

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 4th November, 1998

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No. 141

ACQUISITION OF CITIZENSHIP BY FOREIGNERS

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

(a) how many Asian, Chinese and Japanese nationals have acquired Kenyan citizenship as from 1990 to date; and,

(b) if he could table the list of their names.

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

(a) There were 4,716 Asians, four Chinese and no Japanese.

(b) Listing or publicising the names of these people will be tantamount to discrimination of our citizens and violation of human rights.

Mr. Wafula: Mr. Deputy Speaker, Sir, I do not understand which human rights the Assistant Minister is talking about. Foreigners have got into this country and acquired employment. They have worked here on work permits for a short period, say, one year, and then they have bought their way and acquired citizenship.

Mr. Deputy Speaker, Sir, some of them have been trained by Osama bin Laden and they have come here and acquired work permits only to organise for the bombings that took place recently. Could the Assistant Minister assure the House, and the country, that terrorists will not be allowed to work here and acquire citizenship?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I beg to assure the House, and the nation, that terrorists will not be allowed to be citizens of this country.

Mr. M.M. Galgalo: Mr. Deputy Speaker, Sir, whereas it has been very easy even for terrorists to attain the citizenship of this nation, it is very difficult for other people, particularly those who originate from Moyale District, Busia District and other districts bordering other nations, to acquire citizenship. Though they can provide the birth certificates of their parents and even grandparents in some cases, they still cannot acquire their passports. Despite the fact that the Assistant Minister shouted till the time he was appointed an Assistant Minister in the Office of the President at the beginning of this Parliament, there has been no streamlining of the passport issue. What action will the Assistant Minister take to ensure that this system is streamlined?

The Assistant Minister for Planning and National Development (Mr. Sumbeiywo): On a point of order, Mr. Deputy Speaker, Sir. Did you hear the hon. Member say that terrorists have obtained Kenya citizenship in this country? Can he substantiate?

Mr. M.M. Galgalo: Mr. Deputy Speaker, Sir, if the Assistant Minister was there at the time of the bombing, he would not need me to substantiate in the House that terrorists can acquire passports in this country.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, Kenyans do not need to apply to be citizens of this country. By virtue of being born a Kenyan and your parents and grandparents are Kenyans, you are automatically a Kenyan the day you are born.

Mr. Ndicho: Mr. Deputy Speaker, Sir, the Assistant Minister must admit in this House, that there is blatant corruption in the Immigration Department. What is happening is that, we have Asian ladies coming into the country when they are pregnant. So, when a child is born here, it automatically becomes a citizen of this country. In fact, if you looked at the flights from India, they have many Indian pregnant ladies, and that is why

there is an influx of many Indian citizens becoming Kenya citizens.

Mr. Deputy Speaker: Ask the question.

Mr. Ndicho: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House why the Immigration Department is abetting that corruption? Is he aware of that and if he is, what are they doing about it?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, before I respond to the question, I would like to make it very clear that there is no corruption at the Immigration Department.

Hon. Members: No!

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the if anybody has got evidence of corruption at the Immigration Department, we request him kindly to bring that information to us, and proper steps will be taken to eliminate that vice. I also do not understand how corruption impregnates Asian women.

Mr. Deputy Speaker, Sir, the people who acquire Kenya citizenship must certify the criteria set out in our Constitution and Government regulations for granting citizenship.

Mr. Ayacko: Mr. Deputy Speaker, Sir, I am not sure whether I heard the Assistant Minister rightly, when he declined to table the list, stating that it would violate human rights. We know what human rights are, and this Question is very important because it is touching on the Immigration Department that everybody here knows about for its notoriety in terms of corruption. Could the Assistant Minister tell us which human rights tabling the list would violate?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, international human rights.

Mr. Muite: Mr. Deputy Speaker, Sir, the House needs your guidance here because, this is a matter of extreme public importance. The hon. Member has asked the Assistant Minister to lay on the Table of this House a list of the people who have acquired Kenya citizenship since 1990. There can be no human rights violation whatsoever, by laying a list of these foreigners who have been issued with Kenya citizenship by this Government since 1990. The business of Ministers is to answer Questions by hon. Members. Could the Chair order the Assistant Minister to lay that list on the Table, because it is not violating any human rights?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the reason why we said human rights might be violated by tabling that list here is that some hon. Members of this House falsely believe that these people acquired citizenship corruptly; they have already said that. But I am assuring them that whoever has been granted the citizenship of this country has satisfied, in the strictest sense, the requirements of this country to have a citizenship.

Mr. Mwakiringo: Mr. Deputy Speaker, if people have to meet specific conditions to attain the citizenship of this country, which the Government certifies, what is wrong with laying on the Table the names of those people if they met the conditions? This should not be related to human rights activity at all. It should be laid.

Mr. Deputy Speaker, Sir, could you order this Assistant Minister to lay the list on the Table if the conditions were met?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, we have stated our position. If any Member knows of any person who has been corruptly given citizenship in this country, please let us know.

Ms. Karua: Mr. Deputy Speaker, Sir, is the Assistant Minister in order to treat this House in contempt by refusing to divulge the names? The only matters that may not be given to this House are matters of security. Information is a human right and you are denying Kenyans their freedom of information by denying us the names of the Asians, Chinese and Japanese who have acquired citizenship. If this Ministry is clean and they have nothing to hide, is the Minister in order to hide this information? Could the Chair compel him to give this House the information?

An hon. Member: Or satisfy us?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, we do not intend to violate any human right of any Member in this House; the information right she is talking about. We want to give full information and we have stated clearly that there were 4716 Asians and four Chinese.

Mr. Wamae: Mr. Deputy Speaker, Sir, as you are aware, there will be no Standing Order which the Assistant Minister will be infringing by tabling the names of these people. The fact that the hon. Assistant Minister is hiding these names means there is something crooked which he is trying to hide. There is something improper which he is trying to cover by not giving us those names. Will the Chair order the hon. Assistant Minister to give us this list?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, there is nothing we want to hide. As I said earlier, I would seek from hon. Members cases of people they think were wrongly given citizenship---

Mr. Deputy Speaker: Order! Order! Hon. Assistant Minister, I cannot see anything irregular or anti-human rights in publishing or laying on the Table of this House---

(Applause)

Names of those who have acquired Kenya citizenship legitimately. That is all these Members are asking. If there is another difficulty, just state it and I will make a ruling based on that difficulty you have, but it cannot be on the basis that by laying a list of their names on the Table you will be violating anybody's human rights.

(Applause)

Mr. Angwenyi: Mr. Deputy Speaker, Sir, based on your ruling, the Government will table a list here in two weeks' time.

Hon. Members: No!

Mr. Deputy Speaker: Order! Order! That is a legitimate request because it is a long list of over 4,700 people to compile. So, I will give you two weeks to compile that list and lay it here on the Table.

Hon. Magara, I believe you have agreed with the Minister to defer your Question because you are not ready with all the names. So, that Question is deferred.

Question No.370

ABUSE OF RESPONSIBILITY BY DISTRICT OFFICER

(Question deferred)

Question. No.476

ENHANCEMENT OF EAST AFRICAN CO-OPERATION

Prof. Anyang'-Nyong'o asked the Minister for East African and Regional Co-operation:-

- (a) what steps the Government is taking to enhance East African Co-operation;
- (b) the specific programmes which are being proposed to enhance political, economic, social and cultural linkages for the East African Co-operation; and,
- (c) when the East African Legislative Assembly will be established and who will sit in the Assembly.

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Deputy Speaker, Sir, I beg to reply.

(a) In order to enhance the East African Co-operation, the Government is taking the following steps: Playing a leading role in the formulation and timely implementation of the policies and programmes within the framework of the East African Development Strategy of 1997 to the year 2000. It is also fulfilling its financial obligation to the Co-operation in a timely manner and also appealing to other partner states to do the same. The Government of Kenya is also participating and encouraging all Kenyans, including the Members of Parliament to appraise themselves with the new draft treaty which is intended to replace the existing agreement binding the three states. At the moment, it is an agreement and we want to upgrade that one to a treaty, so that we can create a community.

(b) Mr. Deputy Speaker, Sir, on the specific questions of the programme on the political co-operation, the Government of Kenya recognises political co-operation as an important factor in the achievement of economic co-operation and integration in East Africa. In this regard, the following steps are being undertaken: We are increasing liaison and co-operation among the members states' political players, including the Heads of State at the summits; Legislative Assemblies through their Speakers; Ministers and Diplomats. We are also promoting peace, security and good neighbourliness, and we are also working towards a political federation in the long run, including a monetary union, when the economies converge. There has been a memorandum of understanding which was signed by Ministers of Defence responsible within the three countries, as a means of promoting regional peace and security.

On the economic co-operation, the East African Co-operation has identified economic co-operation as the key priority for the region, which will form the basis of political integration in the long-run. In that process, in the immediate future, the objective of the East African Co-operation is to enhance an internationally competitive single market and investment area in the region. This will incorporate the free movement of goods, services,

labour, capital and financial resources. The programmes being pursued in this regard include harmonisation of fiscal and monetary policies in the region, with a view to achieving, along others, a single currency for the region soon after the year 2000. There is also the development of infrastructure services, which include, among others, an East African road and rail network, East African Co-operation on digital transmission project and the development of an East African energy master plan.

Mr. Deputy Speaker, Sir, we are also promoting the easing of movement across the borders through the removal of police road blocks in the designated East African Co-operation routes. We are also involved in the introduction of East African passports and inter-state passes. We are also opening more reciprocal border posts.

Mr. Murungi: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister answering the question or reading a Ministerial Statement?

Mr. Deputy Speaker: Order! The question renders itself to all manner of answers, including what the Minister has just said right now.

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Deputy Speaker, Sir, I think my answer is so good that, my friend has fallen asleep and he has just certainly woken up. So, he even does not know where he is. The question is written and so is the answer, and it has to be replied to accordingly.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. It is a very bad insinuation for the hon. Kipyator Nicholas Kiprono arap Biwott to say that the hon. Member for Imenti South was asleep while the Standing Orders do not allow Members of Parliament to fall asleep, and this will go back to his constituency. In case he was asleep, then he is putting us to sleep. Can he apologise to the hon. Member?

Mr. Deputy Speaker: Order, hon. Ndicho! Hon. Kiraitu cannot have been asleep when he has just asked a question or raised the point of order.

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Deputy Speaker, Sir, anyway, that is another one also who must stand up to say something so, that he can be heard.

Mr. Deputy Speaker, Sir, I was continuing on the most important things.

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

Mr. Deputy Speaker: Order! Let us make some progress.

Mr. Ndicho: My point of order is that I, obviously, I came to this House to be heard. We are hearing this for the first time.

Mr. Nyanja: And duly heard!

Mr. Deputy Speaker: Order, hon. Ndicho!

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Deputy Speaker, Sir, anyway, I think he will soon grow us. As I was saying, I will repeat---

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. Are you satisfied with the hon. Biwott saying that I need time to grow up when I am 40 years old? You must protect us. I am not a child. I think he is not in accordance with the Standing Orders.

Mr. Deputy Speaker: Order! Order, hon. Members; otherwise, I am also going to say something akin to what he has just said. However, hon. Members, you do know that you cannot come to this House as an hon. Member, unless you are an adult and adults are presumed to be grown-ups. So, Order, hon. Biwott.

Hon. Members: He must apologise!

Mr. Deputy Speaker: Order, hon. Biwott. All hon. Members here are grown-ups.

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Deputy Speaker, Sir, they are; otherwise, they would not qualify to stand for the elections but growing up in the House and maturing is what I meant.

Mr. Deputy Speaker, Sir, the specific question that I was answering asks: "What specific programmes have you proposed to enhance political, economic, social and cultural linkage for East African Co-operation?". I am endeavouring to give you the steps which we are undertaking, so that you can also help us to formulate better policies and programmes for the East Africa region, because it concerns Kenya and in East African Co-operation, there is no Opposition and Government; we are one. So, the point that I was saying is that, we are increasing liaison of the co-operation among the member states, which covers the Heads of States, the Ministers, the chief diplomats, the civil servants and the legislators because we are linking the East African Legislative Assemblies through their speakers who participate and also the Attorney-Generals.

Mr. Deputy Speaker, Sir, we are also promoting peace and security within the region and towards that end, there has been a memorandum of understanding which was signed recently by the Ministers of Defence of the three countries. And then, on economic co-operation, I have said that in the immediate future, the objective of the East African Co-operation is to establish an internationally competitive single market and investment area in the

region and this will incorporate the free movement of goods and services, labour, capital and financial resources. The programmes being pursued in this regard include harmonisation of fiscal policies with a view to achieving a single currency; development of infrastructural services which include the East African road and rail network, East African Co-operation and digital transmission project, and the development of an East African energy master plan. We are also easing movement across the borders, which includes the removal of police road blocks in designated areas' introduction of East African passports and inter-state passes, opening of more reciprocal border posts, establishment of separate counters for East Africa.

Mr. Nyanja: On a point of order, Mr. Deputy Speaker, Sir. We cannot be seated like this in your presence. The Minister is reading a memorandum of understanding and he is actually repeating himself because he has already read that, but he does not know. He just came up with what they had discussed in Arusha. We are fed up with his lies.

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Deputy Speaker, Sir, if he is fed up, all he has to do is to shut up, close his ears and not listen to me.

Mr. Deputy Speaker: Order! Hon. Minister, your answer seems to be rather long. Could you paraphrase it, so that we can make progress?

Mr. Nyanja: How can he answer the question when seated?

Mr. Deputy Speaker: Order! Order, hon. Nyanja. Proceed.

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Deputy Speaker, Sir, I have to answer the question, since I am under obligation to do so.

We are also engaged in the promotion of trade and investments with a view to achieving, among other things a free trade area and common external tariffs for the region as soon as we are able, before or after the year 2000. We are also harmonising investments, regulations and procedures in the region. On socio-cultural co-operation, experts from the member states are working on a programme and action plan on the proposed areas of co-operation under social and cultural sectors. We are also engaged, and these areas will touch on sports, education, professional training and---

(Mr. Kathangu stood up in his place)

Mr. Deputy Speaker: Hon. Kathangu, two Members may not be on their feet at the same time, unless the Speaker has authorised it.

The Minister for East African and Regional Co-operation (Mr. Biwott): Mr. Deputy Speaker, Sir, I was saying that the areas includes sports, education, professional training, science and research, health, cultural activities, literature, fine arts, music and so forth. Some of the specific programmes already being pursued include harmonisation of educational curriculums, examinations and certifications in the partner states, formation of an East African Task Force on sexually transmitted diseases with emphasis on HIV, AIDS and control of communicable diseases and epidemics; programmes for the promotion of art, norms and culture

On the question of "when will the East African Legislative Assembly be established and who will sit in the Assembly, the answer is that the East African Legislative Assembly will sit when it has been established under the East African Community Treaty.

Hon. Members: When?

The Minister for East African and Regional Co-operation (Mr. Biwott): Most probably, towards the end of this year. Currently, the treaty proposes that each state will provide nine members to sit in the East African Legislative Assembly. However, this proposal is subject to change, depending on the decision of the people of the three East African states.

Mr. Deputy Speaker, Sir, that is the answer I have for the Question. I believe that all hon. Members are now educated about the issues raised in the Question.

Prof. Anyang'- Nyong'o: Mr. Deputy Speaker, Sir, I am sure that the House is grateful for the long answer from the Minister, but, I think we need to have very specific answers to certain questions. Although the Minister has more or less given the Government's intention, and read profusely from the draft treaty, there are certain things that the Kenyan Government should answer.

To what extent is the Government taking concrete action to improve the transportation sector, particularly the ports, to enhance greater community interests as indicated in the treaty? To what extent is the Government taking steps to implement agreements on telecommunications? For example, what is the Government doing to ensure that the Communications Bill is in line with what is happening in the rest of the East African countries, so that the intentions of the treaty are, indeed, realised? It seems to the other East African countries that

the Kenya Government, once more, is dragging its feet on some very important measures which would make this treaty a reality. Finally, could the Minister be much more specific?

Mr. Deputy Speaker: Could you ask one question at a time, hon. Anyang'-Nyong'o?

Mr. Biwott: Mr. Deputy Speaker, Sir, there are no other concrete steps being taken other than the ones I have explained. I have said that, at the moment, the harmonisation programme is on. With regard to the transport and communications sector, the Ministers concerned from the three countries meet and formulate programmes with a view to agreeing to similar procedures and criteria, so that in the end, we will be using a common document to do common things. For example, the three countries have standardised their axle load regulations. They will introduce a single document---

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to mislead the House that there is harmonisation of axle load regulations when he knows that Uganda has said it needs 12 months before it can agree to reduce the axle load weight? Of course, that means that Kenya cannot get the money released from the European Union because they cannot harmonise that issue. Is he not misleading the House?

Mr. Deputy Speaker: Order, hon. Muite. You have really argued with him.

Mr. Biwott: Mr. Deputy Speaker, Sir, I like his arguments. I think he needs more education. That is why I should be standing here.

The Ugandans have asked for only three months in order---

Mr. Deputy Speaker: Order! Order, hon. Biwott! Answer the question asked by hon. Anyang'-Nyong'o.

Mr. Muite: How about the other one?

Mr. Deputy Speaker: Order! Order! I have ruled that one out of order. Hon. Biwott was answering a question which was asked by hon. Anyang'-Nyong'o. Hon. Muite stood on a point of order, and I said that he was not on a point of order at all; he was arguing. So, hon. Biwott must revert to answering the question asked by hon. Anyang'-Nyong'o. Proceed, hon. Biwott!

Mr. Biwott: Thank you, Mr. Deputy Speaker, Sir. Now that the question raised by hon. Muite did not register, I will revert to Prof. Anyang'-Nyong'o's question. He has asked pertinent questions which I think ought to be answered.

Mr. Deputy Speaker, Sir, Prof. Anyang'-Nyong'o has asked about the steps being taken to ensure that port facilities are brought into line in order to service the hinterland countries. Indeed, I am pleased to inform the House that the Minister for Trade had a meeting at the port with the Ugandan Second Deputy Prime Minister and officials from the private sector. I, Mr. Ntimama, and his officers were also present. We went through every step necessary to facilitate the necessary procedure in the way the Ugandans will be satisfied. Those steps are being taken in line with the aims of the East African Co-operation.

Dr. Kituyi: Mr. Deputy Speaker, Sir, if you look at what is happening and what the Minister wants the House to believe, you will notice that we are getting into a very dangerous way of negotiating away part of Kenya's sovereignty. That is the ultimate aim of this Treaty.

Mr. Deputy Speaker, Sir, under Clause 127 of the Draft Treaty, a Government which commits itself to harmonisation of education, research and technology is busy overhauling its education system without reference to Uganda and Kenya. There is no harmonisation of pre-university education. A Government which wants to lower tariffs between Kenya and Uganda does not raise a finger when the leader of Uganda commits the economic resources of Uganda to a war in a neighbouring country without consulting its neighbours. That is a situation where Kenyan taxpayers' interests can be sacrificed by the adventures of our neighbouring states, and our response is to go and open a show there which, in diplomatic terms, is seen as signifying our consent to what President Museveni is doing in the Democratic Republic of Congo.

Mr. Deputy Speaker, Sir, to come to the specifics, since Uganda and Tanzania established grass-root mechanism, through which there has been ventilation of use on a different components of the Draft Treaty of East African Co-operation, the Kenya Government has not attempted to do that. It has not facilitated that to be done. Considering that the Treaty, ultimately, reduces the sovereignty of Kenya, could the Minister advise the Government that Kenya will not sign this Treaty without either a referendum or sufficient ventilation of the issues contained in the Treaty by different organs at the grass roots level in the country?

(Applause)

Mr. Biwott: Mr. Speaker, Sir, I believe that the hon. Member is a member of the Select Committee which deals with foreign and regional affairs and matters such as what he has talked about. We have said that the Treaty, as presently drafted, will have to be debated by Kenyans, including this House, before it is signed. I am hoping that the Sessional Paper which is coming soon, will give Kenyans that opportunity. I do not want to pass

any judgement on the issue of subjecting the Treaty to a referendum. I would like to listen to hon. Members when they speak here.

Regarding the adventures taking place in the Democratic Republic of Congo, the hon. Member should be aware that recently, the Ministers for Defence from the other two East African countries and Kenya's Minister for Foreign Affairs had a meeting on this issue. There was also a summit on the issue which called for the withdrawal of all foreign troops from the Democratic Republic of Congo. Our President has been on record as having been the number one champion of peace in this country. There will be no way Kenyans will, at any time, be made by a member state to join in such skirmishes, because it is not good for us. We are only interested in peace, and nothing else.

Thank you.

Mr. Wamalwa: On a point of order, Mr. Deputy Speaker, Sir. In the Minister's main answer to part (c) of the Question, he said that the East African Legislative Assembly may be established before the end of this year. Now, having listened to him and heard how much more needs to be done, and that the Draft Treaty still has to come before the House; is it still realistic that the East African Legislative Assembly will be established before the end of this year?

Mr. Biwott: Mr. Deputy Speaker, Sir, I believe this is realistic because already the process is going on within the East African Co-operation. Assuming that there will be an agreement as to how the Treaty should be drafted---

An hon. Member: Being drafted?

Mr. Biwott: No, it should be drafted for final approval. Supposing there is a full agreement on the contents or provision within that Draft Treaty, there is no reason why that Treaty cannot be brought to fruition within the next six months. If it is brought to fruition within six months, there will be in it a provision for the election of legislative assemblers who will then form that Legislative Assembly.

Mr. Wamalwa: On a point of order, Mr. Deputy Speaker, Sir. The Minister has said categorically that the East African Legislative Assembly will be established before the end of this year. Now, he is saying this may take six months, and that will be well into next year. So, is it realistic for him to say that it will be established before the end of this year?

Mr. Biwott: I am sorry; I meant by July next year. I am very grateful to the hon. Member. My mind was thinking about 1999, so you can see how forward-looking I am.

Mr. Kihara: Mr. Deputy Speaker, Sir, some of us who lived through the last Community know how it broke up. We know, for example, that when Mr. Amin came to power in Uganda, Mr. Nyerere could not sit with him. That is one of the reasons why it broke up. What provisions have been included in this Treaty to ensure that it does not depend on the friendship of our present leaders, and that it will outlive all of them?

Mr. Biwott: Mr. Deputy Speaker, Sir, we are subjecting the new Treaty to as much debate as possible in order to ensure that the survival of the Community will not depend on individuals who happen to sit at any level within the society in East Africa. I think that point is very important, and I hope that all the clever people--- unless, hon. Muite can contribute something towards that.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, arising from the answer the Minister has given---

Mr. Munyasia: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek your guidance under Standing Order No.37 on the content of Questions. I wonder whether this all-encompassing Question did not violate this particular Standing Order. Sub-section (5) says, "Not more than one subject shall be referred to in any one Question, and a Question shall not be of excessive length." You can tell, from the time we have taken, that this Question should not have, in the first place, been passed to come here.

Mr. Deputy Speaker: Order, hon. Munyasia! This Question has only three parts, and if you look at the Question on page 485, that is also in three parts. Many Questions come here in three or four parts. So, we do not determine the length of a Question merely because it does not have three parts or because the Minister has taken 10 minutes to answer it. This Question has three components which are part of the same Question. That is why it was passed. I thought you were going to raise your point of order under Standing Order No.37(12) because Members have tended to ask questions whose answers are, in fact, in the Draft Treaty, copies of which they already have. There, I would have agreed with you, but this Question has already been asked and answered. So, you are a bit late.

Prof. Anyang'-Nyong'o: Finally, Mr. Deputy Speaker, Sir, arising from the Minister's answer to my supplementary question, can he assure this House that the Kenya Government is not dragging its feet in signing the Communications Bill that was passed in this House because of the conflict of interest within the Government?

Mr. Biwott: Mr. Deputy Speaker, Sir, quite to the contrary, I think the Government is pushing as hard as

possible to sign that agreement so that the spirit and the intentions of this Community are enhanced.

Mr. Deputy Speaker: The Question by Eng. Toro is deferred with agreement between him and the Minister.

Question No.542

PAYMENT OF RETIREMENT BENEFITS
TO MR. KABURI

(Question deferred)

Next Question, hon. Kikuyu.

Question No.490

DISBURSEMENT OF BURSARY FUNDS IN MACHAKOS

Mr. Kikuyu asked the Minister for Education and Human Resource Development:-

- (a) how much money was allocated as bursary for Machakos District in the years 1995 to 1998;
- (b) how the said amount was disbursed; and,
- (c) if all the money has been accounted for.

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

(a) The total secondary school bursary allocation for the years 1995 to 1998 for Machakos District was Kshs29,491,880, broken down as shown below:-

| <u>Year</u> | <u>Kshs</u> |
|-------------|-------------------|
| 1995 | 8,023,734 |
| 1996 | 7,461,080 |
| 1997 | 9,119,066 |
| 1998 | <u>4,888,000</u> |
| Total | <u>29,491,880</u> |

(b) My Ministry has instructed that the following criteria be used when allocating bursary funds to the schools at district level. You take the total bursary allocation and multiply it by the number of classes in the school and divide it by the number of classes in the district.

(c) Instructions have been given for all the returns from all secondary schools in which students benefited to be forwarded to my Ministry through the DEOs. I will then be in a position to inform this august House whether the money has been accounted for after the returns for the four years have been processed.

Mr. Kikuyu: Mr. Deputy Speaker, Sir, arising from the answer given to part "c" of the Question, could the Assistant Minister then agree that the Ministry has been giving schools money from funds authorised by this House which, for four years and over, have not been accounted for? Nobody knows whether this money has been going to headteachers' or DEOs' pockets or anybody's pocket, and it is just now that he is saying that they have been given instructions when we have been giving this money out year in, year out, without accounting for it. Why are we wasting taxpayers money in this way?

Mr. Awori: Mr. Deputy Speaker, Sir, while I admit, indeed, that we should have had those returns, I do not accept the fact that taxpayers money has been wasted. The money has gone to the needy students and all that is required is accounting for it. I have stated here that I intend to bring an audit report of all the money in those four years.

Mr. Kikuyu: Mr. Deputy Speaker, Sir, in his answer to part "a", the Assistant Minister has shown how much money is being given to Machakos District each year. He has also compared this figure with other districts like Baringo and Koibatek. Why it is that Machakos District with more students than Baringo and Koibatek Districts combined, got Kshs9 million while Baringo and Koibatek got Kshs20 million? What was the reason?

(Applause)

Mr. Awori: Mr. Deputy Speaker, Sir, I have not got the figures that the hon. Member is alluding to. I have stated here the criteria under which bursaries are given and disbursed. The same criteria that applied to

Machakos District, applied to Koibatek, Baringo and also to my district of Busia.

Mr. Kikuyu: Mr. Deputy Speaker, Sir, my question has not been answered. The bursary is still being distributed according to tribal and political affiliations. I believe the bursary should be given as per student population, and not as per district, tribal or political affiliations. That is why I am asking---

Mr. Deputy Speaker: Order, Mr. Kikuyu. You stood on a point of order and if you really wanted to ask a question, you should have done so because you had the opportunity.

Mr. Kikuyu: Is he in order to mislead this House by not answering the question? The fact is that Machakos District got less money than Baringo District, which has few pupils.

Mr. Awori: Mr. Deputy Speaker, Sir, I think the hon. Member is forgetting part of the answer I had given. The bursaries are for needy students. You can have a district where there are 100,000 students and, perhaps, only 20 are needy. Then, you can have another district where there are less students; maybe 50,000, and all of them are needy. Therefore, this district will get more money.

Mr. Munyasia: On a point of order, Mr. Deputy Speaker, Sir. If, indeed, the Assistant Minister is not able to answer hon. Kikuyu's question because he does not have the figures which compare Baringo-Koibatek and Machakos districts, could he undertake to go and check those records and tell this House why there is that disparity between the amounts allocated to Baringo and Machakos districts?

Mr. Awori: Mr. Deputy Speaker, Sir, I did answer the question. I stated that it is not the number of students in total which is considered, the number of needy students.

Mr. Shidie: On a point of order, Mr. Deputy Speaker, Sir. I think the Assistant Minister is misleading us. North Eastern Province, a recipient of relief food, gets less in terms of bursaries. Therefore, I feel that the Assistant Minister is misleading us.

(Applause)

Mr. Awori: Mr. Deputy Speaker, Sir, I am not misleading the House. It is an extreme case for North Eastern Province where the number of students in total is less and all those students are needy. Naturally, they would receive less.

Mr. Gitonga: On a point of order, Mr. Deputy Speaker, Sir. Which other criteria does the Government use in any particular district to decide who are the needy children to be awarded bursaries as opposed to the number of children? Machakos district is poor and big, and its number of pupils is greater than that for Koibatek and Baringo districts when combined.

Mr. Awori: Mr. Deputy Speaker, Sir, I am just going to repeat myself. I have stated that, indeed, there could be well more students in Machakos than there are in Koibatek; but, there could be fewer students who are in needy in Machakos than those in Koibatek. This is what I am saying.

Mr. Kikuyu: Mr. Deputy Speaker, Sir, my last question is very straightforward. The Assistant Minister has not answered my question. Can he explain to the House what criteria is being used to determine who is in needy in this country? Machakos District is under famine relief for over three-quarters of the year, but Baringo is only under it for a half of the year. Which population is more needy?

Mr. Deputy Speaker: Order, order, hon. Members. Hon. Assistant Minister, these Members are asking which criteria is used on each individual applicant but not districts since districts do not get the bursary. It is the students who get the bursaries.

Mr. Awori: Mr. Deputy Speaker, Sir, the criteria is simply the inability to be able to pay school fees in total by individual students. This criteria is used by my Ministry in consultation with the people from the grassroots. These people are the district education officers who give us this information. The information has indicated that there are perhaps more needy students in Koibatek than there are in Machakos.

Mr. Deputy Speaker: Order! Order! Next Question.

Question No. 097

COMPLETION OF IRARU BRIDGE

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

- (a) How much money has the Ministry allocated for the completion of Iraru Bridge in Abogeta Division, South Imenti; and,
- (b) when is the bridge expected to be completed.

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

(a) The Ministry has allocated a total of Kshs2 million during this financial year to facilitate completion of the Iraru Bridge.

(b) The bridge is targeted for completion during the second half of the 1998\1999 financial year.

Mr. Murungi: Mr. Deputy Speaker, Sir, we are very impressed by the answers given by this young man but---

(Laughter)

Mr. Deputy Speaker: Order, hon. Murungi. Mr. Khaniri is as much an hon. Member as you are. So, do refer to him as "hon. Assistant Minister."

Mr. Murungi: Thank you, Mr. Deputy Speaker, Sir. We---

Mr. Khaniri: On a point of order, Mr. Deputy Speaker, Sir. I think the hon. Member has to withdraw that remark and apologise.

Mr. Murungi: Mr. Deputy Speaker, Sir, I did not know that it was unparliamentary for one to be young, but I wish to apologise to the Assistant Minister. I was trying to say that "this young hon. Assistant Minister---

(Laughter)

He is very good at answering these questions. At least, he is much better in his answers than hon. Biwott.

(Laughter)

Mr. Deputy Speaker, Sir, this bridge has been a great embarrassment to the KANU Government because they started constructing it in 1968, when I was in Form One. Now, 30 years later, the bridge is still not complete. So, I am very happy that the Government is allocating Kshs2 million during this financial year for its completion. Over the last two years, the Government has allocated Kshs4.5 million to the bridge and it was almost nearing completion, but most of that money was spent in paying allowances and night-outs to the engineer who comes from Embu. Can the Assistant Minister ensure that this Kshs2 million goes directly to the District Works Officer in Meru so that it is not eaten up in allowances and night-outs?

Mr. Khaniri: Yes, Mr. Deputy Speaker, Sir, I give that assurance to the House. But I would like to correct the hon. Member on this. The total amount of money we have allocated to this project since 1995 is not Kshs4.5 million but Kshs3.25 million.

Question No.433

EXPENDITURE ON BINANE-BALAMBALA ROAD

Mr. Shidie asked the Minister for Public Works and Housing how much money was spent to grade Binane-Balambala Road in Garissa District.

The Assistant Minister for Public Works and Housing (Mr. Khaniri): Mr. Deputy Speaker, Sir, I beg to give the following reply.

Kshs334,000 was spent on grading and bush clearing of Binane-Balambala Road in Garissa District.

Mr. Shidie: Mr. Deputy Speaker, Sir, I sympathise with my hon. friend. There is no bush clearing and grading that took place. The Assistant Minister has been failed by his people on the ground. If he goes today to Binane-Balambala Road, he will realise that no grading has taken place and no bush clearing has taken place and yet this money was spent. I think the money is even much more than this. Could the Assistant Minister go back and be honest enough and send people to the ground, because this money was sent by the Kenya Government to help the people of Lagdera and the same money has not been used? Can the Assistant Minister go back and come with a better answer than this? This is an insult to my people!

Mr. Khaniri: Mr. Deputy Speaker, Sir, I am not going to go back because, I have done full research on this Question, and I am satisfied that the answer I am giving is the correct one. That money was spent and a total of 51 kilometres of this road was graded.

Mr. Shidie: On a point of order, Mr. Deputy Speaker, Sir. I think the Assistant Minister is misleading the House. I come from there and I know my constituency. This road is impassable today. The Minister is misleading the House and he should go back and come with a better answer than this.

Mr. Waithaka: Mr. Speaker, Sir, I rise to seek your guidance because here is an hon. Member of Parliament from that particular constituency who says no work has been done on that road, and the Assistant Minister says they have spent money on the road. Who should Members of Parliament trust; is it the hon. Member who is supposed to tell this Parliament the truth or the young hon. Assistant Minister?

Mr. Deputy Speaker: Order, hon. Members! This Question was asked because this House knew that the Assistant Minister would come to this House and give us the truth, the whole truth, and nothing but the truth, whether young or old. So, if the hon. Member is not satisfied with the Assistant Minister's answer, he knows what to do, which is to raise a Motion of censure against the Assistant Minister. He can do that! So, there is no point for him to ask the Chair to do his work for him. Mr. Assistant Minister, has the work been done or not? If it has been done, then that is the end of the matter.

Mr. Khaniri: Mr. Deputy Speaker, Sir, I am satisfied that the Kshs334,000 was spent on this road. What could be confusing---

Mr. Sungu: On a point of order, Mr. Deputy Speaker, Sir. We are not debating whether money was spent on the road. We are debating whether the money was used in grading the road or not. It can be spent by people on the roadside!

Mr. Deputy Speaker: Hon. Khaniri, the hon. Members are saying they are not satisfied with your reply. They are saying the money may have been spent but not on the road.

Mr. Khaniri: Mr. Deputy Speaker, Sir, I clearly said that this money was spent on grading and bush clearing of Binane-Balambala Road.

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

Mr. Deputy Speaker: Hon. Shidie, you are the author of this Question. So, when you want to ask a question, just stand up and catch my eye, and you will ask your question.

Mr. Musila: Mr. Deputy Speaker, Sir, I think we have a problem here. The answers that we are getting from the hon. Ministers are authored by the same people who have done whatever we are complaining about. If the Assistant Minister has received an answer from the District Engineer, who has not done the work, why would he not believe the Member of Parliament who comes from the area, instead of believing that man? Otherwise I do not really understand why hon. Members should be asking questions and getting half-baked answers. I think we need the guidance of the Chair here.

Mr. Khaniri: Mr. Deputy Speaker, Sir, the argument by the hon. Member from the area is that the road is now impassable. What I can tell this House is that the work that was done on that road was done in the 1996/97 Financial Year, before the *El Nino* rains. So, it is possible that the road was done, but later on, it was damaged by the *El Nino* rains. In 1997/98---

Mr. Shidie: On a point of order, Mr. Deputy Speaker, Sir. Although the Assistant Minister is very honest here, that money was "eaten" by the Road Engineer. I come from that area and I know that. I challenge the Assistant Minister that I am going to resign as a Member of Parliament if what he is saying is true. I come from that constituency and I know that, that road has not been graded for the last five years, and today, no vehicle is plying on that route. Could the Assistant Minister give us a better answer? I feel that this is not the way things should be run in this Parliament. I feel that I deserve a better answer than that.

Mr. Khaniri: Mr. Deputy Speaker, Sir, I cannot give a better answer than that. What I can promise the hon. Member is that in the near future, my Minister and I will be visiting that particular district and we will have a chance to have a look at the road ourselves because we are relying on answers from the ground. We also sent some officers from the Ministry to go and do the---

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

Mr. Deputy Speaker: Order, hon. Members! Hon. Shidie has stood on a point of order on that Question three times.

(Mr. Leshore stood up in his place)

Order, hon. Leshore! If he wants to ask a question, he should stand up and catch the Speaker's eye, and he will be given an opportunity to ask the question. Hon. Leshore, you must not behave as if--- This is the National Assembly! Next Question!

Question No.428

HARMONISATION OF LAND TENURE LAWS

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

(a) whether he is aware that ownership of land under various laws as opposed to a single law is creating legal difficulties in courts of law and for conveyancing; and,

(b) if the answer to "a" above is in the affirmative, what steps he is taking to ensure that the process of harmonising the various laws governing land tenure is hastened.

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

(a) I am aware that the ownership of land under and the various laws as opposed to a single law is creating difficulties in courts of law, and for conveyancing.

(b) I appointed a task force which began its work in July, 1997 to review all land laws in Kenya and ensure that various laws touching on land ownership are harmonised into one comprehensive law.

Mr. Ochilo: Mr. Deputy Speaker, Sir, it is about 35 years since we attained Independence and land tenure systems have not changed, and ownership of land under various laws has continued to be the way it is. What the hon. Minister is saying is that they recently appointed a task force. I do not wish to belabour the importance of the ownership of land under a single law, but can the Minister tell us when the findings of this task force are due to be brought before this House?

Mr. Ngala: Mr. Deputy Speaker, Sir, I am not in a good position right now to give the exact time, but I think the work of the task force is going on and when they are ready, they will inform us, and the House will be made aware when this will be done.

Mr. Ojode: Mr. Deputy Speaker, Sir, could the Minister tell us why he had to wait until a Question was raised in this House to form a task force?

Mr. Ngala: Mr. Deputy Speaker, Sir, I did not wait. I do not know whether the hon. Member heard me. I said that I initiated this task force last year, and the Question has been put today.

Ms. Karua: Mr. Deputy Speaker, Sir, could the hon. Minister tell us whether this task force has a time limit within which to report, or is it one of those endless task forces that never make a report?

Mr. Ngala: Mr. Deputy Speaker, Sir, the exercise of dealing with land reform laws is a very detailed situation. I think we should give them sufficient time to be able to prepare for the task force.

Dr. Kituyi: Mr. Deputy Speaker, Sir, four years ago, I brought a Motion to this House for the establishment of a Land Review Commission. This Motion was passed by this National Assembly. The last time we had a comprehensive review of the land laws in this country was the Carter Commission of 1932. I have looked at the terms of reference for the in-house task force in the Ministry of Lands and Settlement. Its tasks are incompetent and its mandate too narrow to deal with the integration of diverse components of law on land tenure, land use, and to deal with environmental consideration as required today on disposition on land law. Could the Minister tell this House, why, instead of establishing a full fledged Land Review Commission, the Government has decided to narrow down to a domestic task force in the Ministry of Lands and Settlement which is not competent enough to deal with all the issues related to land law in the country today?

Mr. Ngala: Mr. Speaker, Sir, as far I understand, once the Constitutional Review Commission starts reviewing our laws, it will also deal with laws pertaining to land issues.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. There are two processes in position. One process is what the Minister is talking about, and the other one is the Constitutional Reform Process, where land tenure, as a policy, will be reviewed. What is the role of this other task force he is talking about except to consume public funds for nothing? Is he in order to contradict the major process of Constitutional Review Commission and the task force within his Ministry? Can he explain?

Mr. Ngala: Mr. Deputy Speaker, Sir, before the constitutional review process was brought into operation, the Ministry had thought own its that it was high time that the laws concerning lands were dealt with by the Ministry. But now that we will have the Constitutional Review Commission, that is going to look into all the laws, I do believe that there will be harmonisation in the process.

Mr. Wamae: Mr. Deputy Speaker, Sir, could the hon. Minister assure this House that he will stop the transfer of grabbed land until the question of the review of the land law is effected? Could he also suspended registration of grabbed land in the country?

Mr. Ngala: Mr. Deputy Speaker, Sir, I think the hon. Member will agree that we cannot operate in a vacuum. Until we institute the law as a House, we cannot stop dealing with land cases in this country.

Mr. Wamae: On a point of order, Mr. Deputy Speaker, Sir. I did not ask the Minister not to be handling normal cases of land. I asked him whether he will stop registration of grabbed land, and not all the land.

Mr. Ngala: Mr. Deputy Speaker, Sir, I am not in a position to know which is grabbed land and which is

not. But if the hon. Member has evidence to show that this land was grabbed, then we will find out how it was grabbed, and if there is something wrong with it, we will see how to handle it.

Mr. Waithaka: Mr. Deputy Speaker, Sir, because of the difficulties caused by different laws involving ownership of land, especially in conveyance, would the Minister consider decentralising the registry in relation to land registered under the Registration of Title Act (RTA); because, if a person wants to transfer a property registered under RTA and he is in Samburu, he has to travel all the way to register it at Nairobi? The conveyances are not registered at the district registry unless they are registered under the Registered Land Act. Could the Minister consider decentralising the registry?

Mr. Ngala: Mr. Deputy Speaker, Sir, I would like to say that these are some of the points that will be deliberated upon by the legal experts. This is a very valid point and must be taken into consideration.

QUESTION BY PRIVATE NOTICE

ALLOCATION OF KARURA FOREST LAND

Mr. Anyona: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Lands and Settlement the following Question by Private Notice.

(a) Who authorised the allocation of parts of Karura Forest between 1992 and 1996, and what acreage was allocated in that period?

(b) Who were the original allottees?

(c) Who have purchased some of the land from the original allottees?

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

(a) The allocation of parts of Karura Forest between 1992 and 1996 was authorised by the Government under the provisions of the Forest Act, Cap. 385, and the Government Lands Act, Cap. 280.

(b) The details of the original allottees are readily available in the land registry and can be obtained through an official search.

However, I know that since hon. Members will be interested in this Question, I am going to table a list of the land references so that the Members or anybody who is interested can do the official search assisted by the land references.

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

Mr. Deputy Speaker: Order! Hon. Members, you have asked the Minister to give you some information on this Question. In the process of doing so, you are asking him more questions. It is only on the basis of that information that you can ask him more searching questions. Why do you not let him finish first before you start shouting at him? Proceed, Mr. Ngala.

The Minister for Lands and Settlement (Mr. Ngala): Mr. Deputy Speaker, Sir, let the hon. Members give me time to answer this Question. If they want to hear, let them listen and stop making unnecessary utterances.

Mr. Deputy Speaker: Hon. Minister, you said you were going to table some documents under "b" above?

The Minister for Lands and Settlement (Mr. Ngala): Mr. Deputy Speaker, Sir, let me finish the answer, then I will table them. I think that is the procedure.

(c) Once the Government allocates land to a person, it becomes private property and subject to normal business transactions. I do not have the list of the names of the purchasers as the Ministry is normally not consulted in these transactions. Information regarding these transactions is also obtainable from the lands registry. I will now lay on the Table the LR numbers for reference.

(Mr. Ngala laid the document on the Table)

Hon. Members: On point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Order, hon. Members! Hon. Members, you know that as per our customs the first bit of the cake is given to the hon. Member who asked the Question. So, why do you not let hon. Anyona ask his first supplementary question before you raise your points of order?

Mr. Anyona: Mr. Deputy Speaker, Sir, I said that this is an important Question. Everybody is aware of the acrimony that has risen across the country about this Question. The country expects that Parliament would provide a solution to that acrimony. Before I ask my supplementary question, I want to raise a question of procedure, which has been prompted by this Question. This is because the answer to parts "b" and "c" is intended

to circumvent the Question by hiding behind vague provisions of the Standing Orders to deny this Parliament and the people of Kenya the information they require. First of all there is a serious contradiction in the answer the Minister gave to part "c". He contradicts himself by saying that he does not have the information, and later on saying it is in the registry.

Standing Order 37, paragraph 12, says that information is readily available. The Standing Order clearly states what type of information is considered public and should not be produced in Parliament. For the benefit of this House, it reads:

"A Question, the answer to which is readily available in ordinary works of reference or official publications, shall not be asked."

Information in the registry is not ordinary works by any sense of the imagination. Information in a file which is kept in the registry is not in works for reference or official publication by any sense of the imagination. It is only information which falls under those two categories, namely, ordinary works of reference and official publication, that is exempted from the requirement of the Standing Order. The Minister is trying to invoke that provision to avoid answering this Question.

Mr. Deputy Speaker, Sir, secondly, this Question is now the property of this House. It qualifies to be the property of this House under Standing Order 37(12). The Speaker approved the Question because he was satisfied that information in the registry does not fall under this category.

(Applause)

Therefore, saying that the Speaker was wrong to approve this Question is contempt of Parliament, the Chair and hon. Members. As far as I am concerned, there is no "sacred cow" so important that it cannot be sacrificed for the interests of this country, if that is what it takes.

I would like to hear the ruling of the Chair before I ask any supplementary question. Is the Minister in order to deny this House information that it is entitled to by hiding behind the provisions of the Standing Orders, which, in any case, do not apply? Secondly, does tabling letters of Land Registration (LR) numbers, as an afterthought, constitute a list of allottees?

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Standing Order No.37 gives the details of Questions which may or may not be asked. But once Mr. Speaker has approved a Question, it---

(Applause)

You are over-hasty. You do not know what I am going to rule. Once the Speaker has approved a Question and it has been submitted to the Ministry for a reply, that Question must be answered.

(Applause)

I do not know what logic the Minister used to give the answers that he gave. But assuming that he depended on Standing Order No.37(12), what hon. Anyona has said is quite correct. Only official publication or works of reference which are stored in a library may be exempted from being asked for. So, hon. Minister, you really have to---

(Applause)

Mr. Ojode: Let him name hon. Sajjad!

Mr. Deputy Speaker: Order! Order! Giving LR numbers is not sufficient, hon. Minister.

(Mr. Mwenje murmured something)

Mr. Deputy Speaker: Order, Councillor Mwenje!

(Laughter)

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

Mr. Deputy Speaker: Order! Order! Hon. Mwenje, I withdraw that statement and apologise. That was a

slip of the tongue.

Hon. Minister, if you have extracted LR numbers, then it is possible and easy to extract the names of the owners of the land.

Mr. Ngala: Mr. Deputy Speaker, Sir, first of all, I do not know why the hon. Questioner was using the Standing Order because I did not refer to it. In fact, I did not refer to any Standing Order. Therefore, he should not use it to extract information which I did not give him. I did not mention any Standing Order when I was answering this Question. I was answering the Question according to circumstances.

I said, in the earlier part of the answer, that these LR numbers belonged to people. I also said that there are transactions which go on--- People carry out their own transactions at their own time. So, it is not easy to give the names of people who own this land. I could mention somebody here whose LR number has changed several times.

Mr. Deputy Speaker: Order! Order! I do not know what the society will develop into. Who are the originals?

Mr. Ngala: Mr. Deputy Speaker, Sir, if the Questioner is asking about original allottees---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! The Chair has asked the Minister to refer to the Question and answer it according to its original outfit. Give the Minister a chance.

Mr. Ngala: Mr. Deputy Speaker, Sir, I see part "b" is talking about the original allottees. I did reply as follows: The details of the original allottees are readily available in the land registry and can be obtained through an official search.

(Loud consultations)

Mr. Deputy Speaker: Order! Order! Yes, hon. Muite.

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. With due respect, Mr. Deputy Speaker has made a ruling on this matter, that the names of the original allottees should be tabled by the Minister. Nothing is easier for the Government than to, in fact, bring to this House the names of the original allottees. Is it in order for the Minister to start defying the ruling of Mr. Deputy Speaker and to start prevaricating? Even in part "a" of the Question, we want to know who, in the Government, actually authorised this. Was it the Cabinet or the Minister? He should bring the list of the original allottees. I suggest that the Minister has no business defying the ruling of the Chair.

Mr. Deputy Speaker: Order, hon. Muite! Please do not stand on a point of order and proceed to harangue the Minister and everybody else. I do not know if you got the point or order. I did not.

(Loud consultations)

Order! We are not going to make progress if the Minister is not going to have an opportunity---

Mr. Oloo-Aringo: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, hon. Oloo-Aringo. We do want some answers from the Minister. But if every time he stands up he is harangued with points of order, we are going to end up not getting anything out of him. The Minister has been asked who were the original allottees, and I said if it is possible to extract the LR numbers of those parcels of land, it is just as easy to extract the names of the owners of these LR numbers. If the Minister does not have that information now, it is just a question of saying: "I do not have that information now; I will bring it tomorrow or next week." So, let us deal with these matters one at a time. Do not raise points of order before we dispose of that particular one.

Mr. Ngala: Mr. Deputy Speaker, Sir, I will endeavour, next week, to prepare the names of the original allottees for the House. Thank you.

Mr. Oloo-Aringo: On a point of order, Mr. Deputy Speaker, Sir. I speak with a heavy heart because I said this last week, and I want to repeat, that the Government of Kenya has the habit of shooting itself in the foot. Today, we have further evidence that the Government is treating us like children. We cannot be children because we produce children.

(Laughter)

You have made a very wise ruling acceptable to the House.

Mr. Deputy Speaker: Order! Now that we have done all the producing of the children, can we now produce the point of order you want to raise?

Mr. Oloo-Aringo: Thank you, Mr. Deputy Speaker, Sir. Is the Minister in order then to defy your ruling because all these names--- We have been here long enough to know that what is happening is tantamount to playing with the names. A Minister cannot come to this House and tell us that he cannot extract the names. My point of order is that he is misleading the House and in line with your ruling, we want to name him.

Mr. Deputy Speaker: Order, hon. Members! The Minister has already given his undertaking that next week---

Hon. Members: We want to name him!

(Loud consultations)

Mr. Deputy Speaker: Order! Order! You wanted information which the Minister has undertaken to provide. Once you name him, you know you have now punished him so that you absolve him of that responsibility. So, hon. Minister, will you do that on Tuesday, Wednesday or Thursday next week? Which day next week?

(Loud consultations)

Mr. Ngala: Let me give you the day when I am going to give you the information. I will give the answer on Thursday, next week.

Mr. Deputy Speaker: Order! I think the best solution, under the circumstances, is for this Question to be deferred until Thursday next week, so that it is answered afresh and you can raise all these issues again.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. Without the names, this Question and the answer to it has no soul. We want the soul of this Question. I would like to beg that the question is deferred until he can bring full information to this House. That is the way it is.

(Question deferred)

POINT OF ORDER

MINISTERIAL STATEMENT: DIVERSION OF SHIPS FROM MOMBASA

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

Mr. Deputy Speaker: Not on this issue, hon. Maitha.

Mr. Maitha: Mr. Deputy Speaker, Sir, my point of order is directed to the Minister for Transport and Communications. There is something happening at the port. The port does not have ships at all. As of yesterday, there was only one ship in the port. This has been happening for the whole of this month. This month is the high season for ships, but they have diverted to Tanzania, and we do not know what the problem is. All the ships are in Tanzania. Clearing and forwarding firms are now moving to Tanzania and we do not know what happened for the ships to divert to Tanzania. The port is collapsing and, in fact, there is a plan to even lay off workers. Can the Minister bring a statement to this House on why ships are diverting to Tanzania?

MINISTERIAL STATEMENT

WATER SITUATION IN DANDORA

The Minister for Local Authorities (Prof. Ongeri): Mr. Deputy Speaker, Sir, some two weeks ago, the hon. Member for Embakasi wanted to know about the water situation in Dandora. I now want to make a Ministerial Statement.

First, the water production in the City of Nairobi is in the three water treatment plants including Ngethu, Sasumua and Kabete which are operating normally. The Ng'ethu and Sasumua plants are located at distances of

80 kilometres and 100 kilometres respectively away from Nairobi. Both of these plants produce more than 90 per cent of the water for Nairobi. The water so-produced is then transmitted to Nairobi through large diameter pipelines. There has been vandalism of the air valves on these pipelines by people who live along the pipeline so that they could obtain some water. As a result, there has been a problem of air locks in the pipeline thereby, reducing the amount of flow of water to the City.

The situation has been very bad for the last ten days, whereby the levels in the main storage tanks at Gigiri have been very low. The line has, however, been flushed and the levels at Gigiri are steadily rising. Today, the levels have risen to well over 2.5 metres. The maximum level expected is five meters. The council is giving water to the people living on the five kilometre corridor along the pipeline from Ngethu and Sasumua. This, hopefully, will stop them from vandalising the air valves. The Council has also resolved to employ people who live along the pipeline as line patrollers, since some of the places along the pipeline are not accessible by vehicles.

In the case of Dandora, on Monday, 26th of October, 1998, a major burst occurred, on a major distribution pipeline in Dandora. Immediately, the maintenance crew were dispatched to the site. The water was closed in order to carry out repairs. Some of the repair materials were not readily available in our stores, and they had to be fabricated, and this took some time. All the spares have, by now, been obtained and the work of fixing the burst is completed. There is no water shortage to Dandora Phase Four.

Similarly, there is no water shortage now in Dagoretti area and many other areas because of additional water pumps which have been installed at specific places. I may add that this water is fully and comprehensively treated with chlorine.

Mr. Mwenje: I would like to thank the Minister because it is true that the repairs were done, and by the time I reached home, there was water at Dandora. But we have one problem which the Minister did not get correctly. Some of the water in the pipe gets contaminated with dirty water. Something should be done to make sure that the leakages within the main pipe do not mix with sewerage water, ordinary water and *El Nino*. That is what brings dirt to the water which we drink. So, would the Minister ensure that the leakages are checked on weekly basis, so that we do not continue having treated water mixing with dirt, rain water and sewerage water, which brings typhoid to our people in this country?

Mrs. Mugo: Mr. Deputy Speaker, Sir, I am grateful to the Minister because he has said that we had this problem way back in April. When I went round with the General Manager of Water Department at City Hall, in Dagoretti, he promised that in three weeks, there was to be a flow of water in Dagoretti, especially in Riruta. As I am speaking now, at least, as of yesterday, we still did not have any water in parts of Ngando, Dagoretti Corner and other areas near Lenana High School. So, I do not know who has given the Minister that information. I do not know whether it is the General Manager or his officials. So, can he go back and check again because we have been promised water for the last four months, and nothing has happened so far?

The Minister for Local Authorities (Prof. Ongeru): Mr. Deputy Speaker, Sir, I had anticipated that sort of question, although I was specifically dealing with the issue of Dandora. In fact, we have had some difficulties initially in the water supply to Dagoretti. This is because the area relies on pumped water from Kabete to Uthiru tanks. From there, the water is distributed to the Dagoretti area. In order to increase the supply to the area, the council has put the following works in place. There is installation of additional two pump sets at Gigiri. The two pump sets which have a capacity of 370 litres per second each are expected to be completed and commissioned by the 15th of November; that is, this month. These pumps will increase the bulk of water to Kabete, so that there is enough water to be pumped from Kabete to Uthiru tanks, which will in effect, be able to supply adequate water to Dagoretti. I think the hon. Member is aware of this.

Mr. Murathe: Mr. Deputy Speaker, Sir, further to what the Minister has answered, this water comes from Gatanga. It has caused a lot of damage in the construction of the Ndakaini Dam, both environmental and otherwise. He has said, in this answer, that people are getting water within five kilometres of the main pipeline, in order to avoid vandalism, which is causing health problems and mixing water with dirt. We are now saying here that we are no longer able to guarantee that this water is going to come to Nairobi, if those people of Ndakaini---

Mr. Deputy Speaker: Order, hon. Murathe! You may have a legitimate point to raise, but not under this Order. This is because he was responding to issues raised by the hon. Mwenje and hon. Mugo about availability of water for drinking in Nairobi. If you have an issue about Gatanga and Gatundu, and wherever else, please, raise it, but under a different order. Next Order!

Mr. Nyanja: On a point of order, Mr. Deputy Speaker, Sir. This is in regard to what the Minister was answering!

Mr. Deputy Speaker: The Minister did not answer anything. The Minister gave a response---

(Messrs. Murathe and Nyanja interjected)

Order! Order! Please, let us follow our Standing Orders and we shall co-exist and live very peacefully. I am not refusing to accede to a point of order, but not in this one. Now, shall we proceed to the next Order?

(Mr. Nyanja interjected)

Order! Order, hon. Nyanja. Hon. Nyanja, I like your sense of humour, but you are carrying it a bit too far today. So, stem it for the time being. Shall we proceed to the next Order?

BILL

Second Reading

THE LOCAL AUTHORITIES TRANSFER FUND BILL

(The Minister for Finance on 21.10.98)

(Resumption of Debate interrupted on 3.11.98)

Mr. Deputy Speaker: Who was on the Floor? Where is hon. Ndwiga? Since hon. Ndwiga is not here to continue with debate, can we have hon. Ndicho?

Mr. Ndicho: Mr. Deputy Speaker, Sir, I rise to support this Bill. This is a very important Bill because going through it, you realise that it is a Bill that is giving the local authorities in this country extra funds which are raised from income tax. There is no Member of Parliament who does not know how the local authorities are currently suffering due to lack of sufficient funds to run the various services in various local authorities.

[Mr. Deputy Speaker left the Chair]

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

The current Minister for Local Authorities is very concerned and we support him fully. Recently, I read that he said that he is going to put his foot strongly on the ground to protect corruption, misuse and the misappropriation of funds.

The Minister for Local Authorities (Prof. Ongeri): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member right by saying that I put my foot down in supporting corruption?

Mr. Ndicho: No! no, Mr. Temporary Deputy Speaker, Sir. He said that he was going to put his foot down against corruption, and I was very delighted. I said this is the kind of Minister we want. If I said he has put his foot down to support corruption, then that was a slip of the tongue. I must apologise to the Minister.

For a long time now, the local authorities in this country have been mismanaged by what we call the chief officers. For some time, the mayor and his councillors were the people who were wholly responsible for the running of the local authorities, but after 1992 when multipartyism was introduced in this country, all went haywire and hell broke loose as far as the local authorities are concerned.

It is very pathetic because we realised that the majority of the local authorities in this country, after the 1992 general elections, fell in the hands of the Opposition. What developed thereafter was that the Government, in a kind of situation to punish the people in those local authorities, decided to get the powers of the elected councillors and vest those powers in civil servants in the name of town clerks, treasurers and other chief officers. In effect, what that has resulted into is latent misappropriation of public funds. In fact, it was after 1992 that the issue of grabbing of public land in these towns got its ugly head out of its body, and this is was the time that public toilets, roads, mortuaries, cemeteries, schools and stadia were grabbed. We understand this and we also understand that the Government was kind of punishing the people who elected these councillors in the Opposition into these local authorities. The situation is still obtaining today because the majority of the councillors who are running these institutions or these local authorities, even after the 1997 general elections, are also from the Opposition.

So, the Government in a rage of revenge, has left the local authorities be run by civil servants and despite

the fact that Members of Parliament from these areas raised various concerns here, especially from 1993 to 1997, the Ministers were not concerned at all.

We have some relief now that we have a Minister who is responsible and responsive to our cries. We encourage him to continue doing that. We are also encouraged by his Permanent Secretary who listens to everybody and who is taking action. There is no way we are going to have local authorities which are supposed to be role models at the local level in the management of public affairs, public policy and public funds, if the Minister is not going to be hard on these things. I have a case in point, where the Town Clerk of Ruiru Municipal Council, last month, which is only two weeks ago, without the consent of the full council---

The Minister for Local Authorities (Prof. Ongeru): On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Ndicho is just about to mention a name, and he knows that he has, in confidentiality, reported the very same issue to me and I have instituted investigations. This would be a breach of confidence that he and I, yesterday, agreed upon in pursuing that particular issue that he is about to mention in this House.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, it is true that because of the confidence I have in my friend the Minister, I approached him on this issue. In fact, in my very presence, he called the Permanent Secretary and asked him to institute investigations into this claim. I am happy and I know this is going on. So, because of the confidentiality I have with the Minister, I beg to leave that matter at that.

All we are asking the Minister is that the people he is appointing as town clerks and treasurers, not only in my constituency, but in the whole country, must be people of integrity. These people are a let-down to the Government. The Government may revenge by appointing its own officers to these local authorities, but in the final analysis, these are the characters that besmirch the name of the Government. We must tell the Minister that the characters or the civil servants that we bring to these local authorities must be people of proven honesty. The majority of them are just exchanged. When one messes in one local authority and the people concerned there complain, all the Ministry does is to transfer him from that local authority to another. What he does is to continue with the messes that he was doing in that former local authority.

I wish to thank the Ministry also because there was a town clerk previously who was at Ruiru and who was removed because of misappropriation of Kshs11 million. As we stand here, that money just vanished like that with the man. He was only transferred to Maragwa County Council where he continued with the spree of grabbing public money and eventually, when we formed the new Government the Ministry probed this man and he was sacked. We would like the Minister to continue along that line and not to transfer these town clerks from one local authority to another after they have messed up; do not even sack them, but imprison them at Kamiti Maximum Prison, and let them serve jail-terms that courts of law deem fit for them.

We are going to support the Minister in reviving the glory that local authorities used to have. In the 1960s, there was no way chief officers would sit down and collude to write a cheque and withdraw the money without the consent of the councillors themselves and the approval of the Minister, but today, anything can happen. When I was doing my own investigations, I found out that these town clerks and other officers have some god-fathers in the Ministry. When they steal this money from the local authorities, they do not "eat" it alone. They come to the Ministry with brief-cases and go to that officer. If I was not bound by the Standing Orders of this House, I could have named two officers in the Ministry of Local Authorities here who are culprits and who receive this money, I think it is high time we reviewed the Standing Orders so that we can name these people who should be ashamed.

Mr. Temporary Deputy Speaker, Sir, there is no way the Minister can discipline an officer on this while his junior in the Ministry is receiving part of this money to protect this man. Hon. Ntimama stood up here about three weeks ago and confessed that, as the Minister for Local Government for several years, he could not discipline a certain officer there because of his political connections. He was very happy to be removed from the Ministry of Local Government because he could not discipline that officer, and he knows himself. But we are happy because the Minister we have is made of the Kisii material that fears nobody, and he is not going to fear anybody. So, we are asking the Minister not to be lenient at all. This is the only way we are going to have systems and institutions in this country working again.

Mr. Temporary Deputy Speaker, sometime back, Murang'a County Council, Kiambu County Council and Thika Municipal Council were so rich that they even lent to the Government of Tanzania, and that is in the records. An amount of Kshs60 million from Murang'a County Council, Kshs60 million from Thika Municipal Council and Kshs60 million from Kiambu County Council was lent out. What happened to that money? Either, it has never been repaid, or if the Government of Tanzania ever paid back that money to the Kenya Government from where it was channelled to the Tanzania Government, it has never been brought back to these local authorities. We demand that this money be brought back because Thika Municipal Council today is almost on its knees. We have no street lights, all the roads are potholed; we are drinking water that is not treated, and I am

asking a Question towards that effect.

Mr. Temporary Deputy Speaker, Sir, where does all the money go? Thika is one of the councils that really collects a lot of revenue. We have a lot of factories; in fact, 150, small, medium and large scale industries that really contribute. a lot of revenue to Thika Municipal Council, yet the people of Thika no longer enjoy living in Thika. Why should we drink untreated water? Even in the City of Nairobi here, we have heard hon. Members from Nairobi complaining about the problems facing the people they are representing. At one time we were told that somebody was awarded a tender to supply chemicals to treat water, and instead he supplied chalk. It is a very big shame. If you look at the City of Nairobi's roads; from Tom Mboya Street, down to Luthuli Avenue, Kirinyaga Road and Ronald Ngala Street, you will wonder whether you are in Kenya.

Mr. Temporary Deputy Speaker, Sir, last week, somebody went to recarpet Forest Road, from the Aga Khan Hospital Junction up to the Roundabout of Pangani. This was a very smooth and nice road, which did not need any tarmacking nor recarpeting at all. This is the road I use---

The Minister for Local Authorities (Prof. Onger): On a point of information, Mr. Temporary Deputy Speaker, Sir. I want to allay the fears of the hon. Member that the roads he has just mentioned fall under the category of the *El Nino* disaster roads. In the whole of River Road, Kirinyaga Road, and everywhere, once that package is dealt with, that problem will not arise.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, it is very encouraging to hear that from the Minister. It gives the people of Nairobi, and motorists some hope that these roads will be repaired. You have seen that even the Kenya Bus Services Company is threatening to withdraw its buses because of the state of the roads. The cost of maintaining these buses is so high that they are not breaking even in their operations. So, we are encouraged that the Minister is getting concerned. All we are asking, and my concern, was why was Forest Road recarpeted when it was as smooth as the surface of a glass? This only makes us to suspect that there was corruption because that is somebody who got a tender--- And even if you look at how that road was recarpeted it is on my way home - they put only less than one-eighth of an inch of tarmac. I am just investigating how much money that Mhindi contractor was paid. This is because you would be surprised to learn that it runs into millions of shillings. Even if the Ministry is waiting for the *El Nino* Funds and whatever it is to be approved, at least, that money that was used to recarpet a very smooth road, could have gone to fill some of these other potholed roads awaiting their rehabilitation.

Mrs. Mugo: In Dagoretti!

Mr. Ndicho: Even Dagoretti is still in Nairobi. So, we want to ask the Minister that because this is a lot of money that we are transferring to the local authorities, he must ensure that the kind of people that are currently working in this station are not the people who are going to administer this Fund. This is because we are going to bombard you here with lots of questions on the misuse of this money.

Mr. Temporary Deputy Speaker, Sir, we had hoped that the Minister would also include in this Bill what we had expected; that a percentage of the Petroleum Levy that is received at the local authorities, for example, in Thika, should be ploughed back to that council. We had hoped that it would be included in this Bill. But since making laws is a continuous process, we hope that the Minister will eventually bring it, so that the local authorities can be rich themselves so that we do not keep on asking the Minister questions. We must encourage the Minister to continue with his good work, and I want to repeat to him that it is important that he has officers of great integrity, both at his Ministry Headquarters and down to the level of the chief officers.

Mr. Temporary Deputy Speaker, Sir, by the local authorities getting these funds, we are assured that employment opportunities will be created, because there will be enough funds. Today, Thika Municipal Council, and even Ruiru Municipal Council, no longer employ people on permanent basis, because they argue that there is no money. So, we encourage this because it is going to create employment opportunities.

I want to finalise my contribution by saying that, in 1995, Thika was awarded district status and when the district came, it came along with Thika County Council. Thika Municipal Council has operated without offices and I was very concerned that they had no offices because they were operating in the small changing rooms of sportsmen and women at the Thika Municipal Stadium. In 1996, we, the DDC of Thika, had to look for land which is two and half acres, near Metal Box Thika, which was given by the DDC under the chairmanship of the District Commissioner, to Thika County Council. The councillors of 1992/97 never came back. They were rejected by wananchi. So, the current crop of Thika County councillors went to see the President early this year and misled him. I am using the word "misled" because I am in Parliament, otherwise, I could have used the word "cheated". A whole Head of State was misled that the Government quarters in Thika, where civil servants of the lower cadre stay were being occupied by nobody, and they wanted to build their offices there. This is simply because it is inside the town, next to the stadium.

The Minister for Local Authorities (Prof. Onger): Mr. Temporary Deputy Speaker, Sir, I may not have

heard what hon. Ndicho said, but did he refer to the Head of State as having been cheated?

Hon. Members: No!

The Minister for Local Authorities (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, the Head of State cannot be cheated, he has many avenues of information.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I do not know what the hon. Biwott has told the Minister.

The Temporary Deputy Speaker (Mr. Musila): Prof. Ongeru, the hon. Ndicho said that the Head of State was misled. In fact, that is what I heard.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I said, if I was not in Parliament, I would have used the word "cheated", but it is unparliamentary. So, he was misled by these councillors that the Government quarters in Thika are vacant.

The Assistant Minister for Finance (Mr. Arap-Kirui): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Ndicho is merely camouflaging what he wanted to say. He has used the word "cheated", by saying that if he was not in Parliament, he would not have used it. That is not absolving him from using it. He used it and it is inappropriate.

The Temporary Deputy Speaker (Mr. Musila): Mr. Ndicho, proceed because, what I heard was the word "misled" not cheated.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I will forgive the hon. Kirui because he is a new Member of Parliament. He must learn these things slowly by slowly.

The Assistant Minister for Finance (Mr. Arap-Kirui): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to conceive that he can forgive another MP? I do not think he has that capacity.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I still forgive him even after committing the second sin.

These Government quarters in Thika are situated where the civil servants live. Now the councillors from the Thika County Council are putting up offices in the Government quarters meant for civil servants. According to the original plan in that area, it is a designated area for residents and there is no way you can put offices in a residential area. This is why we are telling the Minister that he must have officers who are conscious of planning.

(Mr. Nyachae consulted with Prof. Ongeru)

Mr. Temporary Deputy Speaker, Sir, I would like Mr. Nyachae to let Prof. Ongeru listen to me, because it is very serious.

The Temporary Deputy Speaker (Mr. Musila): Mr. Ndicho, proceed! The Minister is listening.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I am appealing to the Minister for Local Authorities to make sure that the councillors from Thika County Council, get the two-and-half acres that they were allocated by the Thika DDC instead of squeezing themselves in houses of low cadre civil servants in Thika, where there is no parking. In effect, what will happen is that these two-and-half acres will be grabbed because, eventually, the Thika county council has got their offices. So, I am informing the Minister that they have property which we gave to the County Council free of charge for the construction of local authority offices for the Thika County Council. We would like the Minister to implore upon the councillors and the DC, Thika to make sure that these offices are built in an expansive area suitable for future development. There is no point of them building a small office block which has no expansion area. I am requesting the Minister, because I also know he is a good friend of the President, to tell him that he was misled by these councillors and it is high time things were put straight so that we can have good offices in Thika. We do not have to build temporary offices. After all, they are spending money. They should go where they were allocated land. There are records from the DDC proceedings of 1996. All we are telling the Minister is that, he should help us at the ground level, and we are also going to make sure that we help him.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to ask the Minister to make sure that the persons who will be appointed in this Advisory Committee--- Because if you look at it, there is no representation from the political arena. It is high time that the Government stopped viewing the Opposition as enemies. It is high time that hon. Members of Parliament, and possibly one councillor, were incorporated in this board, so that there is accountability, and people can understand what is happening.

Mr. Temporary Deputy Speaker, Sir, I would also like to comment on the issue of privatization and commercialization of the Water Department. I know the Minister was in Nyeri last week to commission the commercialization of the Water Department in Nyeri Town, but we had some grey areas. If you go according to

what has been established; if this water management is going to be given to a company; and going by the level of corruption that is obtaining in the country, we are not very sure that this money is going to benefit the people of that local authority. We understand the local authority is a shareholder in the company, but the question we are asking is: If it is a 100 per cent shareholder in a company, what is the point of creating a company to manage monetary affairs of a local authority, when there is a department which is still answerable to the local authority? In Thika, the leaders and the stakeholders have sat down and assessed the viability of this company which will undertake this water commercialization and we have seen that it is not viable and we do not want it. We want the water department to be run efficiently.

With those few remarks, I beg to support and tell the Minister, we object to the operations of that company in Thika.

Mr. Koske: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute to this Bill. I will start by saying that this is a well thought out Bill. When I say this, I have in mind councils that have not been able to pay their councillors for quite sometime. If this money was made available from the Central Government, these councils would be able to pay these councillors. I believe the burden Members of Parliament carry is going to lessen because, they will also be earning salaries and allowances timely. However, there are some few issues that I would want to raise pertaining to this Bill.

Mr. Temporary Deputy Speaker, Sir, one is the issue of accountability in these local authorities. You will agree with me that most of these local authorities are run as the property of the chief officers and the chairmen of the various county councils. The chairmen, as well as the various clerks to the councils just sit down and decide what property of the council they should sell without proper consultations. I have in mind Nakuru County Council. Sometime back, this was a very rich county council. But if you went there today, it is in a very sorry state. I squarely put the blame on the Permanent Secretary, Ministry of Local Authorities, because we have been complaining time and again about the Clerk to the Nakuru County Council. I have personally seen the Permanent Secretary to the Ministry but, unfortunately, he kept telling me that he is going to do something about the clerk. You can imagine promoting a Community Development Assistant to the position of a clerk to the council and the kind of mess this kind of individual is going to cause. So, that is why I am saying that we really need to have a scheme of service. It is true most of these people are employed through the Public Service Commission, but the laid down procedures are actually not followed in hiring these staff. We do not need this clerk in this council, but, unfortunately, the Permanent Secretary seems to be liaising with some people whom we do not know to keep this man who is not even qualified in the first place, as the clerk to this county council. This man with the chairman of the council, have actually brought the once famous and rich Nakuru County Council down to its knees. It is a very sad state of affairs because the other day, the clerk went out of his way and he managed to sell the house of a clinical officer in a local dispensary in my constituency. Here is one person who has the audacity to go and sell the properties belonging to the council. So, my appeal to the Minister, since he is here, is that he should look into this issue of Nakuru County Council, and, specifically, the issue of the clerk to the council. We need a qualified person. We do not need somebody who is being misused by these councillors to do what they want to do. It is very unfortunate, but I think the Ministry has an obligation and a duty to the people of Nakuru County Council to do something about this clerk.

The other issue that I would want to raise here is the calibre of councillors who are elected into the various local authorities. It is a pity that no academic standards have been set for people aspiring to be councillors, yet Parliamentary aspirants have to meet certain standards of education before being elected. That is why I am saying that most of the councillors who get elected to the various councils do not really contribute positively to issues that are supposed to be discussed pertaining to the running of these councils. That is why the chairmen and clerks to the councils are able to manipulate and run down these councils instead of making a positive contribution towards running these councils effectively. So, if this issue of the calibre of councillors is looked into, I believe some of the various issues we are raising here will actually be taken care of and we shall not be seeing cases whereby individual councillors and the chief officers of the council allocate themselves plots which are later found out to be plots which were not supposed to have been allocated in the first place. So, it also becomes a big embarrassment when some of these councillors are given plots which belong to people and they have to surrender them later. But the most unfortunate thing is that they will be found to have sold these plots and they are not able to pay back. So, what I am briefly saying is that if we look into this issue of the calibre of the councillors that we are electing into the various councils, we should be able to put some sense of accountability into these councils because the councillors will be able to act as watchdogs on the various officers that are posted to the councils.

The other thing I would like to raise in my contribution is the issue of over-establishment in the various councils. You will find that the biggest proportion of money that is spent by these councils usually goes towards the payment of their staff and yet, some of these staff are not needed by the councils. But because of various

reasons, the councils end up employing these people ending up with an over-establishment of personnel. The councils are supposed to raise money to pay these people. The services the councils are supposed to render will not be rendered because all the money ends up being used by these staff. So, there should be a need for these councils to be given a set of positions so that the level of establishment is met against the ability of each council to employ these people, and, at the same time, the ability of the council to render the services that it is supposed to render.

The other issue that I would like to raise is the issue of plots within the jurisdiction of the various councils. You will agree with me that the issue of plots is a very thorny one in the sense that the various centres that fall within the county councils are allocated in a very haphazard manner. The various councils do not have the time for these vacant plots but instead there seems to be a cartel, and I am specifically referring to Nakuru County Council, between the chairmen of the various committees and the chief officers. They do not advertise these vacant plots but they allocate themselves or look for their friends and allocate these plots to them. So, I would suggest the plots are advertised so that people can be able to apply for them and be allocated instead of councillors and chief officers allocating themselves more plots, which remain undeveloped. If some of these plots were advertised, the serious people who would want to develop these centres would do so and these councillors would realise some income from these properties. But when they end up being given to the cronies of the chairmen and chief officers, at the end of the day, the centres remain undeveloped and the plots are grabbed.

Mr. Temporary Deputy Speaker, Sir, if these were advertised, the issues of these people actually going out of their way to grab these plots would not arise because the plots would have been given out in a transparent manner, and I do not think there would be need of what we have seen of late, whereby some people gang up and actually go and destroy some of these plots that had been taken up by these individuals here. So, if these allocations were done in a more open and transparent manner, I believe some of these problems that we are encountering now of seeing people invading private property and destroying the perimeter walls would actually not arise because at the end of it all, these plots would have been given out in a more justifiable and equitable manner, and the end result at the end of the day is that, these councils will be able to realise enough revenue to render various services.

Mr. Temporary Deputy Speaker, Sir, the other issue that I would want to raise in my contribution is with regard to recarpeting of roads in various towns, and I have in mind Nakuru town and also Molo town. A certain company was given the tender to recarpet the roads within the municipality and also within the Molo Town Council but unfortunately, the work that this company has done in recarpeting of those roads has been very, very shoddy. I talk of the work being very shoddy because, before a month has elapsed after these roads were recarpeted, you find that, these roads have started developing potholes and when you ask the fellows concerned with these constructions, all that this man keeps telling you is that he has just done the patching up of the roads as he prepares himself to recarpet the roads. The question here that I would want to pose to the Minister is this: "Why should part of this money that has been set aside to recarpet these roads be used for this kind of patch-up that does not actually last a month?". At the end of the day, when the final recarpeting of the roads takes place, you will find that the roads end up not meeting the required standard, simply because this man will have been given a reason to cut the costs and in the process, divert the money that is meant for these roads.

Mr. Temporary Deputy Speaker, Sir, the Minister for Local Authorities appeared on television within Nairobi City and he was going around and busy explaining that the roads were just being recarpeted for the major works to be done. It is very unfortunate that we are using the taxpayers money in a way that does not meet the requirements expected of us. If you went to Industrial Area in Nairobi City, [Mr. Koske] and I am purposely and sincerely referring to the Lunga Lunga Road; it is barely two months ago when this road was patched up and if you went there, you would find that the road is just full of potholes. The suggestion that I am giving the Minister is this. He has a moral obligation and duty in serving this nation and he has to ensure that the money that is meant for the recarpeting and review of these roads is used in a proper manner. It is a shame that this road is done.

The Minister for Local Authorities (Prof. Ongeru): On a point of information, Mr. Temporary Deputy Speaker, Sir. I do not intend to cut the hon. Member short. Juja Road that he is referring to is, indeed, a temporary work which was done to alleviate the enormous problems that face the residents of that area, and they are ever grateful and I want to assure him that that particular road is under the World Bank programme and the tender documents are being processed to be sent out, so that, that road can be done. I think we should not mislead each other that there is something fishy or funny which was done. It is still coming, including the industrial area road which is also under the World Bank programme. What was done was a palliative measure to assist motorists and pedestrians to be able to come from their residential areas to the city and avoid the major traffic snarls which had started building up on Thika Road.

Mr. Koske: Mr. Temporary Deputy Speaker, Sir, while appreciating the Minister's remarks, the road

that I specifically referred to in this case here was not Juja Road, I was specifically referring to Lunga Lunga Road in Industrial area. So, what I was saying in the process, before he cut me short, is that, it does not pay for the common mwananchi to be hoodwinked that something is being done when we do not need a palliative measure in this case, but proper works to be done. So, in this case, what I am simply saying is that we do not need to have divert money to perform palliative works but what we are simply saying is that, if a piece of work has to be done and a contract has to be awarded, let it be awarded and let a proper job be done so that we know the money that was put aside for redoing of the roads is put in its proper use.

Mr. Temporary Deputy Speaker, Sir, as I finish, there is one issue that I wanted to raise in my contribution, and this involves the issue of the various untimely transfers that usually affect basically, the treasurers and the clerks to the various councils under the Ministry of Local Authorities. You will find that some of these transfers that are effected, time and again, are usually done not because they are necessary, but, in most cases, to settle scores and I believe that the people who end up suffering in these cases are the people who are served by these officers. When I say this, I have in mind the protracted transfers the other day to Nakuru County Council; that is with regard to an officer who, within a span of one month, was being transferred from left to right, from Nakuru County Council to Narok County Council. So, what I am simply saying is that these kind of transfers are not called for and unless there is a reason and a need to transfer these chief officers, there is no need to wake up one day and tell an officer to go to this station and then the following day revoke the transfer of that officer. The work that this officer had started doing--- We actually appreciated the work that he was doing for Nakuru County Council; it was actually good work, but, unfortunately, this officer got tossed left and right. Finally, he has ended up remaining in Nakuru County Council, and I hope he is going to do the good work that he had started doing within our council.

With those few remarks, I beg to support.

The Member for Kieni (Dr. Murungaru): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for according me the opportunity to make my first remarks in this august House and to contribute to this very, very important Bill. Before I make my remarks regarding this Bill, which has been brought to this House by my very, very able former teacher, the hon. Minister for Local Authorities, I would like to take the opportunity first and foremost, to thank the people of Kieni Constituency for having elected me to this august House and more so, with a very, very convincing landslide majority. At the same time, I would like to assure my voters, that is, the people of Kieni, that I will do everything in my ability to represent and propagate their interests, both inside and outside this House.

Mr. Temporary Deputy Speaker, Sir, I would also like to take the same opportunity to pay tribute to my immediate predecessor, the late David Kairu, whom the people of Kieni loved very much. He actually initiated very many development projects, which I intend to complete. It is because of his initiative that the constituency became one of the most famous constituencies in this country in the last Parliament as far as development is concerned. Due to his efforts, we were able to get things going, particularly in the area of the greatest concern to the people of Kieni; that is water. He was able to initiate a major water provision programme, which, last year, was graced by His Excellency the President of the Republic of Kenya. Up to now, the project is the business of the moment in the constituency.

Mr. Temporary Deputy Speaker, Sir, allow me to wander a bit from the business of this moment since this is my first contribution in this House. But before I do that, let me first come to the Local Authorities Transfer Fund Bill. I would like to start by commending the Minister for Local Authorities, not because he was my professor lecturer, but because he has done a thorough job in conceiving the idea of transferring some funds from the Central Government to the local authorities, so that the former can render the services for which they were created to provide. Local authorities truly represent the grass-root leadership and politics of this country. The time is more than ripe for us to empower local authorities, so that they can provide some of the services that are currently being provided by the Central Government.

Mr. Temporary Deputy Speaker, Sir, a couple of weeks ago, I was with the Minister in Nyeri where he was launching the Nyeri Water and Touring Company. I remember him say that he intends to increase the amount of money that the Central Government will transfer to local authorities gradually and sequentially as time goes by. I would like to urge him to consider increasing the amount of money that will be made available to the local authorities sooner rather than later. I am saying this because if one were to consider local authorities *vis-a-vis* the Central Government, one will realise that local authorities are situated in such a manner that they understand the needs of the people, being led by both civic leaders and Members of Parliament. Local authorities are closer to them.

There are many areas where local authorities can do more justice in terms of service provision to the people than the Central Government. I particularly have in mind the area of roads. For example, in my

constituency, in Kakawa Location, roads which are supposed to be maintained by the local authority have not been touched for the last four years. Kakawa Location borders Nanyuki Municipality. This is the location in which a world-famous lodge called Mount Kenya Safari Club is situated. The roads in that location are totally impassable, not merely because of the effects of last year's *El Nino* rains, but because it has not been given attention for the last four years. If more funds were earmarked for the maintenance of roads, the situation would be different. Of course we all know the importance of effective communication, particularly where roads are concerned.

Mr. Temporary Deputy Speaker, Sir, I agree with the many speakers who have spoken on this particular subject in the past. It is absolutely necessary, and in the interest of effective governance at the grass-roots level, that councillors in the local authorities must meet certain minimum capability standards. In actual fact, I am thinking of educational standards. We come here as Members of Parliament after having satisfied certain academic requirements. This case does not apply to councils although in actual fact, the kind of services we render to Kenyans are basically similar to those rendered by councillors. Councillors debate as we do here; they are required to formulate policy at their level as we do here; they are required to evaluate and consider issues which are of similar importance to the business we carry out in this House. It is fitting for councillors to be vetted to ensure that they at least meet the minimum standards of the ability to carry out the mandate given to them by the people. I would like to suggest that it should be made mandatory for councillors to meet the minimum requirement of "O" Level standard of education. This is because they are important leaders in society. They are men and women in whose hands the destiny of many Kenyans lie. Therefore, it is only fair that the right job is given to the right person.

Mr. Temporary Deputy Speaker, Sir, councillors are the custodians of public land. There has been hue and cry in this country for a long time with regard to the grabbing of public utility land. It is necessary to consider giving more responsibility to local authorities. This is because transferring funds to local authorities amounts to adding more responsibilities to them. It is, therefore, necessary that we make councils more accountable. To do this, the chairpersons of local authorities should be elected directly by the people. In this way, the chairpersons will have the necessary mandate. They will have more authority since they will have the mandate of many people who will have elected them as opposed to the present situation, where a chairman or a mayor is elected by a small caucus of councillors who are so easily manipulated.

Mr. Temporary Deputy Speaker, Sir, although I know that the constitutional review is in the pipeline, I feel that those are some of the issues which do not need to wait until the Constitution is substantially amended. Those are issues which, perhaps, the Minister for Local Authorities can look into, so that these funds which are being transferred to local authorities are not expended without the necessary controls, because we will be transferring funds from the Central Government to the local authorities to achieve a certain purpose and, indeed, we might be worsening the situation rather than improving it.

Mr. Temporary Deputy Speaker, Sir, our councils, as I had said earlier, are entrusted with a good proportion of the public land; that is, the one that is remaining. Some of those lands include forests and although I know that the councils are normally not consulted when forests are degazetted or allocated I feel that they also have a very important role to play in environmental conservation. In this regard, it is my feeling that local authorities should share in the benefits that are derived from tourism or from activities or organisations like the Kenya Wildlife Service (KWS), and the Ministry of Tourism and Wildlife, in general. For example, my constituency borders both the Aberdares and Mt. Kenya National Parks. We had assumed that the community partnership arrangement that exists between the KWS and the local communities bordering the areas where they operate is actually a continuous and on-going arrangement which is supposed to benefit the local people. We have tried to work through our local authority, Nyeri County Council, so that some of those benefits could be channelled through the council which is responsible for maintaining roads, because that it is our most pressing need, but that has caused a lot of problems. I would like to propose to the Minister for Local Authorities that he should encourage the creation of an avenue through which those financial benefits derived from tourism in that region can be channelled through the council, particularly with a view to improving the services which the local authority is required to provide.

On the same note, I would like to urge the Minister for Local Authorities to liaise with his Cabinet colleagues responsible for forests, to formulate a policy where before forests are degazetted, or even earmarked for degazettement, the local people, through their council or Members of Parliament, are consulted. Just this morning, I received a delegation of councillors from my constituency, claiming that part of the Sagana State Lodge grounds have been grabbed by somebody. Those are councillors complaining that part of the Sagana State Lodge grounds, which stretch to both Mathira and Kieni Constituencies, have been allocated, and somebody is peddling a letter of allotment. This is deplorable. If it is true that this is so, this could have happened without the awareness of the Minister for Natural Resources. He is in the House and, perhaps, he will take note of that and, maybe, do the

necessary investigations. But I would like to urge that before forests are degazetted, the local leaders should be consulted to give their input as to whether there is need for that or not. The excision of those forests is ostensibly supposed to benefit the landless people. Even if we were to allocate all the forests in this country, we would not give all the landless people in Kenya. We would still be left with the need for forests. So, why will we want to destroy forests without solving the problem which we had set out to solve in the first place, and be left with a major problem?

Mr. Temporary Deputy Speaker, Sir, I have got some of my colleagues here who had asked me to surrender part of my time to them, I would like to do so.

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

Thank you.

The Assistant Minister for Finance (Mr. Arap-Kirui): Thank you, Mr. Temporary Deputy Speaker, Sir, for affording me this opportunity to support this Bill. I think a Bill of this nature is long overdue as we watch local authorities wallow in various financial difficulties. I hope this Bill will go a long way to support many of those local authorities. It is, however, of concern that a number of Members who have spoken on the Bill seem to suggest that the funds from the Local Authorities Transfer Fund are going to assist the local authorities merely to do what they have done in the past; that is, to pay salaries and wages to staff and, of course, also pay allowances to the councillors. I believe the Bill emphasizes that the Fund is meant for supporting the provision of services by local authorities and also building an investment base for such local authorities, so that they can attract investment by private investors and thus, provide job opportunities.

Mr. Temporary Deputy Speaker, Sir, many Members have dwelt on the shortcomings of staff in local authorities as one way that has resulted in local authorities being in serious financial difficulties. This is very much the case, and I think a serious solution needs to be found. I believe the solution will not be found by the Central Government abrogating the right to appoint senior officers to run those local authorities. If we were to go back to a situation where every local authority would employ its own senior staff, I am of the firm belief that we would end up in a worse situation because, as many Members have already mentioned, the quality of councillors that we have in our local authorities leaves a lot to be desired. I think we should follow the system of hiring quality and desirable staff. I think what should be done is to follow a system that would ensure that, although centrally appointed, senior officers should be of the right calibre and people of integrity. This calibre would be established through the setting up of minimum standards, which must be met before an individual can be appointed to be either town or county clerk or treasurer or to other senior positions. We have cases where people, and even hon. Members, without basic qualifications somehow end up being chief officers and chief executives of local authorities. It follows that such individuals would not know their responsibilities leave alone how to discharge them.

Mr. Temporary Deputy Speaker, Sir, I wish to call for a strict maintenance and adherence to basic standards in the appointments, of these officers. In addition, there should be continuous training of these officers. We have cases where officers are appointed and they do not receive any continuous on-the-job training. We know that unless you train, particularly in the present world, where there is constant change in technology, after a while you would have retrogressed and you may fail to know what is going on in the world or what is going on in your profession and hence fail to provide quality service. Therefore, I would suggest that there should be a mandatory in-service training for all officers in the local authorities to ensure that we maintain the right quality of staff in these positions. We should appoint them when they have the basic qualifications. In addition, I think it goes without saying that officers in such responsible positions, particularly chief officers, should be adequately rewarded so that they are not tempted to raid the coffers which they are supposed to be managing.

Mr. Temporary Deputy Speaker, Sir, it is also important to suggest that there should be a constant rotation of senior officers. I know one Member did mention a situation where there were too frequent transfers. That of course has to be avoided. But, on the other hand, there should be a constant rotation; constant transfers. I think a situation where we have chief officers who have been in office for ten or 20 years is most unsatisfactory because, after a while, as we know, they tend to build empires and become a hinderance to the performance or delivery of effective services. I believe there should be a minimum number of years to be served in a station within the local authorities regulations. There should be a maximum period for an officer to serve in a Local Authority as well, and it can range between five to six years, which is reasonable in this instance.

May I also suggest that, in the management of this Fund, it is important that there should be adequate safeguards and internal controls. I think, in the Government, we tend to over-emphasize the importance of auditing. I think while auditing is useful and essential, it has been over-rated in our system. The important thing is to be able to control the funds as they are received and spent. I think it is not good, if I may use a very tired phrase, to close the door after the horse has bolted. We should have adequate controls, and this starts with having the right

calibre of individuals. There should be adequate control procedures of expenses, proper authorization and so on. This entails the building up of adequate systems and proper supervision from the central authority. I do hope that, once this Fund is in place, the officer at the head office running the Local Authority Transfer Fund will maintain constant surveillance on the utilisation of the funds through normal procedures, and not merely through year-end audits.

Mr. Temporary Deputy Speaker, Sir, as the Fund is utilised, one would hope that we would begin to see better development of our local authorities. While talking about the development of the local authorities, as was mentioned earlier in a different Motion, that there is a belief that already, we have too many local authorities. I did make a remark one time that in this country we do have different levels of development in different areas. While there might be areas that feel satisfied that they have adequate local authorities, some of us come from constituencies where we do not have this service for wananchi; where there is no urban local authority, in fact, we do have others which could easily be up-graded. I hope that the officers of the Ministry will take note of the situation in my constituency, where we have a town which does not have the standing of a town and that is Sondu. With a population of nearly 60,000, it does not have any urban status. It is not an urban council, neither is it a town council, when, in fact, it should be a municipal council going by the standards of this country. I would like the Minister for local authorities to look into this matter. I think we have mentioned this before; that Sondu be up-graded to be at least a town council, or even a municipality, because it merits that status in terms of its activities and population so that the local people of that area may also reap the benefits of development available to their brethren in the rest of this country. Hopefully, if the town was able to receive funds, and even now through the Local Authority Transfer Fund, it can avail its citizens water, lighting and a road network, which, I hope, might be even be tarmacked. In that way the rest of this country could come to the same level with others. There is also another smaller town called Sosiot which I hope the Ministry would take note of and promote in the not too distant future, so that we can enjoy these facilities.

Mr. Temporary Deputy Speaker, Sir, while talking about the development of the local authorities, I think we should appreciate, and I think the hon. Member who has just spoken before me mentioned about it, that we shall encroach on forests.

I know that some people think that it is a taboo to touch forests, but if we never touched our forests, we would not have any towns. If we never touched our forests, we would not have had the areas that we now live in and the farms where our people operate from. As we grow, I think that it is an inevitable concept that we will encroach on forests. What we do not need are self-appointed environmentalists who claim to speak on issues of the environment while they have no standing in that regard. I hope that we will get into a situation---

Mr. Odoyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member, who is my neighbour in my constituency, not misleading the House by implying that only a few selected people can speak on environmental issues that affect all of us and that we, as Members of Parliament, are not allowed to comment? In fact, he has referred to us as "self-appointed environmentalists." Is he in order to refer to us in that derogatory manner?

The Assistant Minister for Finance (Mr. Arap-Kirui): Mr. Temporary Deputy Speaker, Sir, I am not sure that, that was a point of order. I knew that my mentioning of forests was going to generate a bit of excitement, and I am not surprised. I do not think that was a point of order. Maybe, I should explain what I was trying to say.

Mr. Muihia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member on the Floor in order to purport to answer a Question which has been deferred to Thursday, next week, when the Minister for Lands and Settlement will answer those questions on encroachment? Is he in order to purport to be answering on behalf of the Minister for Lands and Settlement?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Muihia! Did Mr. Arap-Kirui do that? I do not think so!

Mr. Muihia: We are talking about encroachment on Karura Forest!

The Temporary Deputy Speaker (Mr. Musila): I do not think he talked about Karura Forest. Did you talk about Karura Forest?

The Assistant Minister for Finance (Mr. Arap-Kirui): I did not talk about Karura Forest. What I was talking about is the development of urban centres. But as I said, I did expect this point to generate some excitement, and I am not surprised.

Mr. Temporary Deputy Speaker, Sir, the point I was making, and maybe I should repeat for the benefit of some hon. Members who were not listening, is the fact that it is inevitable in the development of this country and in the development of our towns, that there should be; and there will be encroachment of forest areas. What I also

said is that rather than have individuals like myself who know absolutely nothing about the environment, pretending to talk about the environment, we should keep quiet. The point I was then leading to was, in any situation where there are issues of the environment, we should have experts advise us and this House. In any centres where there are forests and any areas of natural beauty and environmental concern, the local authorities should employ high powered environmentalists of substance, who have no axe to grind with anybody, to advise them, and we shall know what is right and what is wrong.

Mr. Temporary Deputy Speaker, Sir, if we do not develop areas that are backward, then I think our development in this country will continue to be stagnant. I would like to say that at the end of the day, we are going to develop our local authorities and the country at large. What we need to encourage at all times is respect for the law. Some of the problems that we have within local authorities, such as officers defying regulations and squandering funds, are caused by the fact that within our system and our country, we have come to glorify lawlessness and respect law breakers. I think if all of us, including Members of this House would frown on lawlessness, we would encourage members of the public to abide by the laws of this country and to follow the law strictly to the letter. We have to set the example ourselves and by so doing, we will begin to solve some of the problems that we have including those in local authorities. In that regard, any wrong-doers will be discouraged from the word go, before they can dip into the coffers of the local authorities. They will think twice before doing that.

With those few remarks, I support the Bill.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, first and foremost, when I looked at the Memorandum of Objects and Reasons of this Bill, and I noticed that the funds shall be disbursed to the various local authorities on the basis of such criteria as the Minister for Finance may specify. I noticed that this Bill gives power to the Minister for Finance to disburse certain amounts of money from the Consolidated Fund to the local authorities.

In Clause 10, I wondered about the meaning of the word "Minister", because it states: "The Minister may, in consultation with the Minister for the time being responsible for matters relating to local authorities..." I realised that the Minister referred to here is the Minister for Finance and not the Minister for local authorities. I realised that this Bill makes the Minister for local authorities a mere conduit. In fact, he may not even be a conduit! He may just realise very late that certain amounts of money have been released by the Minister for Finance and have reached the county councils and he has no authority whatsoever over this matter and yet, he is the Minister in charge of local authorities. I realised here that there was a serious problem.

I also looked at the meaning of 'Advisory Committee' and when I went to who constitutes the Advisory Committee, I realised that most of the members of that committee are people from the Ministry of Finance. One, therefore wonders what the job of the Minister for local authorities is, in this matter. He is the Minister and yet he is not supposed to disburse this money without the advice of that committee. So, he must sit there to be dictated to by the Minister for Finance as to how much money will be disbursed to where and he just looks on. What is the job of the Minister for local authorities? I was pitying the Minister for local authorities when he was sitting next to the Minister for Finance when we were debating this matter. What is the criteria of disbursing this money and what is the meaning of a local authority? They have not said whether they are cities, municipalities, towns or urban councils. How do we know how much a city, a municipality or an urban council will get out of that revenue that is collected because I suppose they are also local authorities? This thing has been created by the Minister for Finance and he has given himself too much power to dictate to this country as to where he will take this money. Then he will determine what Mbita Point Town and Suneka gets. Since the Minister comes from near Suneka, I am sure that Suneka will benefit more than Mbita Town. I am not very happy.

Then we have realised that there is something wrong with this Bill. Somebody wants to give himself a lot of power, or money, and build certain parts of the country and leave others undeveloped. This is what destroyed our local authorities. Every hon. Member who has spoken here has spoken as if local authorities are an anathema. You do not want to touch them; they are dirty. Local authorities will not use this money properly because, for the last 20 years, we have been told that local authorities are bad. They were not bad as I can remember. When I was in Standard Three, they used to give us books, ink, pens and bursaries; they used to help us in health centres and construct our roads. It was not until this Government removed the Graduated Personal Tax (GPT) from the hands of the local authorities that they killed them. After killing them, the Government started giving them some little grants to those local authorities which they liked. They gave some local authorities more grants than others. Some towns in this country grew faster than others, and some died because somebody was in power and he was favouring certain local authorities. Now the Government comes up with a Bill to try and amend the damage, and they will ruin them more because this Bill gives the same person so much power to give what he likes to his friends and deny others something.

I have been told that some cheques have already been written to the local authorities and we are still debating this Bill. I do not know how much Mbita Point Town Council is going to get. I do not know what Suneka and Kisii are getting and yet we are still debating. There is no criteria. How do you take public money and use it as you like because you are the Minister for Finance? This is a serious matter. This Bill must be thrown out and we come back with a proper Bill. I cannot allow the Minister to come to this House and say he is going to give 5 per cent of income tax to local authorities and he says it is a lot of money. Up to now, I do not know how much it is likely to be. I do not know how much income tax is possibly going to be collected or was collected last year. The Minister has not spoken about it. We do not know how much it is; we do not know whether it is in terms of billions, or peanuts. This is a very serious matter. What about the VAT which everybody in this country pays? What about the customs and excise---

The Assistant Minister for Finance (Mr. Arap-Kirui): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the hon. Member is misleading the House. Five per cent of revenue collected is known. We know how much revenue we collected this year and how much we expect to collect next year. So, it cannot be an unknown figure. We know it.

The Temporary Deputy Speaker (Mr. Musila): That is a point of information. It is not a point of order.

Proceed, Mr. Kajwang.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, we are told that it will be 5 per cent of the income tax. We do not know how much it will be this year or next year. But there is a lot of money being paid by every person in this country. Income tax may not be paid by everybody because not everybody is in that level of income which is taxable. Every child who is born in this country pays VAT because we buy napkins, baby powder and we pay VAT on these items. Every child who buys medicine pays VAT. Whether it is Panadol, medicine for cooling temperature or easing the stomach, VAT has been levied on them. So, why are we pegging this thing on Income Tax? Why are we not taking a portion of VAT also which is paid by everybody? Why are we not talking of customs and Excise because these are monies collected on things which are imported from abroad, and everybody buys them in this country. Even those who will be buying Viagra will pay VAT.

So, if you look at this Bill, it was not properly thought out. The Minister is saying that they want to give the council just a little revenue and see whether they will manage it. If they manage it properly and their books of accounts are proper, we will add them something. This is the way we killed them before. We are now doubtful about them and we want to kill them again. We want to give somebody too much power to play around with this country, benefit other places and ruin other places. We want this Bill to tell us, first of all, to qualify as a municipality, how many people should be in that municipality. Somebody talked about taking a poll and knowing how many people are in that unit called municipality. I have such a unit in my area called municipality, and it does not qualify to be a municipality because there are very few people to qualify it as a municipality. We are serving people; we are not serving names like municipalities, cities and so on. We are talking about people, and we want to provide services for these people.

First and foremost, I am going to make a very radical proposal. I have a problem in my area, where there is Suba County Council and Mbita Point Town Council. These units are small and the revenue raised is so small that they are just unviable. The residents of those councils fight over the boundaries of the town, and what they should levy or not. What shall we collect or not collect? In fact, these things called urban councils and town councils should be disbanded and money taken to the county councils to run those town councils. They are too small. There is too much competition and fighting as to what is the jurisdiction of who over this small money.

Mr. Temporary Deputy Speaker, Sir, I want to make another suggestion. We killed county councils because we removed the GPT. It was deliberate. We removed the power with which those people used to give us those books, medicine and to construct roads. We brought it to the central Government, then the central Government refused to take that money back. We have been collecting so much money and bringing it to Nairobi. That money remain here and we see nothing at home. I want the GPT to be reintroduced in this country so that each person in this country pays a tax and he believes, at least, that he is a citizen of this country.

I have gone to Uganda many times, and Ugandans do not have identity cards. What they have is a receipt that shows that they have paid tax. When you feel that you have paid tax and you see somebody joking with your money, then you grab him by the throat. But because the Government took over functions and centralised them, now we glorify people who steal public money; *mali ya umma*. This is because it is public money. So, if somebody from your area eats it, he is a good man because he eats it and brings it home. So, the people who are contributing in Harambees become heroes because they steal from the public and they bring it home. They bring Kshs300,000 or Kshs500,000 today and we applaud them because they are heroes; they steal from Nairobi and bring it to Kisumu. So, unless, we change our thinking in this country, we are going to destroy this country with

this philosophy of Harambee. I am going to bring a Motion very soon on the demolition, annihilation and prohibition of Harambee in this country.

Mr. Temporary Deputy Speaker, Sir, I want the GPT to come back. Each citizen of this country must pay a tax, whether it is a Kshs100 or Kshs500, whether they are going to sell their chicken in order to pay the tax, they should look at how that money is utilised, and you should make sure that it is utilised properly. In addition to that, I would like to make one more point.

Mr. Temporary Deputy Speaker, Sir, we cannot run county councils properly by hiring chief officers from the central Government. These chief officers, some of whom are in my town council, are posted there to steal money. When they steal from the local authorities, the councillors kneel before them because they are the ones who give them "something small". The councillors who were elected to our local authorities in 1963 were less educated compared to the ones we have now. All the same, they used to run those councils well. So, one cannot say that these councillors have not gone to school. The truth is that their power has been taken away from them. They look stupid now because they have no power to hire and fire chief officers. That is why we, as Parliamentarians look stupid because we enact laws which are applied in the collection of money. We also vote for the money to be spent, but we just watch when it is being spent. Later on, we discuss how the money was "eaten" in the Public Accounts Committee (PAC). Finally, the PAC tables a big report in this House before it is kept in some drawers here. We look stupid! We have "castrated" this Parliament! We want powers to enable us collect taxes and distribute it fairly. The Government has collected income tax and the Minister for Finance is dispensing it as he wishes. For example, if I want to know how much money was allocated to Suba District, I will have to kneel before the Minister for Finance in order to get this information.

Thank you very much, Mr. Temporary Deputy Speaker, Sir. I beg to oppose this Bill.

The Minister for Finance (Mr. Nyachae): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker: Mr. Nyachae, you should have made your point of order before the hon. Member had finished contributing.

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Speaker, Sir, I would like to say that the Ministry is disbursing funds in accordance with the instructions of this House.

The Assistant Minister for Labour (Mr. Ethuro): Thank you, Mr. Temporary Deputy Speaker, Sir. I promise that I will not contribute to this Bill for long. In fact, ten minutes will be enough for me. First of all, I would like to thank you for recognising me after standing several times to catch the Speaker's eye. I have been standing in this House to catch the Speaker's eye for the last two days or so.

I want to support this Bill because it is addressing the issue of lack of capital, which I consider to be very crucial in our local authorities. We have always argued that if there is a way in which more capital can be pumped into them, especially from the Consolidated Fund, they will be in a position to provide the essential services.

Mr. Temporary Deputy Speaker, Sir, I support the concept in this Bill, but I really disagree with its details because I think the devil is in the details. We should start with the name "local authorities Transfer Fund Bill". I do not know where the money will be transferred from. Will it be transferred from the revenue or any other source? Until we specify what this money is meant for, we will never achieve the results we intend to achieve with this kind of facility. The criteria for distributing the money should be clearly spelt out. At the moment, this is not clearly spelt out, and this leaves room for a lot of manoeuvres. The problems which are facing our local authorities, such as municipalities, need to be clearly spelt out. In Turkana District, there are two local authorities, namely, Lodwar Municipal Council and Turkana County Council. As far as we are concerned, no services are being rendered to the area residents by the two local authorities. The Councillors are elected to these local authorities after every five years but never improve services. The so called chief officers do not have even a single list of those people who have been allocated plots by the councils. The concept of being custodians of public resources does not exist in these local authorities. These are some of the issues that we should look into.

Mr. Temporary Deputy Speaker, Sir, the Bill dictates that it is only those local authorities with well audited books of accounts that will be given money. How many of these local authorities actually keep even basic books of accounts? In most of these councils, there are no procedures that are followed when it comes to the collection and disbursement of revenue. This depends on the whims of the mayor of the municipality or the chairman of the county council and the chief officers. If there are some queries arising from the audit reports of these local authorities, they are not effectively discussed. So, there is lack of institutional capacity to monitor and identify the weakness in the systems and rectify them. I would like to say that before we made provisions like the ones in the Bill, we should have found out how service charge money was used in the first place. Instead of doing that, we are just looking for alternatives without really dealing with the basic problem. We need to introduce proper systems and procedures in these local authorities. We also need to introduce a mechanism by which they will be held accountable to the people who give them the resources.

Mr. Temporary Deputy Speaker, Sir, when we look at how some of these local authorities have been formed--- For example, before the last general elections, Turkana County Council had 36 councillors representing 36 wards. The number has doubled this year to 72 councillors who represent 72 wards. This has been done without taking into account that the revenue sources have not been doubled. In the first place, the council is unable to meet salaries and allowances of its employees and councillors, not to mention the services that it is supposed to provide to the local residents. I agree with the previous hon. Members who said that there is nothing wrong with the doctrine of the local authorities. The difference between a councillor and an hon. Member is the geographical coverage. An hon. Member of Parliament represents a constituency, which is much bigger than a ward which is represented by a councillor. However, the expectations of our people are the same. Both have to look into what is useful for the people they represent.

I would like to join hon. Members who are calling for specific qualifications which a person has to meet before he or she is elected or nominated a councillor. This will promote transparency and ensure that there is good management in local authorities. The situation has deteriorated to the extent that councillors, who are supposed to be leaders in local authorities, have to beg from the chief officers. The situation where chief officers in some of these councils lead a more luxurious life than the councillors is unacceptable. Who is the servant of the other one?

Mr. Temporary Deputy Speaker, Sir, local authorities have also been an avenue of political contest. Those of us who are in power now have taken them as personal properties, while people who lost their seats have got some negative attitude towards them. This also includes the Provincial Administration. In a rural local authority, a District Commissioner (DC) is not regarded as a nominated councillor when he sits in a meeting with councillors. It is important that councillors note that when a DC attends their meeting he does not play the role he plays in his office. With regard to that, no single plot allocation committee has met in Turkana District for the last six or seven years. This means that most of the plots were illegally allocated during that period. This is causing a lot of confusion among the people who are living there. The reason why such a meeting has not been held is because it is the DC who chairs the plot allocation committee. He has no time to chair the meeting because he is too busy. A meeting for the sharing of assets and demarcation of boundaries since the creation of the Lodwar Municipal Council from the Turkana County Council has also not been held. This has caused a lot of conflict between the councillors of the municipality and those of the county council. A facility like this one in this Bill is very crucial to the people, but unless we spell out a clear mechanism, I am afraid that the contents of this Bill will not satisfy the criteria by which that money will be distributed. We are creating another conduit for loss of public resources.

While I support the Bill and the need to have that kind of capital flow, we would want to have more of the details on how that kind of money would be disbursed, so that you can allay the fears of hon. Members that it will not be based on other dubious criteria, but a criteria that is explicit. As a Member who represents a rural community, I have all the right to say that we should get that money, not on the basis of my articulation or my proximity to Nairobi. Thank you.

Mr. Muihia: Thank you, Mr. Temporary Deputy Speaker, Sir for giving me this opportunity to contribute to this important Motion. Indeed, I have been sitting here for the last two days waiting for a chance to make my own comments. While I support this Motion, there are many areas where the Minister did not put the suggestions right. I would like to dwell on the criteria of disbursing funds. After a bit of homework, I did realise that the Ministry of Finance is going to disburse the funds for capital projects and services to supplement the local authorities. But there is no specific way or direction in which the criteria of disbursement should be done. I would like to call upon the Minister to revisit the last item as to how we shall disburse this Fund in relation to the population to be served by it. We should also disband the Fund taking into consideration the generation of business in those areas where the money is going to be extended. We would also like to see the Minister coming out explicitly to state how often these funds are going to be disbursed through out the year. It is on record that county councils have ground to a halt because those grants which are supposed to be given to them do not come in time or do not come at all. Therefore, the urban councils and local authorities have grounded their operations. There is nothing going on at the moment. We would not like these funds to be used as a political weapon by the Government to intimidate councillors and the population for whom these funds are going to expended. It has been said before in this House and elsewhere that funds will not be taken to Opposition zones, and that is a fact. It has been said by the Head of State that: "We will only develop those areas that support the KANU Government. We want it to be explicitly put on record that this is not going to be used as a political weapon. To be able to curb this misuse, Parliament must be given the authority to check the process of disbursement, so that the money goes where it is supposed to give the necessary services.

While still on this funding, I would like to refer to the Nairobi City Council tendering system. I am an authority in tendering, expenditure and in costing in the construction industry, with 25 years of experience.

Mr. Temporary Deputy Speaker, Sir, because the local authorities have given so much powers to the

officers, to the detriment of the councillors, in the city Council of Nairobi, in the tendering system for water projects in Nairobi, the tender rates are below the market rates. But by the time a project has been completed, it has gone up three, four or five times the original tender price. This is because there is no accountability. While this money is going to be expended by a very high-powered Committee, I would like to caution that this expenditure could go the same way. Therefore, at the end of the day, we shall not be able to help the local authorities.

We have been told before that Nairobi water at the source is much more than what is required in Nairobi.

We have had Members in this House complaining that in their estates, water has not been there for many days. For example, in Langata Constituency, Kibera goes without water for weeks on end and, yet, we are told that we have more water than we require from the source. This is because a lot of water is lost through reticulation in Nairobi. When you hear Members of Parliament talking about typhoid, this is real. There has not been rehabilitation of the water pipes for ages. They are leaking and run parallel to sewerage systems. When there is low pressure, raw sewage gets into the pipes which are leaking. When there is high pressure, the water is pushed into the system and into your house. The next thing you hear is that you have typhoid and cholera. This is real. I would like to urge that the money which is going to be given to the local authorities should be used to rehabilitate those old pipes everywhere.

In Nairobi and elsewhere, the last housing project which was built by the City Council is the largest planned slum of Dandora. This was done during the time when the late hon. Ngumba was the Mayor of Nairobi. Since then, the City Council of Nairobi has not put up a single dwelling house. I do think that it is proper that housing should be a basic need. Shelter is a basic need. We would like to see a lot of this money going to build houses in urban centres, but then, we must not use or misuse our authority to sell the houses to individuals, like we are currently doing all over the country. This has caused rents in this country to rocket above the market rates. I hope that the Minister and the Advisory Committee, together with the local authorities, are going to utilise this money for the purpose it is intended for.

Mr. Temporary Deputy Speaker, Sir, we need to have proper accountability through the ranks of members of this country. The Government has encouraged corruption and graft. Why should councillors in Nairobi not be given the authority to question the expenditure, at least, as a way of checks and balances?

There is no point of being elected a councillor if what is going to be spent in the area you represent is not going to be debated by the council. The land grabbing mania which took place just before the election enabled politically correct KANU Members to get plots to sell, so that they could defeat us in elections, and they sold or gave those plots---

The Assistant Minister for Finance (Mr. Arap-Kirui): On a point of order, Mr. Temporary Deputy Speaker, Sir. We have heard of this "grabbing and KANU correctness" and so on. I think, unless the Member can then substantiate, he would not be in order, but is misleading this House! I think land grabbing did not start yesterday, if we have to talk about land grabbing. The largest "grabbing" occurred in the early and mid-1960s---

The Temporary Deputy Speaker (Mr. Musila): You stood on a point of order; what is your point of order?

The Assistant Minister for Finance (Mr. Arap-Kirui): Is he in order to mislead this House by talking about "KANU-correct people" being given plots and so on?

Mr. Muithia: Thank you, Mr. Temporary Deputy Speaker, Sir. I think the hon. Member is ignorant. There has never been any other Government except the KANU Government in this country.

The Assistant Minister for Finance (Mr. Arap-Kirui): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am not sure that that, is parliamentary language?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Arap Kirui. Once you have stood there, I have to recognise you, but you have just walked to the microphone.

Would you, please, continue, Mr. Muithia!

(Applause)

Mr. Muithia: Thank you very much, Mr. Temporary Deputy Speaker, Sir. In my Constituency, Gatundu South, the only housing land which has about six houses, which belong to the Thika County Council, was allocated to individuals prior to the election. One parcel of land, where the sewer crosses line, was given to a politically-correct KANU Member who sold it to a third party. They have now cut off the sewer line and built on top of it, and diverted the sewage system to flow on to open ground. If the area Councillor had the authority, he would have the allocation of this plot revoked. We want accountable and honest people. If we are going to have that accountability, it must start with the office of the Minister for local authorities.

Recently, I visited the office of the Minister to thrush out the problem we have in Gatundu. When I walked into his office, his secretary told me that the Minister was not in. I moved on to the next office and when I was talking to a junior officer, the Minister sneaked out and drove off. If the Minister can tell his secretary to tell an hon. Member that he is not in when he is in, how do we expect an officer under him to be honest? This is what has brought down this Government, and this is what we are discussing. We want accountability and the councillors to be given power to run the councils. This is why in tea and coffee-growing areas, we have said no to cess to the county councils.

Irrespective of whatever gazette notice you put up, we shall not part with a single cent. The elected councillors have not been given authority to oversee things. We have no fight with the local authority councillors, but they have not been given any chance to exert their position. I hope the Minister will go back and look into this Bill and put those grey areas into a good perspective, so that at the end of the day, we can give our support and have the local authorities Transfer Fund managed by the Treasury in conjunction with the Ministry of local authorities.

With those remarks, I beg to support.

The Assistant Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Marrimoi): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. While I support the local authorities Transfer Fund Bill, I wish to congratulate the Minister for Local Authorities and his entire team for the good work which they have done recently, especially in Nairobi.

Mr. Temporary Deputy Speaker, Sir, let us give credit where it is due. I have seen most of my brothers on the other side talking ill of the work done, but they do not look at the good side of the work done by this Government. Roads in Nairobi have been improved, and a lot of clearing of the flower beds has been done. This is some good work done.

Mr. Temporary Deputy Speaker, Sir, let me go back to Marakwet County Council. The entire district has no town council or urban council, and it is high time now that some centres like Kapsowar and Kapcherop were considered for upgrading to town councils, so that they can benefit out of the grants which councils of such status normally get from the Government. The same spirit of improving the road network, as is happening in Nairobi, should go to the councils in our rural areas. This is because there has been a very big problem in accessing the markets, particularly the market centres in my constituency. It is difficult for the officers from the council to reach the markets to collect revenue because of the bad condition of the roads. So, this should be looked into because most councils rely---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Musila):

Order! Mr. Marrimoi, you will continue with your contribution tomorrow.

Hon. Members, it is now time to interrupt the business of the day and the House, therefore, stands adjourned until tomorrow, Thursday, 5th November, 1998, at 2.30 p.m.

The House rose at 6.30 p.m.