

Mr. Muite: Thank you, Mr. Temporary Deputy speaker, Sir, for giving me this opportunity.

Mr. Temporary Deputy Speaker, Sir, you cannot lump together, under this Code of Conduct, the Judiciary, Parliament and civil servants. That is wrong in principle. We need to separate them in promotion and recognition of the doctrine of separation of powers. We must deal with the Judiciary separately. We need a code of conduct for the Judiciary, as an institution. We need a code of conduct for Parliament, as an institution because hon. Members of Parliament are not civil servants and, therefore, they should not be lumped together with civil servants. We want our own code of conduct and it must go further than this Bill by disclosing how we are to work ethically. It should go even further than that. I am saying that our code of conduct should be separate and distinct from the one for the civil servants. When you read through this Bill, you realise that it is basically dealing with civil servants. It is like the Judiciary and hon. Members of Parliament have been brought in as an appendage. When you read most of these provisions relating to imprests and things like those ones, they are to do with civil servants. We, as hon. Members of Parliament have got a mandate from those who elected us for five years. We are not permanent and pensionable like the civil servants. So, let us separate these institutions. Let us have this Bill suitably amended so as to be confined strictly to civil servants. We have got our own Privileges Act, and we can have our own code of conduct as a schedule to the Privileges Act, or we can have our own schedule under the Bill that we have just passed, or even under the Crimes Bill. When you look at the way things are done here, you will find that there is an attempt by somebody somewhere to "prefect" the behaviour and conduct of hon. Members of Parliament. I would like to point out that, that person is not even elected. We need to re-think about these matters. Clause 3(d) states:

"The Permanent Secretary and Secretary to the Cabinet and Head of the Public Service or his representative shall be an *ex-officio* member, but shall also be entitled to vote in all matters before the Committee."

What is the meaning of an "*ex-officio* member"? If a member will vote, he is not an *ex-officio* member. This is the same individual who will provide the staff and the Secretariat. This is an attempt to subject elected Members of Parliament to the "prefecting" of an individual who is not elected. This is unacceptable.

I would like to say that I support the Code of Conduct and Ethics Committee, but let us respect the existing constitutional arrangement; let us draft our own code of conduct. In fact, as the hon. Vice-President has mentioned, the Kombo Report had a code of conduct for hon. Members of Parliament. Let us have it as a separate issue, debate and pass it, but we cannot pass this Bill in its present form. Even more fundamental - it is a pity that the hon. Attorney-General is not present in the House - this Bill has got serious constitutional implications that do not appear to have been addressed. There is no attempt to harmonise or synchronise the provisions of this Bill with the existing provisions in the Constitution. How you discipline members of the Judiciary, for example, judges, including dismissing them from duty is governed by the Constitution. You cannot now, without amending the Constitution come up with new proposals of another body that will recommend the removal or disciplining of members of the Judiciary. This is a contravention of the Constitution. We need to harmonise what we want to do here with the existing constitutional provisions because the powers that are given here are very wide. Clause 23 states:

"The Committee will have power of warning or cautioning."

So, if we pass this Bill in its present form, that Committee will have power to caution or even warn a judge of the High Court or Court of Appeal or a magistrate and, yet, those are matters that are provided for in the Constitution. So, how can we come up with a Bill that on the face of it appears to contravene or violate the Constitution? In recommending an officer for dismissal, suspension and so forth and so on, including initiating action for the public officer to be dealt with under the Constitution; you cannot do this because the Constitution already has those

provisions. There are very wide powers, like taking any other decision, which the authorised person may consider appropriate having regard to the contents of the report and all the relevant circumstances. This is a power that you cannot again vest in a Committee of this nature. So, this Bill needs to be harmonised with the current constitutional provisions. Therefore, the most appropriate thing for the Attorney-General to do is to come up with fairly drastic amendments; remove the Judiciary from the purview of this Bill; remove Members of Parliament from the purview of this Bill; bring a code of conduct for the Judiciary and hon. Members of Parliament and let us have this as a code of conduct for the civil servants. This is because our mandate comes from those who elected us. You cannot subject the dismissal of a Member of Parliament or resignation to a non-elected body. That, as a matter of policy and concept is wrong and we ought not to encourage that by passing this Bill in its present form.

If you look at page 1068, Clause 12(v) you will find lack of harmonisation. This Clause says:

"A public officer shall have a constitutional right to exercise his right to vote in any election."

Matters to do with who is to vote and who is to stand for elections, again, are matters that are provided for in the existing Constitution. You cannot duplicate roles by having a similar provision, because there will be conflicts. The question that will arise is: Is it the constitutional provisions that will prevail or is it the provisions that are in this clause? So, this Bill does not appear to have been well thought out in terms of harmonisation and there is a need for that. When that is done, I shall be the first person to very strongly support the code of conduct for the civil servants, the Judiciary and hon. Members of Parliament. I would like to say that ordinary Members of Parliament, in any case, do not have offices which they can abuse to acquire anything, but it is the civil servants. If you look at the situation in the United States of America (USA), you will find that it is the business people; people in commerce, trade, shareholding and that sort of thing who constitute the wealthiest class in that country. That is the trend all over the world. It is only in Africa, where you will find that the richest people are the civil servants. So, it is the civil servants that we need to control in terms of using or abusing their offices to acquire wealth. Certainly, the conduct of Members of Parliament also need to be subjected to scrutiny through their separate code of conduct.

Mr. Temporary Deputy Speaker, Sir, I also have problems with Clause 3 in terms of the constitution of the Committee. If you look at Clause 3(ii), you will find that the Chairman shall be appointed by the President after consultation with the Chief Justice, but who appoints the Chief Justice? It is the President who appoints him. In reality, even the Chairman is indirectly appointed by the President. Forget about the consultation because the person with whom the President is required to consult with in terms of Clause 3(ii) of this Bill is a person who is himself an appointee of the President. So, in reality, even the Chairman here is being appointed by the President. Again, the Vice-Chairman is to be appointed by the President in consultation with the Minister. Who appoints the Minister? Again, the Minister is appointed by the President. So, effectively, even the Vice-Chairman will be appointed by the President. Part "C" states that four members shall be appointed by the President from a list submitted by the Minister, who is himself appointed by the President. Even part "D" states that the Permanent Secretary and the Director of the Kenya Anti-Corruption Authority (KACA) are appointed by the President. Effectively, all the people who are appointed, in terms of Clause 3, are to be appointed by the President.

Truly, one is not talking about the current incumbent of the Office of the President of Kenya. We are talking about the Office. We are talking about the institution of the presidency. When you look at the situation in Kenya today, in terms of the existing constitutional order - and that is what we have been complaining about--- Take the civil servants, for example. From the lowest to the highest, they hold office during the tenure of whoever is the President. It is him who says who is promoted to what and who to be sacked. When you look at the Police Force, it is the same situation. From the lowest ranked to the Commissioner of Police, they hold office at the pleasure of one person, who is also the one to promote them. The question arises: Do those people serve the law and the public interest, or the political interests of their appointor. They are human beings. They have got families. Therefore, when the police are ordered to disrupt a rally, although they know that, under the IPPG package, which was passed in this House, they should not disrupt the rally and that, they are breaking the law if they disrupt, they are human beings. They know that if they do not carry out that illegal order, they will be sacked or transferred to far areas from where they are. So, they obey illegal orders. We will never have stability in this country as long as we have got the current constitutional arrangement existing.

If you look at the Provincial Administration, it is the same story. From the sub-chief through to the chief, district officer (DO) and the district commissioner (DC), it is the same story. When a Minister falls out of favour, a telephone call will be made to a DC. Even if he has slaughtered some cows to celebrate his victory, that party will be disrupted by a DO! One is compassionate to the DO because if he does not do it, he will be sacked. We have got such overwhelming concentration of powers in the institution of the presidency. That is what has led to patronage, incompetence and corruption. They have stemmed from our Constitution. Therefore, to increase those powers to appoint the Committee, we are taking away with the left hand what we are giving with the right hand.

I have taken the position that given the concentration of powers in the institution of the presidency, even if we were to bring an Angel from Heaven, and make him be the President of Kenya, he will cease to be President within three months! That is because "power corrupts and absolute power corrupts absolutely". Until we have got a new

constitutional order, we need to move away from the culture of increasing the powers in the institution of the presidency. I am not talking about the current President. It is the principle that is wrong. Even if somebody else was to become the president tomorrow, he/she will abuse those powers. The pleasure to abuse the powers will be irresistible. So, let us not ask the President to appoint the Committee. In fact, we can agree on a criteria. We can agree on people who are qualified to be judges and people of integrity. But let those names be submitted for parliamentary approval. It is highly unlikely that if you bring those names here, any name will slip through debate here. A lot of people, who have skeletons in their cupboards, when their names are suggested for appointment to congress, and knowing that the congress has to approve, will withdraw their names. They will say: "I do not want my name to be put forward". They will withdraw. I am suggesting that a suitable appointment is one which will lay down the criteria of the people to be nominated to the Committee. Their names should be subjected to parliamentary approval.

Finally, I wish to support hon. Khaniri. We cannot afford to skirt around the issue. We have to subject the institution of the presidency to even higher criteria. The code of conduct for the person who will be the President of Kenya must be higher than that for the civil servants, members of the Judiciary and even Members of Parliament! Let us have it here. Let the person who will be the President declare his wealth. He should also declare how he acquired the wealth. I want to support hon. Khaniri that there is no point in having a provision here that, once you put in your declaration of your wealth, you will not be asked how you got it. That is the way the clause dealing with the Presidency is worded. Once he submits a list of assets, he cannot be asked any questions. That is in Clause 6(3). It reads:

"No investigation shall be made and no explanation shall be required by or before any personal authority to show how a public officer acquired any of the properties."

That is wrong. What we are indirectly saying is that, whatever people did in the past will be forgotten. Even tomorrow, if we pass this Bill in its present form, we will give time to those who wish to acquire property corruptly to do so, provided that when they are elected to run for office, they will file a list of what they have. They know that they will not be asked any questions as to how they acquired those things. We have not gone far enough. We need to go back to 1963. We need explanations from everybody on how they acquired the properties that they have. We cannot subject that only to newcomers, while we give a free licence to those who did those things in the past. In summary, I would like to ask hon. ole Ntimama who moved the Bill to recast it, so that it is confined to civil servants. We shall pass it. Then, he should bring one for the Judiciary and we will pass it. He should also bring one for Members of Parliament and we shall pass it. Above all, he should bring one for the person who wishes to contest or occupy the position of the President, including the current President. We want to know what he has and how he acquired it. If we are to succeed in containing corruption in this country, or in any country for that matter, we must go right up, and find out how high the corruption has gone and then, start from there. Then, we should come downwards. We cannot start from down and then stop somewhere in between.

With those few remarks, I beg to support.

The Minister for Medical Services (Dr. Anangwe): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill on the Public Service Code of Conduct and Ethics Bill, 2000.

Let me preface what I want to say with an assertion that a Code of Conduct is nothing new to the Public Service, particularly for the civil servants. Some of us who passed through the Civil Service can recall very well that, before you could earn a promotion from one grade to the other, you were required to pass an examination and among the subjects that were demanded of some of us was, of course, proficiency in the Code of Conduct. So, you had to pass that particular examination.

In addition, our training was basically a socialization process where you were imbibing skills and attitudes; certain attitudes were inculcated into a civil servant. So, all I am trying to say, in terms of a Code of Conduct or as it were ground rules of performance within the Civil Service, there is nothing new about this Act. This Act will only go a long way in reinforcing what is already in place.

Mr. Temporary Deputy Speaker, Sir, may I also say that, to the extent we have had a Code of conduct or a Code of Ethics for the civil servants; to the extent that there has been a deviation on the part of those who are expected to adhere to a particular Code of Conduct, you may blame the civil servant for deviating, but one has to re-look or re-examine the kinds of expectations that are being made on the public officials themselves. I know that the role of the public official is always contextualised. To a considerable extent, that role is controlled or determined by the kind of environment that, that particular public official is working in. The standard behaviour of a civil servant in Kenya may not be the same as the standard behaviour of a civil servant---

*(Mr. Shakombo entered the Chamber
without bowing at the Bar)*

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Shakombo, will you go back?

An hon. Member: This is not a meeting of Shirikisho Party!

*(Mr. Shakombo went back, bowed at the Bar
and took his Seat)*

The Temporary Deputy Speaker (Mr. Manyara): Proceed, hon. Dr. Anangwe!

The Minister for Medical Services (Dr. Anangwe): Mr. Temporary Deputy Speaker, Sir, the standard behaviour of the civil servants in Kenya is not similar to the standard behaviour of the civil servants in the United States of America, Germany or Japan. Indeed, in terms of rationalization of behaviour, there are very salient features and root causes which lie deeper in the larger society that have to be addressed. We have to be very careful in the kind of expectations we make on our public officials. Unless we harmonise those expectations with the kind of environment that we are in, those expectations will always come to nought. Deviation from these expectations will be the norm. To that extent, those expectations are not really serving any purpose.

In my role as the Member of Parliament for Butere, many times I have been approached by public officials who have been disciplined for one reason or another. In one particular case, a civil servant turned up at my door step and said that he had been interdicted. When I asked him why he had been interdicted, he said that: "It is being alleged that I took a bribe". But I asked this particular civil servant whether he knew that it is wrong and it is against the Code of Regulations. I am caught between a hard surface and a rock. I am the area Member of Parliament and his representative. I do look at him equally as a potential voter. So, because of that kind of proximity and to the extent that I am also dependent on him, he would have the guts to tell me that "mheshimiwa, as you know, according to our tradition, you eat from where you work". Yes, that is the norm! That is his defence! "I did nothing wrong, I subscribed to the Luhya traditional ethics that; you eat from where you work". Well, that is what is expected of him. More so, when he becomes so corrupt and every day he is engaging in philanthropy, buying people beer in the local bars, he becomes very popular, he is even a potential Member of Parliament if he is generous enough.

Mr. Temporary Deputy Speaker, Sir, what I am simply saying is that, we have to be very careful here. We have to balance between societal expectations on the one hand, and on the other hand, the expectations of the Public Service, as a modern organisation that needs to rationalize its behaviour and its organisation in performance of its role. We have to be very careful. To the extent that we come up with expectation and even the ground rules that deviate from norms, these rules will be ineffectual. For many others, this has been a sociological phenomenon.

Why is it that when it comes to crude forms of corruption, or what has been called primitive accumulation--- Why is it preponderant in many parts of Africa? Sociologists will explain it readily and would say: "In an environment where you have a large portion of peasants and where the predominant mode of production is the peasantry, the society itself is defused. Even roles are defused. There is no separation between private interest and public interest. What is so-called public is also private. Therefore, it is understandable when you look at the behaviour of traditional chiefs. In our case, under Chief Mumia of the Wanga Kingdom, it was expected that if you were a chief or headman in that particular locality, there was no separate salary for you. You extracted your salary from the surpluses, as you dealt with the population. So, what we are simply saying is this, let us understand the society a little bit deeper, let us know where we are. Yes, let us put in place, at least, provisions that will minimize corruption. However, we stand a better chance of devising better mechanisms of curbing corruption if we understand the society better. We will be able to moderate those tendencies in the larger society which oblige public officials to engage in malpractices when they are placed in the public service context.

Mr. Temporary Deputy Speaker, Sir, the one fundamental difference which this particular Bill will make is to codify the Code of Ethics into law and to provide legal sanctions. That has not been there. If you look at the Code of Regulations in Government, the options open to a superior who finds infringement in respects of those ethics are a warning or summary dismissal. But there is no provision for that particular offending civil servant to be taken to court; he can only be fired and so forth. Now, we are translating that into a law where those who infringe the Code of Conduct can be taken to court. That is the major step.

The second fundamental difference which this particular Bill will make is casting the net further. Previously, the focus of the Code of Regulations was on civil servants. Now, the concern has been raised that Members of Parliament should also be included. If you look at the First Schedule, we have various categories of people who ordinarily, no one would ever think of including. We have people such as Parliamentarians, employees of local authorities, councillors, members of co-operative societies, *et cetera*. That is a major departure from what the practice has been previously.

Mr. Temporary Deputy Speaker, Sir, the third fundamental difference which this particular Bill will make is that it has created an institutional framework for supervising the implementation and administration of this Bill when it is translated into an Act. That is the fundamental difference. Previously, many of the decisions and actions were left to the immediate superior. If, for instance, a DO offended, it was left to the DC to take the initiative or to have the discretion to decide, on what punitive measure should be exacted against that particular civil servant. Now, what is being said in respect of this particular Bill is that we are centralising authority, such that the committee that has been

created will have the supervisory role, although it may also delegate. However, essentially, accountability and the ultimate responsibility to ensure the enforcement of the code of conduct lies on this particular committee.

Mr. Temporary Deputy Speaker, Sir, another issue that I would like to address is in respect of the definition. I have listened carefully to the contributions that have been made from the Floor of the House and I hear that hon. Members are having difficulty with the definition that includes Members of Parliament amongst public officers. Yes, I agree with what hon. Muite said; that, it raises a constitutional matter in terms of the principle of separation of powers. That particular principle provides that when you have the Executive branch, it stands on its own. When you have the Judiciary and the Legislature, they also stand on their own. I agree principally that if you are going to put in place a code of conduct, let this particular principle be respected. We are not saying that Members of Parliament should not be subjected to a code of conduct but indeed, they should. Being elected leaders in their own right, there must be ground rules in terms of their behaviour but in terms of administration, indeed, we have to respect the principle of separation of powers. However, in this particular Bill, we are being lumped together as public officers, those who hold public office, or as if we belong to a public body.

Mr. Temporary Deputy Speaker, Sir, indeed, when we look at the definition of a public body, it includes the Government, any department, service or undertaking of the Government, Cabinet and the National Assembly. However, it is important that if we are going to achieve any effectiveness in the implementation of this code of conduct, we should be able to separate what are the expectations in respect of an MP and those of a civil servant. Unlike civil servants---

Mr. Kihoro: On a point of information, Mr. Temporary Deputy Speaker, Sir. I worked with the Parliamentary Select Committee on Anti-Corruption and it made a recommendation in the Draft Bill that, there should be a Parliamentary Ethics and Integrity Committee which should be able to take care of all Parliamentarians and, therefore, separate them from what is proposed in the Bill.

The Minister for Medical Services (Dr. Anangwe): Thank you. Now, what I was simply saying is that when you look at the categories mentioned in this Bill, to be subjected to this code of conduct, the accountability for some of them is to their immediate bosses and superiors. However, in respect of Members of Parliament including Ministers, we are elected people and our accountability, of to our voters. Those are the people who can determine our fate. When you examine this Bill critically, and in respect of Section 23, if indeed, Members of Parliament are going to be subjected to this particular Bill, the kinds of penalties and sanctions that are provided include warning and caution. Now, who is going to warn the Member of Parliament and caution him if, indeed, it is established he has breached provisions of this particular Bill or code of conduct? If it is demotion, where do I go to? Do I become a councillor? What are we saying? If I breached this code of conduct and I am being demoted, where am I going to? This is because if we are going to provide for it, there must be a hierarchy below.

Mr. Temporary Deputy Speaker, Sir, are we saying that the Members of Parliament are going to become councillors in the process or what is it? If we are going to say suspension or withholding increments or surcharge dismissal---

Supposing, for instance, this House says: "The hon. Member of Parliament has breached this particular Act and he has been dismissed from this House", whatever it is, for practical purposes, it is impossible. We go outside there and my electorate are saying: "Our verdict has been compromised and we would like the hon. Member of Parliament to continue, what will you do? I shall still come back in this particular House, whether or not you dismissed me from it.

If, indeed, we were to subject everybody to theft on this corruption business and we say: "If you have been corrupt do not get elected", probably three-quarters of us would be out of this House on that particular criteria.

Mr. Temporary Deputy Speaker, Sir, I am simply saying: When it comes to Members of Parliament, we do not seem to fit quite well---

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Dr. Anangwe confirming that he is one of the corrupt Members who should not be in this House?

The Minister for Medical Services (Dr. Anangwe): Dr. Ochuodho, you are a computer expert. I said "three-quarters." I did not say 100 per cent. So, what we are saying in terms of sanctions as provided in here, they do not apply to Members of Parliament. They do not even apply to Ministers and to the Speaker. Let us have a separate code of conduct and, indeed, if at the Committee Stage, the Attorney-General or the Minister, may wish to consider this particular aspect.

Mr. Temporary Deputy Speaker, Sir, when I look at the Committee, as provided in Clause 3, I have no difficulties with the set-up except in two respects. Where you have also provided for the Secretary to the Cabinet and Head of the Public Service and also to the Director of Kenya Anti-Corruption Authority (KACA), these are also public officials. They are public officers who are also subject to the same. So, how are they going to handle this particular matter when it relates to them? We are not saying they should not be, but we are also saying that if they are going to be included, we have to develop a *modus operandi* on how matters in respect to their declarations are going to be handled; otherwise, the best decision would be to exclude them. Since they are also subject to the same Act, they should be excluded from this particular Bill, so that we leave this Bill, in terms of committees and membership, to people who are

not civil servants. We should exclude them.

Mr. Temporary Deputy Speaker, Sir, the Secretary to the Cabinet and Head of Public Service is a public official. The Director of KACA is a public official and, if indeed, it is true that things will stay the way they have been formulated here, Ministers will submit their declarations to this Committee and, that means His Excellency the President will also do the same and that is stripping us before our juniors. The Head of Civil Service is a civil servant and he is my junior and there is no way I am going to expose myself to a civil servant. Let him be excluded for purposes of effective administration; to ensure impartiality in the handling of this particular matter. So, we should leave out the Head of the Public Service and the Director of KACA. The hon. Minister should consider that suggestion. I have no problem with the President appointing the chairman, vice-chairman and the four members. That is his constitutional right and it is provided for in Section 23, where the executive authority lies with the President; in terms of appointments and that is quite in order. So, let him play that particular role.

The Temporary Deputy Speaker (Mr. Imanyara): Order! You are aware that the Speaker made a ruling that we discuss the Motion for Adjournment to discuss police harassment of hon. Members.

MOTION FOR THE ADJOURNMENT UNDER STANDING ORDER NO.20

VIOLENT DISRUPTION OF MEETINGS BY POLICE

The Minister for Trade, Industry and Tourism (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, I beg to move that this House do now adjourn.

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Appreciating the importance of this matter for us as a House--

The Temporary Deputy Speaker (Mr. Imanyara): Order, Dr. Kituyi! We have only one hour between now and 6.30 p.m. Hon. Members, if it pleases you, we will allow every hon. Member who wishes to contribute to this Motion five minutes, except the Mover who will be given ten minutes to move the Motion. This is because we cannot discuss this Motion for two hours since no such request was made and we must follow the provisions of the Standing Orders. So, do we allow hon. Members speak for five minutes?

Hon. Members: Yes! Yes!

The Temporary Deputy Speaker (Mr. Imanyara): Therefore, Dr. Ochuodho, you will speak for ten minutes while the other hon. Members will speak for five minutes.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I must begin by thanking the Chair for allowing debate on this Motion and also for having kindly agreed to extend time, so that we can debate this very vital Motion.

I am particularly disturbed at the manner in which public meetings have been violently disrupted by different agents; sometimes by hired goons and more particularly by the police. The general issue of licensing of public meeting; be they meetings convened by politicians or civil society groups or by farmers, is a thorny issue to me and, I believe, to many members of the society.

Mr. Temporary Deputy Speaker, Sir, we all remember too clearly what happened in Kisumu on Sunday when Dr. Oki Ombaka, a disabled person, was reported to have been a target of a petrol bomb. I may also report to the House that on Saturday in Rodi Kopany, in my constituency, a very innocent child of eight months died due to choking from teargas fumes. This happened when the police fired teargas inside a shop where the mother of that child had gone to seek refuge.

Mr. Temporary Deputy Speaker, Sir, the issue of violent disruption of meetings leaves some of us wondering what we really need to do when we want to meet our people. The IPPG amendments allow members of the public and leaders to convene and hold public meetings without applying for licences. But there are still some people within the Government, especially the Provincial Administration, who seem to believe very strongly that whenever you want to have a meeting, whether it is a meet-the-people tour or a Harambee, you still have to apply for a licence. According to the Constitution of Kenya (Amendment) Act of 1997, which I have read several times, no meeting whatsoever requires a licence. All that is required is for you to notify the police. Even this applies only to public rallies and not meet-the-people tours or Harambees. The law does not require anyone to get a licence to hold any kind of public meeting. You only require to notify the police, between four and 14 days, before the function takes place - if it is a public rally. But there are many instances when members of the public, especially farmers and also politicians, have notified the police duly when they will have public meetings and then at the last minute, the police have used very flimsy reasons to cancel these meetings. In a number of instances, those meetings have been very violently disrupted.

Mr. Temporary Deputy Speaker, Sir, we remember only too well what happened when the first Muungano wa Mageuzi rally was called at Kamukunji. Goons were brought to Parliament who marooned Parliamentarians here for five hours. I was a victim of that and within that time, police officers were walking aimlessly around this building

pretending to take no notice of what was going on. Something similar was at the same time happening at Kamukunji Grounds. Those hon. Members who were able to get to Kamukunji were beaten ruthlessly by the police and yet, this meeting had been convened in accordance with the law.

Mr. Temporary Deputy Speaker, Sir, it is in this light that I felt it is important that we give an opportunity to the Minister in charge of internal security, and I hope it will not be hon. Biwott, to respond. I do not see the Minister in charge of internal security in the Chamber. I think it is important that the Minister is given an opportunity to clarify to the House, and also to the country, what is really required when one wants to have a *bona fide* and legitimate meeting. Only yesterday there were reports that farmers in Kitui who had convened a legal meeting were violently dispersed by the police for reasons that are yet to be given.

We also remember several instances in Laikipia and Eldoret. For example, in Laikipia, hon. Nyachae was reported to have had his Harambee cancelled at the last minute, and yet, all the necessary arrangements and notification had been made. This was out of courtesy really because for a Harambee, as I have said, the law does not demand that one notifies the police. The organisers of that Harambee did notify the police out of courtesy, like we did also in Homa Bay. We also remember the Eldoret case, where the police were directly throwing teargas into cars of hon. Members. This also happened in Homa Bay. A teargas canister was directly thrown into my vehicle and it exploded. I am still suffering because the chemicals I inhaled. All this happens at a time when you believe that you are holding the meetings to help your constituents.

Mr. Temporary Deputy Speaker, Sir, in the case of Cherangany, hon. Kirwa is very unfortunate indeed. The DC, Mr. Oreta, is on record as saying that he does not care about the law or Parliament and that he only takes the instructions that he is given by an unnamed person. We do not know where these instructions come from. The mother of Mr. Oreta comes from my place. There is what in Dholuo we call an "*lukeo*". If he does not change and continues to be misused to frustrate hon. Kirwa we, as his uncles, will spit on him, as a curse so that he stops to be misused to frustrate the pro-democratic movement that is taking place in the country.

Mr. Temporary Deputy Speaker, Sir, we also remember the case of hon. Anyang'-Nyong'o in Maseno recently, where he had notified the police that he was going to have a rally. But what did we see? The police violently disrupted the meeting. The case of Muhoroni is also still very clear in the minds of some of us. Sugar cane farmers had notified the police that they would meet to discuss problems facing the sugar industry. Again, what did we see? They were also dispersed violently.

What happened in Kisumu over the weekend is still fresh in our minds. The Ufungamano Group had notified the police about their meeting. They were only 50 metres away from the police station. What did we see? We saw hired goons who had earlier warned that they were going to disrupt this meeting. They still went ahead and kept their word and the DC took his sweet time to come. What annoys me even more is the danger that Dr. Ombaka, being a blind man was exposed to. What did these people intend to do? It is clear that somebody wanted to kill him. This is because when you throw a petrol bomb at somebody, basically, you do not care whether they die or not. In the case of Rodi Kopany, a number of policemen were coming to hit me on the head with clubs. Fortunately, there were a number of people around me who saved me. But 30 of my constituents were not so lucky. One of them was a policeman whose leg was broken by the public when they hurled stones back at the police. I am not happy even when it happens to a policeman because even policemen are Kenyans. I also understand in many instances, they are being misused. In fact, I must laud those police officers in Homa Bay who refused to obey the directives they were being given by the OCS that they should shoot. Some of them, obeyed and others did not. So, I am not celebrating that a policeman's leg was broken by the public. But was it really necessary for this to happen? We had convened a Harambee to help the constituents and we had notified the police. What excuse did the Provincial Administration have to stop this meeting from taking place?

Mr. Temporary Deputy Speaker, Sir, even more importantly, there was a case of this mother who was carrying an eight-month old child and she was not even coming for the Harambee. She was on transit. I must say this was a constituent of my colleague, hon. Ojode, who had gone to Rodi Kopany the previous day with the DC to try to plead with people not to attend the Harambee. I am glad the people of Rodi Kopany ignored them and still came to the meeting.

Mr. Ojode: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am the Shadow Minister for Local Government and I do not want my name to be soiled by anybody. I am saying this because I have nothing to do with the transformer which was commissioned by the DC.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ojode, what is your point of order?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, is it in order for the hon. Member to drag my name into his own problems? Dr. Ochuodho, you know that when the "Minister" is talking, you should not interrupt him!

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I was saying that the eight month old child who died comes from hon. Ojode's constituency. That lady was on transit and Rodi Kopany is a connecting point. When there was commotion, that lady decided to take refuge in a shop. But the policemen decided to raid the shops, and threw teargas canisters inside. That is how the child choked and died. It is such a shame! I hope he is proud since his actions

led to the death of that child. Maybe, I should advise him that if he steps into the Rodi Kopany area in the next ten days, he is not going to leave that place alive. He will probably also die like that child!

With those few remarks, I beg to move.

Mr. Ngure: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to threaten to execute violence?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Dr. Ochuodho, you have run out of your time but you know what was said is certainly not in accordance with the Standing Orders. You must withdraw the threat to take away the life of your colleague.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I am not threatening anyone, I am simply advising him.

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, the hon. Member has used threatening language against another Member. Would you ask him to withdraw and apologise?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Dr. Ochuodho, did you withdraw the threatening language?

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I was not threatening anyone. My words were that, and I am sure the HANSARD can bear me out--

The Temporary Deputy Speaker (Mr. Imanyara): You said "He will not come back alive".

Dr. Ochuodho: I am advising him because that is what the residents said. If he wants to prove me right, let him try it.

Mr. Ojode: On a point of order, Mr. Temporary Deputy Speaker, Sir. I will pardon him because I know he is a patient. This is a Mathare Hospital case! I will not respond to those threats.

(Laughter)

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! You are out of order.

(Question proposed)

Dr. Kituyi: Thank you, Mr. Temporary Deputy Speaker, Sir. If we descend into personalised confrontations here, we will miss an opportunity to deal with a matter that is putting to shame the dignity of this Parliament, the honour of hon. Members and the relationship between legislators and the Executive. The matter before us is a very fundamental one. It is a question of whether the Executive is ready to rule by the rule of law or not. Until the last few weeks, I had not noticed that the IPPG is a four letter word. It has become discredited and shameful. It is a major statement about the collapse of the rule of law. When you listen to statements by the President, Ministers, and by some DCs who still operate like they are in the Stone Age, they just show either total ignorance of the provisions of the law or disregard of the rule of law.

Mr. Temporary Deputy Speaker, Sir, the issue before us is this: What authority does, either the President or DCs have to order the police to disrupt a properly constituted public function? He is not informing them about what the law says. They are supposed to know what the law says. They hire and pay people who are supposed to let them know, to chase away their ignorance about the law. But what brings back this impunity? What allows persons to flagrantly abuse the rule of law? The foundation of the legitimacy of any government is that, it is ready to obey its share of the contract with its citizens. We submit to a Government which is even given the authority to kill us through the courts. It rules that we should be killed. We pay taxes to this Government and allow some of its officials, with very dubious standards and reputations, to even fly flags at the taxpayers' expense because we assume they will also obey their part of the contract. If they are going to shoot and kill, if they will chase us like wild animals in market places, if they are going to announce in public functions that such-and-such party should be prevented from holding rallies or ban certain persons from speaking in certain parts of the country or not to licence rallies for such people, what authority do they have to expect citizens to obey their orders? What obligation do we have to consider that government as our Government?

On the day of the infamous abuse and breach of rights in Eldoret, I was chased, at high speed, by a Land-Rover full of anti-riot police, for over 65 kilometres, from Eldoret Town up to River Nzoia, on the outskirts of Webuye Town. As the police passed through the market centres, they shot rubber bullets and hurled tear gas canisters at *wananchi*, who were going about their normal business. If we have goons running around and doing those kinds of things at our expense, what are they being paid to do? What right do they have to do such things to this country's citizens?

Mr. Temporary Deputy Speaker, Sir, I know that some of us are not liked so much by some people in the Government, but we are not here because they like us. I am not in this House because President Moi likes me. I am not in this House because any Minister likes me. I am not in this House because I want to be a friend of KANU. I am here

in spite of them. In fact, they are here in spite of my dreams and prayers. The law separates our personal emotions from our responsibilities. The time has come for Kenyans to ask their Government "Are you ready to embrace the responsibilities of the high offices you hold, and lord it over us legitimately if you are also going to abuse the same law?" Government Ministers breach the law flagrantly.

The President orders the police to act outside the provisions of any written law, or convention in a civilised society, and he gets away with it, with impunity. The rule of impunity is a negation of even the minimum standard of the democracy we are trying to cultivate in this country; we cannot pretend to call each other pleasantries such as "honourable gentleman", "hon. colleague", the "right honourable Minister", among others. We are Ministers and hon. Members in this House, but goons out there. The sanctity of this House is abused when goons are hired to hold the National Assembly hostage in spite of the presence of uniformed policemen at the entrance to Parliament Buildings. The first thing that should have been done would have been to fire every policeman who was on duty at Parliament Buildings on that day. When we keep quiet, it is assumed that we are comfortable with what happens. The people behind such hooliganism assume that, because we are servile, people can do whatever they wish with impunity.

Mr. Temporary Deputy Speaker, Sir, let it go across to the Government that the impunity with which these things have been happening is driving very many people to the brink. The natural sentiments and desire for self-defence can never be suppressed by guns. The more those in Government abuse the privileges given to them, the more Kenyans get angry; they are looking into the reasons as to why they should continue listening to and obeying those in Government. I hope that reasonable minds will rise from the other side of this House to condemn the conduct, by the Government's top officers and agents, for primitive abuse of the rights of Kenyans because of the pleasure of those who ride in sleek cars, and command the armed forces out of this country's taxpayers' money.

With those few remarks, I beg to second.

The Minister for Tourism, Trade and Industry (Mr. Biwott): Thank you Mr. Temporary Deputy Speaker, Sir, first of all, let me affirm to the hon. Member who has just spoken, that we have reasonable minds on this side of the House; we think reasonably and act responsibly.

Mr. Temporary Deputy Speaker, Sir, I think the issue before this House today is that of rights and privileges. Rights and obligations are linked together. Every hon. Member has his human rights and the obligation to also honour the rights and wishes of others, so that the two do not conflict. Let us go back to the issue of the Inter-Parties Parliamentary Group (IPPG) talks of 1997; I also participated in those talks. When we deliberated on this issue at the IPPG talks, we were thinking about the conduct of a Member of Parliament within his constituency; we did not see any reason for him to require a licence to address his own constituents, who elected him to this House. We never at that particular time thought about people who invade other people's constituencies without the knowledge or support of those individuals. I refer to those people who are going out to talk about revolution because, for example, Mageuzi---

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. I wonder whether hon. Biwott is confirming what we know. In Rangwe, I understand that they have an acting MP. Does it mean that I am an outsider in my own constituency?

The Minister for Tourism, Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, I am just speaking generally in connection with the Inter-Party Parliamentary Group (IPPG) meeting. I am not speaking about individual incidences that took place, or might have taken place because there is a Minister here who is responsible for that and he will answer you. I am just talking about common sense - about the need to respect each other and conduct oneself in a manner that does not infringe on other people's emotions and create unnecessary confusion when we as hon. Members should be setting examples, so that others can copy us as role models. So, I was talking about the concept of a Member of Parliament. I am one of those who would like to move freely in my constituency, going about my own---

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Biwott to mislead this House and the nation that the intention of the IPPG was for the hon. Members to limit themselves to their own constituencies when hon. Members from KANU, the President and Ministers, can roam everywhere in this country with impunity?

The Minister for Tourism, Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, a Minister is a Minister of the Government and for this country, and the President is the President of the country and they can move around the country in performance of their duties. But as individual hon. Members, he or she should bear in mind the need to move in his or her constituency in a manner that was prescribed by the IPPG. Then, regarding the other public meetings - which we deliberated on at length at the IPPG meetings - we did agree that instead of the DCs issuing licences, let the police be the ones who would be issuing them after they have been given a notice. It was agreed that an hon. Member---

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that Ministers do not need to go by the law by notifying the police of their meetings and that

licences are still required while he knows that licences are not required anymore from the police?

The Minister for Tourism, Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, I do not know what is to "mislead" because I have not misled anybody. I have said that when a Minister is carrying out his or her ministerial job, he or she can move freely.

An hon. Member: Ministers are above the law!

The Minister for Tourism, Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, Ministers are not above the law. They have ministerial responsibilities and duties to perform.

Let us now look at the public meetings. It is true that we agreed that hon. Members who want to hold meetings would inform the police, and if there is no other conflict, they would be allowed to do their job.

With those few remarks, it is better to set the record straight, so that we stop any marauding and interference with the law and order.

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, I am one of those persons in this House who have been subjected to police brutality. On 5th October, 1998, my ear was punctured by the police whom I pay to keep peace and order in this country. This is because this Government continues to misuse the police in this country. The police training college is in my constituency and the Government should get it out now. The time has come for you to change the police training manual because, from 1963 up to the present, the people of this country have been abused by the police. The people of this country pay the police to maintain law and order and not to puncture their ears, maim, kill and torture them. That is what has happened. We have a very hypocritical Government here. They order the police to do all these things and they come here and plead justice and say that the police is doing their work. They are not doing it and you know it.

The other day we heard hon. Kirwa say that you were going to disrupt a rally on Friday. That is what you did and you still come here and smile. You should be ashamed of that!

I still have teargas canisters and rubber bullets in my house, that have been fired unnecessarily. Last year, during the Budget Speech, Members of Parliament were chased by the police from this House and it is still happening. Why should we continue having a Police Force which is an army of occupation here? You do it every time and you have no reason for it. We love this country more than you do; very much so. You do not love it! If you did, you would be very sympathetic to the people of this country who are law-abiding. They go to meetings and there is no violence until the police gets there. When the police gets there teargas is fired and innocent Kenyans are killed. I have to fire you! If I cannot fire you from the hip, I will fire you from the mouth.

The Temporary Deputy Speaker (Mr. Imanyara): Address the Chair!

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, the farmers and teachers have been beaten in this country. During the teachers' strike, teachers were subjected to unnecessary violence. We need to decentralise the Police Force in this country and get it out of the Office of the President. They have too much power. When hon. Prof. Saitoti becomes the President, we do not want him to have so much power.

Hon. Member: Hata KANU hawamtaki!

(Laughter)

Mr. Kihoro: We do not want him to have so much power because we know he will abuse it, however timid he is today.

The Vice-President (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. Are you satisfied that the hon. Member is in order to discuss an hon. Member of this House without a substantive Motion?

Mr. Kihoro: Thank you, Mr. Temporary Deputy Speaker, Sir. I will take you on later on. I hope you will not have become the President then, because it will be impossible to take you on. It is very important to decentralise the police command in this country. The problem is concentration of too much power on one individual in the Office of the President; whether it is the Minister of State, whom, a long time ago I did consider to be a gentleman and a man of peace, but no longer considers so. It is important--

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member not misleading this House when he says; "When hon. Prof. Saitoti becomes the President", when he knows very well the President is grooming hon. Biwott to succeed him?

(Laughter)

Mr. Kihoro: They are sitting shoulder to shoulder and there appears to be no problem for the time being.

The Minister for Tourism, Trade and Industry (Mr. Biwott): On a point of order, Mr. Temporary Deputy

Speaker, Sir. Is the hon. Member in order to mislead this House by bringing in extraneous suggestions, when he knows that there is absolutely no vacancy in that office?

Mr. Kihoro: Thank you, Mr. Temporary Deputy Speaker, Sir. It is good that the main rivals to power are sitting shoulder to shoulder. It is also very good to see them smiling. We want to decentralise police power in this country and have separate commands. It looks like when the police harass people no action can be taken. They can kill, maim, torture and beat up people. Nothing happens when they are acting on the orders of their godfathers.

The Vice-President (Prof. Saitoti): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to say a few things.

Let me, first of all, start by saying that, in this House, we agree that every hon. Member of Parliament should be free to move about his duty; to hold meetings in our constituencies so as to interact with the people who brought us here. There is no difference between that side and our side on this issue. Secondly, I think we need to agree that, as elected Members of Parliament, we carry a great deal of responsibility to our people and this country. What kind of a country do we really want? Do we want to have a chaotic country? Do we want a country, as some of us have been known to say, that is ungovernable, or do we really want to have a country that is stable, where respect and the rule of law are paramount? Were we to think positively, I have no doubt whatsoever that, indeed, the kind of difficulties that we have had would perhaps not have been there.

I have listened with a great deal of pain the denunciation of all policemen. Just like you and I, there are some officers in the Police Force who have a weakness, because no human being is infallible. But there is a large number of officers in the Police Force who are very dedicated citizens and who do the best they can under extremely difficult conditions. I think it will be unfair for this House to make total condemnation of the police when we know that quite a number of them are dedicated to their work.

Mr. Maitha: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Vice-President in order to mislead this House that we are condemning the police? If they receive orders from the Government, in which he is the Vice-President, they have to take them. The police officers do not act on their own, but they receive orders!

The Vice-President (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I think the hon. Member does not understand what I am saying. I will repeat this for him to hear; we have wonderful people in the Police Force and the worst we can do is to discourage them. These people toil out there under very difficult conditions. There is one or two officers who are not disciplined and we have to deal with them. They may very well need retraining. Let us agree that both the Government and hon. Members in the Opposition should create an enabling environment for the Police Force to do its work properly. As leaders, let us be at the forefront of spearheading the upholding of the rule of law. Why do I say this? How long will we abuse it? You, hon. Members, have been seen on television abusing those officers even before they throw anything. Some hon. Members have called police officers dogs. They are human beings and have got feelings like you and I. We agree that there may be problems, but let us handle them carefully so that, at least, we can differentiate between the real bad characters and the many good ones.

If some of us, and you want change, and there is nothing wrong about it--- Change is a dynamic system and it has to be evolutionary and peaceful. But when we go out there and talk about *mageuzi*, what is *mageuzi*?

Hon. Members: It is change!

The Vice-President (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, we have heard from those who uphold the dogma - because to me it looks like a dogma if not an ideology - that the real purpose is to bring change into the country violently, if possible. Hon. Dr. Kituyi is known to have said that. I do not want to talk about Dr. Kituyi, but he said that in a rally in Nakuru.

Mrs. Ngilu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Vice-President to insinuate that *mageuzi* means violence, when we have held several peaceful meetings? In Machakos, it was very peaceful simply because there was no sign of a policeman!

The Vice-President (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, mine is to say that the hon. Lady does not believe in violence. I think it is high time she got out of the *mageuzi* group.

Mrs. Ngilu: Thank you, Mr. Temporary Deputy Speaker, Sir. I am a total believer in *mageuzi* because we need change in this country. This is a Government that thrives on intimidation, violence, impoverishing Kenyans and threats that it carries out to members of the public and Members of Parliament. We need to start learning new tricks and technics on how to advance our arguments and debates to the public. When I listened to Dr. Ochuodho say that during the Rodi-Kopany meeting, a child died because of violence, I think it is a day that all those who are in this House should come together and agree on how we will put our country in order.

Mr. Temporary Deputy Speaker, Sir, time and again, Members of Parliament have brought their concerns to this House, and asked whether it is possible to allow every Kenyan to be free, and to express oneself in the best way possible without insulting one another. I think there are many of us in this House who know that, if they were not

either rigged in this House, or people worked for them to get into this House, they would never have made it. It is for that reason they fear that, educating Kenyans on their own rights will suddenly make them know who should lead them or not. It is for that reason that they do not want Kenyans to be educated. I want to say that, in all the meetings that we have held, where the police have not interfered, they have ended very peacefully.

Mr. Temporary Deputy Speaker, Sir, on the 4th of November, we went to a Harambee in Mutito Constituency. Hon. Muthusi Kitonga had invited us. By the time we got there, with hon. Nyachae and other Members of Parliament, we found police from all police stations in Kitui District, ready to fight and beat the people. Poor women who were coming to the Harambee ran away. They stationed themselves on the route and waited for us. To my surprise, they told hon. Members who had come for the Harambee: "You can find a way of leaving the money! We want you to support us. But we just cannot come near simply because we fear to be hurt"! Who was in command of the brutal police officers? It was the District Officer (DO) himself! The DO of that area knows very well that he is not supposed to participate in politics! Eventually, the people came and we told the police: "There is no way! We shall carry on with the Harambee!" When they realised that the people had put their feet down, they let go.

Mr. Temporary Deputy Speaker, Sir, on the 26th of October, 1998, in my own constituency, we were beaten thoroughly by the police, when we were holding a meeting. The Minister here said that it was because we had not informed the Provincial Administration. Just last weekend, at Kavati Location in Kitui West, the DP had organised a peaceful meeting. The Minister, who is sitting in this House now, I believe certainly that if he had been properly elected, he would have nothing to do with meetings organised in that Constituency. He organised the police to come and disrupt that meeting.

The Minister for Environment (Mr. Nyenze): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order, for hon. Charity Ngilu to see a Minister seated in this House and think that he must have organised the disruption of that meeting? There are several Ministers here. Let her be specific. Is she in order?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, the guilty are afraid! In fact, it is none other than the Minister, Mr. Nyenze, who organised for the DP meeting not take place. He went to Kitui Town and paid boys from Kitui Bus Park, Kshs20,000 so that they can go and mobilise people to beat--- I would like to go on contributing because that happened on Saturday morning---

The Minister for Environment (Mr. Nyenze): Mr. Temporary Deputy Speaker, Sir, is it in order for hon. Charity Ngilu to say that I went to the Kitui Bus Park and paid some money to the youth to disrupt their meeting when actually I was in the church worshipping? If Charity Ngilu has any grudge against me, it is because she lost all the councillors who defected from SDP to KANU!

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, the Minister for Tourism, Trade and Industry has been outside this country promoting tourism in this country. Are you going to make it, if this country is in anarchy, as it is?

Mr. Maundu: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity, within a short time, to make a few points which I consider to be critical and relevant.

I may hate the law, I may refuse to accept the law, but I will rely on the law to make sure that my neighbour does not hack my neck. The issue of violence against anybody in this country is a matter that this House must condemn in the strongest words possible. It is even more serious when that person, who has been harassed, intimidated and pushed to the wall, is an elected Member of a Parliament who champions the rights of the people of Kenya. The Government has the dominant role to rule and that role should not be compromised in any way. That role again should not be used to emasculate and intimidate Kenyans who prefer peace rather than war. I have seen it with my own eyes, where ordinary DOs and DCs are being used by power brokers for purposes of political expedience; where people are pushed to the wall! I know the DOs and the DCs do not want to do it. They confess to us later on that they had to do it because it was politically expedient to certain people. When shall we ever stop this culture, where even when there is a law saying very clearly that, meetings for Members of Parliament within their constituencies need no particular notification, the Government still believes that meetings of politicians must continue to be censored and be restricted merely to perpetuate a certain way of thinking in our country?

Mr. Temporary Deputy Speaker, Sir, we must accept that when we sat down during the Inter-Parties Parliamentary Group (IPPG), we did make it clear that because this problem was dominant, there would be no need for licences or even notification for a Member of Parliament. However, the Minister of State, Office of the President, in charge of internal security, believes that the law should be set aside, in the sense that he should now instruct the police to demand things that are not required by the law. We want to ask the Minister in charge of internal security not to let a problem of this magnitude become a problem of the Government. I think, if the Minister in charge of internal security is incapable of controlling the police, then I believe this Government has more serious and competent Ministers who can supervise that docket. I love him, he is a very responsible person, he is handsome and I believe he can do the job! But what interest is there for the Minister to be turned round and round? He is now on a merry-go-round. He touches on sensitive things and he thinks he is going to get away with it, but he will not .

Mr. Minister, this is a matter of security! If you are going to have a heritage that is firm, then it should be against intimidation, harassment and arm-twisting by the police officers. Let us not also vilify the police officers beyond a position which is unacceptable. The police seem to have been put in a game by a few players where they have no capacity to do anything. They have been over-manipulated by so many other power brokers, to the extent that they do not know which song to sing. The Minister should give direction and firm instructions. Tell them what the law is. If they do not know, there are so many lawyers in this House who can interpret the law so correctly that, even the Court of Appeal would be ashamed to overturn that decision.

Mr. Temporary Deputy Speaker, Sir, I want to say this: The President has issued a warning, saying that political meetings should not be interfered with, and yet around the corner just the next day, these meetings are interfered with. How does this system operate? We must accept in this House that those things that pertain to the Members of this House in terms of protection, those issues that relate to Kenyans in general, must be protected even at the risk of death. If we are serious Members of Parliament, we must stand firm and this Parliament must accept this thing today. That is, if it is alleged a Member's interests are affected, we are together and in harmony and singing one song. I want this side of the divide to accept this point that violence against any individual in this country is wrong and not right.

(Applause)

I want my brothers on the other side to also accept the view that perpetuating violence has no political mileage or any destiny whatsoever and the moment we accept these principles we shall survive.

Mr. Munyao: On a point of order, Mr. Temporary Deputy Speaker, Sir. This Motion has generated a lot of interest as you can see. I know that the Speaker said its duration should be from 5.30 p.m. to 6.30 p.m. but this House can change the Speaker's ruling. Could the Question be put because we want to go up to 7.00 p.m. and we are the employers? Let the Question be put since this Motion is very important!

(Laughter)

Mr. Ngunjiri: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise at this juncture to reiterate the idea that the IPPG did, in fact, require Members to notify the police whenever they want to have a meeting and that should be very clear in the minds of the police, the Provincial Administration and everybody else. This is because, if need be, policemen are men like others; policewomen are women like others but the members of the public outnumber them. So, for the moment, let them not swim in the glory of disrupting meetings because it will be impossible if the members of the public decide that they are not going to disrupt meetings any more.

Mr. Temporary Deputy Speaker, Sir, changes in this House were brought in when **[Mr. Ngunjiri]** members of the public decided not to kneel to the brutality meted out by the Government and the police and that is why we are talking here as members of the Opposition parties and let that one go deep down in the minds of our Government, policemen and everybody that we are now in a system of dialogue. We are in a system where everybody must have his freedom to speak, meet people, visit the constituencies and organise Harambees. So, let us nurture that multiparty idea. Multipartyism demands that the fellows in the Opposition must have their say and if the people in the Government are the majority, they will have their way.

Mr. Temporary Deputy Speaker, Sir, I must say, here and now, that hon. Members on both sides of the House must respect one another and not assume that multipartyism was introduced in the country to get one individual to power. But multiparty was introduced so that Kenyans enjoy the freedom that democracy requires of them.

In my constituency, I thank God that the police might not disrupt my meetings because they do not have vehicles and there are no roads. If need be, we could meet in the lake but, unfortunately, the police do not have speedboats. That is the price we are paying in the fight for democracy in the country. That fight was started by KPU and it saw one of my uncles brutally murdered and nobody was taken to court.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ngunjiri, it is time for the Minister to respond on behalf of the Government.

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, this Government believes in law and order---

Hon. Members: Shame! Shame!

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, we operate within the laws of this country. As far as public rallies or gatherings are concerned, the IPPG resolution is quite clear that no permit or licence is required for these meetings. We operate within those parameters. But within the same resolutions and the amendment of the law, the regulating officers are given permission to cancel such meetings if

they feel those meetings will pose any security threat. So, this is what always happens when the security agents on the ground feel that there is imminent threat to security or there is a likelihood of breach of peace, law and order in the area where that particular meeting is to be held. Therefore, when they cancel those meetings, they are acting within the provisions of the laws of this country. In acting within the law---

Mr. Maitha: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister is from the Coast Province. We feel ashamed that Coast people are misused by this Government. Is the Minister in order to mislead this House that officers can cancel any meeting, even if it is a Harambee meeting, which is meant to help our constituents?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, whether it is a Harambee meeting or a public rally, if the officers on the ground feel that there is an imminent threat to law and order, then they are perfectly justified in dispersing such a meeting! The problem---

Mr. O.K. Mwangi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I seek the guidance from the Chair on this matter. Is the Minister saying a Harambee meeting should be cancelled if the officers on the ground feel there is an imminent danger to peace, law and order? How can a Harambee meeting be a threat to peace and order?

The Minister of State, Office of the President (Maj. Madoka): Yes, Mr. Temporary Deputy Speaker, Sir. There can be such a threat, even where a Harambee meeting is concerned. The problem we have is that hon. Members on the opposite side of the House always look at such matters from one angle. What I would like to stress is that---

Mrs. Ngilu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to say that the meeting will be disrupted and yet, when they call the police officers, they do not come to stop any fight whatsoever? It is the police who start beating people!

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I will continue with my contribution. I think hon. Members have also to be honest with themselves. They have also got to obey the instructions and the law is clear. For example, if they are not given permission, or if the meeting is not allowed to continue for any security reason, they are free to request for that meeting to be held at some other time. Hon. Members clearly defy instructions.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Minister!

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead this House that the meeting can be stopped if the hon. Members have been denied permission? Could he also tell us why it is only hon. Members of the Opposition, and the KANU, rebels who are being beaten and not KANU MPs?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, those who are not disrupted are the ones who follow the law. If Members are informed that the meeting cannot continue, they should not defy those instructions. If they defy those instructions, then the Government will be forced to take action so that the meeting does not take place.

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. When my Harambee was due on Thursday, I called the Minister, who even communicated to the Commissioner of Police.

Mr. Temporary Deputy Speaker, Sir, is he in order to mislead this House now, while a few moments ago he told me that he instructed the Harambee to go on but he was apparently ignored? Why did they cancel my Harambee? Is he really in charge?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I am not misleading this House. For example, if you take the Eldoret meeting, the convenors were informed that the meeting would not continue. But they deliberately went out to defy those instructions. When they do, then the Government has got to take the appropriate action to maintain law and order.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order!

Mrs. Seii: On a point of order, Mr. Temporary Deputy Speaker, Sir. I was in Eldoret. There was no meeting but the police were beating people everywhere even in the streets! It is time we had some self-respecting Ministers to answer the right questions in this House. This is a Government of cowards!

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I will not respond to the Gracious Lady because Ministers are not cowards. I think it is all of us who need to maintain some dignity.

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the hon. Minister enlighten this House on this threat to public security regarding meetings by Members of the Opposition which the police are unable to contain? Why do they not arrest those individuals who are likely to disrupt the meeting? What is this threat that he is talking about?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, in some of these meetings, which are convened, there are two hostile groups and we do not know how they will respond. When they start throwing stones, that is when we do take action. For example, the Ufungamano disruption at Kisumu;

it was unfortunate but then people went there like any ordinary citizens to give their views to the Ufungamano Group. While they were in the hall, they started stoning people and so on. We did not expect that to happen.

Mr. Temporary Deputy Speaker, Sir, in any case, the Ufungamano group said that they do not want police protection! They think they are popular and that their meetings will not be interrupted.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order!

Mr. Muihia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead this House that when there are two groups, they normally cancel the meeting, while we know that when hon. Raila was presiding over a Harambee in Ugenya and hon. Orengo's group was there, they did not cancel that meeting?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I did not say that we can cancel any meeting when there are two groups. I said that if there are two hostile groups and, if at any stage, we feel there is a possibility of the meeting becoming violent, then the officers on the ground are perfectly justified to cancel that meeting.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Unfortunately, the Standing Orders---

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

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Munyao!

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): The Standing Orders require me to adjourn the proceedings now. Therefore, the House stands adjourned until tomorrow, Wednesday, 29th November, at 9.00 a.m.

The House rose at 6.30 p.m.