

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 21st October, 1998

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.458

DEATH OF MR. NJUKU MUNGAI

Mr. Deputy Speaker: Is Mr. Nyanja not here? We will leave his Question until the end. Next Question, Mr. Sifuna.

Question No.494

APPOINTMENT OF LIQUOR LICENSING BOARD

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

- (a) if he is aware that the Bungoma DC has not yet appointed the Traditional Liquor Licensing Board in accordance with Section 5(a) of the Traditional Liquor Licensing Act; and,
- (b) if the answer to "a" is in the affirmative and given that it is approaching the end of the year, when the DC will constitute the Board.

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

(a) I am aware that the officers had not been gazetted, but now this has been done. The Board was appointed and gazetted in the Kenya Gazette Vol.C-No.51 of 28th August, 1998. Therefore, part "b" does not arise.

Mr. Sifuna: Arising from the Minister's reply, could he tell this House whether the Board that has been established is for this fiscal year or for next year because we are only left with two months to the end of the year? Is the Board for this year or will it extend to next year?

Maj. Madoka: Mr. Deputy Speaker, Sir, it is for this year, but it will extend to next year.

Mr. Deputy Speaker: Next Question, hon. Anthony Kimeto.

Question No.554

ELECTRIFICATION PROGRAMME IN NDANAI

Mr. Deputy Speaker: Is hon. Kimeto not there? The Question is stood over. We will come to it later. Next Question, hon. Kiraitu Murungi.

Question No.096

COMPLETION OF MUUTI-O-KIAMA HEALTH CENTRE

Mr. Deputy Speaker: Is hon. Murungi not here? We will leave his Question until the end. Next Question, Mr. Munyes.

Question No.592

IMPROVEMENT OF FISHING SECTOR IN TURKANA

Mr. Deputy Speaker: Is Mr. Munyes not there? We will leave the Question until the end. Let us move on to the next Question. Dr. Ochuodho!

Question No.558

WITHDRAWAL OF SERVICES BY KENYA AIRWAYS

Mr. Deputy Speaker: Is hon. Dr. Ochuodho not there? We will leave his Question until the end. Let us move on to the next Question. Mr. Magara!

Question No.369

TARMACKING OF RIOSIRI-NYAMAIYA ROAD

Mr. Deputy Speaker: Is Mr. Magara not there? We will leave his Question until the end. Let us move on to the next Question. Mr. Anyona.

Question No.395

PAYMENT OF PENSION INCREASES BY KPTC

Mr. Deputy Speaker: Is hon. Anyona not here? We will leave his Question until the end. I will go back to the Questions which have not been answered. Mr. Nyanja's Question for the second time.

Question No.458

DEATH OF MR. NJUKU MUNGAI

Mr. Deputy Speaker: Mr. Nyanja's still not here?

(Question dropped)

Question No.554

ELECTRIFICATION PROGRAMME IN NDANAI

Mr. Deputy Speaker: Mr. Anthony Kimeto? Still not here

(Question dropped)

Question No.096

COMPLETION OF MUUTI-O-KIAMA HEALTH CENTRE

Mr. Deputy Speaker: Mr. Kiraitu Murungi still not here?

(Question dropped)

Question No.592

IMPROVEMENT OF FISHING SECTOR IN TURKANA

Mr. Kihoro: Mr. Deputy Speaker, Sir, I fear there is no quorum in the House.

Mr. Deputy Speaker: Hon. Kihoro, you must catch my eye.

Mr. Kihoro: On a point of order, Mr. Deputy Speaker, Sir. I fear there is no quorum in the House.

Hon. Members: No! We have not started!

Mr. Kihoro: The House has started!

Mr. Deputy Speaker: Order! Order! He is on a point of order. Hon. Kihoro, we do not raise quorum now, so, you wait until we start formal business, then, you can raise that issue, unless you have a point of order.

(Applause)

Mr. Deputy Speaker: Mr. John Munyes still not here?

(Question dropped)

Hon. Dr. Ochuodho's Question for the second time!

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I apologise for coming late.

Question No.558

WITHDRAWAL OF SERVICES BY KENYA AIRWAYS

Dr. Ochuodho asked the Minister for Transport and Communications:-

(a) why the Kenya Airways Limited withdrew its services from certain local routes and what was the criteria used to license alternative airlines to ply those routes;

(b) how many public aircrafts currently ply the Kisumu-Nairobi route and where they get routine service; and,

(c) if he could guarantee that the withdrawal of Kenya Airways Limited from those routes will not result in loss of jobs or displacement of staff.

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

(a) Kenya Airways Limited has not withdrawn any services from local routes. As a matter of fact, it is still serving on all the routes through its partnership with Eagle Aviation.

(b) There is one public aircraft plying the Kisumu-Nairobi route. The aircraft is operated by Kenya Airways Limited in conjunction with Eagle Aviation making four scheduled flights per week; on Mondays, Wednesdays, Fridays and Sundays.

(c) As already stated, the Kenya Airways did not withdraw its services from Kisumu and Malindi routes. The airline is providing the services jointly with Eagle Aviation. The joint venture did not result in loss of jobs or displacement of staff. The affected staff were deployed elsewhere in the company. If anything, it did mean creation of more jobs because Eagle Aviation had to increase their operations and the Front Office staff.

Mr. Deputy Speaker, Sir, I wish to take this opportunity to assure Dr. Ochuodho, and members of the public, that all aircraft registered in Kenya are closely monitored and supervised by the Ministry of Transport and Communications, and hence the assurance that the safety of the passengers and the general public is assured. This is because we carry out regular inspections.

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. It seems the Assistant Minister and I have different meanings of the word "withdrawal". In my opinion, he seems to be confirming that, that was exactly what they have done. They have withdrawn the Kenya Airways aircrafts and at the same time they have also withdrawn the staff.

Mr. Deputy Speaker, Sir, you have also realised that the Assistant Minister has not answered part two which asked--- There is only one aircraft plying the route. It will be important for Kenyans, especially businessmen who use this aircraft, to know when this aircraft is maintained because it is plying the major route.

Mr. Deputy Speaker, Sir, finally it seems to me that---

Mr. Deputy Speaker: Order, Dr. Ochuodho! Ask your question!

Dr. Ochuodho: Could the Assistant Minister tell us when this aircraft is usually maintained? For

example, the aircraft in use now and being utilised by Eagle Aviation is from Arusha.

Mr. Obure: Mr. Deputy Speaker, Sir, I said that it is the responsibility of the Ministry of Transport and Communications, to ensure that all the aircraft registered and operated on the Kenya airspace is regularly serviced. In this particular case, I want to assure Dr. Ochuodho that the Kenya Airways carries out maintenance and service of the aircraft at its facilities at the Jomo Kenyatta International Airport.

Mr. Shill: On a point of order, Mr. Deputy Speaker, Sir. Could the Assistant Minister deny or confirm that Kenya Airways is overshadowed by the KLM?

Mr. Obure: Mr. Deputy Speaker, Sir, I am sorry I did not get the question and that is why I am hesitant to reply.

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

Mr. Deputy Speaker: I asked the Assistant Minister to either deny or confirm that Kenya Airways is being overshadowed, in the market by the KLM, though they are merger?

Mr. Obure: Mr. Deputy Speaker, Sir, I do not agree that Kenya Airways is being overshadowed by the KLM. On the contrary, the two airlines have come together under a partnership arrangement which is in line with the trend in aviation the world over. This arrangement is meant to give benefit to the two airlines and enable them to enjoy the economies of scale and so on. It is not true that Kenya Airways is being overshadowed. There is this arrangement between the Kenya Airways, the KLM, and North West of the USA and the partnership is proving very fruitful and beneficial to all partners.

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister confirming that the Kenya Airways is able to enter into partnership with the local airlines to serve part of this country? Could he confirm to us that the Kenya Airways will in fact enter into those partnerships with other airlines so that North Eastern Province and parts of the Eastern Province can also get services from it? In fact it is supposed to be a national carrier.

(Applause)

Mr. Obure: Mr. Deputy Speaker, Sir, this partnership is a very recent arrangement. I want to assure the hon. Member that since the commencement of the partnership early this year, the two airlines have added Eldoret Town to their domestic network schedule. They will soon be including Lamu and Ukunda. We expect that in future they will move over to other major towns. The idea is that the smaller airline, the Eagle Aviation, will collect passengers from the smaller towns which are uneconomical for the Kenya Airways to operate with the bigger flights, so that they are brought to the trunk lines. We hope that they will be able to move to the North Eastern province and other towns in Kenya.

Dr. Omamo: Mr. Deputy Speaker, Sir, considering the potential for horticultural production for overseas markets from areas like Kuria, Gusii, South Nyanza, Rachounyo, Nyando, Kisumu, Siaya, and Bondo, could the Assistant Minister explain to the House whether there are plans to send any aircraft to Kisumu which have enough space and carrying capacity to accommodate these horticultural products which can only be increased if the aircraft are big enough? What plans are there to send aircrafts big enough to carry these loads across to overseas?

Mr. Obure: Mr. Deputy Speaker, Sir, we believe that the expansion of air service system will be beneficial to the economy of this country. At the moment, as I said, this is a very new arrangement, but there are plans to expand this network. At the moment, there are, of course, limitations because of inadequate equipment and so on. But we are confident that the service and network will expand so that what Dr. Omamo is talking about; making these aircraft available that would ply from Kisumu to Nairobi to cater for the horticultural products in that region, can be looked into in order to avail such service for such kind of produce.

We are confident that this is a good beginning. At the moment the Ministry cannot issue instructions to them because we liberalised the economy. But, naturally, I am sure that the forces of demand and supply and the profit motivation will attract the airlines to operate this service on the basis Dr. Omamo is asking.

Mr. Deputy Speaker: Dr. Ochuodho, the last question!

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I am delighted to hear from my hon. friend that the staff who were previously on the Kisumu grounds will not be sacked. However, the major concern is that we have only one aircraft. This Eagle Aviation aircraft is the same one that goes to Malindi, Maasai Mara, Kisumu, Eldoret and so on. It is a bit worrying, and we would like to request the Ministry to act over this matter. There have been many instances where this aircraft has failed to take off in Kisumu, especially in the past few weeks. We plead with the Ministry to ensure that adequate safety measures are put in place. We are also concerned about what seems to be an apparent---

Mr. Deputy Speaker: Ask your question!

Dr. Ochuodho: Can we get an assurance from the Assistant Minister that the withdrawal of the Kenya Airways from Kisumu route is not just a way of boosting the Eldoret Airport? We understand that Kenya Airways now flies to Eldoret, and hence killing the Kisumu Airport.

Can we get an assurance that Kisumu Airport will be expanded so that it can take the old Kenya Airways Aircraft?

Mr. Obure: Mr. Deputy Speaker, Sir, opening a new route to Eldoret will not affect the scheduled route to Kisumu. On the contrary, we expect the Kisumu flights to be increased to cater for the current demand in that area. As I said, I want to assure the public and the passengers who use this aircraft that their safety is assured because my Ministry has the responsibility to ensure that the flights are safe, airworthy and there should be no problem whatsoever in terms of the safety of the passengers.

Question No.369

TARMACKING OF RIOSIRI-NYAMAIYA ROAD

Mr. Magara asked the Minister for Public Works and Housing when the Kamagambo Riosiri Nyamarambe Etago Nyamaiya Road will be upgraded and tarmacked.

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

The Government has no immediate plans to tarmac Kamagambo Riosiri-Nyamarambe Etago-Nyamaiya Road due to unavailability of funds. However, I would like to assure the hon. Member and the House that this road will be adequately maintained this financial year to keep it motorable.

Mr. Magara: Mr. Deputy Speaker, Sir, since the *El Nino* rains, people in this particular area have been suffering terribly as there are no proper means of transport because the roads are impassable. As much as I may believe that there are no funds, one gets worried, more especially after we heard that the Kisumu-Kisii Road reached a particular place and the works on the road stalled. The Nyamira-Kisii Road stalled at a particular place and the Kericho-Sotik Road also stalled at a particular place. Here is a case where *El Nino* rains destroyed the roads extensively. This particular road is not passable at all. Could we have an assurance from the Assistant Minister that we will have a serviceable grader in South Kisii District to maintain this Road?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I have just said that this financial year, we are going to adequately maintain this road to keep it motorable. I am giving that assurance.

Mr. Obwocha: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House, if indeed they are going to maintain the roads in South Mugirango? How much money has been set aside for that job for the whole year?

Mr. Khaniri: Mr. Deputy Speaker, Sir, during the 1997/98 Financial Year, Kisii had an allocation of Kshs107,260,000 for maintenance of roads in the district.

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

Mr. Deputy Speaker: Order, hon. Khaniri! You have not answered the question.

Mr. Khaniri: Mr. Deputy Speaker, Sir, I said for Kisii District, the Ministry has set aside Kshs107,260,000 for the entire district and this will be divided as follows:- The minor roads in the district will have Kshs16,260,000. For Kisii-Chemosit Road, we are going to allocate Kshs90 million and the Ekediang Bridge will cost Kshs500,000; Omosaria Bridge will cost another Kshs500,000. It is up to the District Works Officer to know exactly which road will require what amount from the Kshs16,260,000.

Mr. Obwocha: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House? For his information, Kisii is divided into three districts; Southern Kisii which is Gucha, Central Kisii and North Kisii which is Nyamira, and we are asking a question about Gucha and he is talking about the whole of Kisii. We are not asking about the whole of Kisii! If he does not have the answer, he should be honest and say he does not have the figures.

Mr. Khaniri: Mr. Deputy Speaker, Sir, I may not have the exact figure for Gucha District. What I am giving is for the three districts.

Mr. Magara: Mr. Deputy Speaker, Sir, I am not satisfied with that answer. I wonder how Kshs260,000 will maintain the roads through the directive of DWO as there is no grader in the whole district to maintain those roads. Could the Assistant Minister give us an assurance that, despite the fact that we have that amount of money which is negligible, we will have a serviceable grader in that particular district?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I did not say Kshs260,000, but Kshs16,260,000. This should be adequate to maintain the roads in the district during this financial year.

Mr. Magara: Mr. Deputy Speaker, Sir, since the Assistant Minister has no figures to the question that has been asked; specifically for South Kisii District, can he be given time to bring us the figures as requested by hon. Obwocha?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I oblige. I will do my investigations and probably get to the Member in the course of the day.

Mr. Deputy Speaker: You will bring that answer this afternoon? Is that what you are saying?

Mr. Khaniri: Yes, Mr. Speaker, Sir.

Mr. Deputy Speaker: He has undertaken to bring those figures this afternoon. Is that satisfactory, hon. Magara?

Mr. Magara: That is okay, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Hon. Anyona's Question for the Second Time?

Question No.395

PAYMENT OF PENSION INCREASES BY KPTC

Mr. Deputy Speaker: Mr. Anyona still not here? The Question is dropped.

(Question dropped)

Hon. Members, maybe I should be a little bit lenient given that yesterday was Kenyatta Day and

Members may have over-indulged. So, I will allow Members who have come late and whose Questions had been indicated as dropped to ask them for the third time. Mr. Nyanja's Question for the third time!

Mr. Mwenje: Mr. Deputy Speaker, Sir, Mr. Nyanja instructed me yesterday---

Mr. Deputy Speaker: Order, Mr. Mwenje! That will not work because you were here all along when I was calling Mr. Nyanja to ask his Question for the second time, and you were seated right there!

Mr. Mwenje: I was not seated, Mr. Deputy Speaker, Sir. I was just arriving. He had asked me yesterday at the stadium to ask this Question on his behalf if he comes late. So, in that case---

Mr. Deputy Speaker: Order, hon. Mwenje! You were not at Nyayo Stadium! I know where you were with him!

Question No.458

DEATH OF MR. NJUKU MUNGAI

Mr. Mwenje, on behalf of **Mr. Nyanja**, asked the Minister of State, Office of the President:-

(a) whether he is aware that Mr. Josephat Njuku Mungai of Misiri Estate, Limuru Division, was taken from his house on 17th December, 1997 at 5.00 a.m. by Criminal Investigation Department Officers from Kikuyu Police Station and was later found dead at Ngubi Forest on the same day;

(b) if the answer to "a" is in the affirmative, under what circumstances Mr. Njuku died; and,

(c) whether anyone has been arrested in connection with the murder.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, is this really acceptable? I did answer this Question in part and I think they raised an issue as to whether this fellow had actually been collected from his House to this other site. I wish to report that the police officers did go to his house and when they went there, he ran away and later they got information that he had been seen at the junction and that is where he was followed.

Mr. Mwenje: Mr. Deputy Speaker, Sir, the information we have is that the police officers went to his house and this man was found dead elsewhere. So, the Minister should tell us clearly whether he was taken from his house by the police. How did he get there if it was not the police who collected him from his house?

Maj. Madoka: Mr. Deputy Speaker, Sir, Mr. Mungai was not picked from his house by the policemen as alleged by the hon. Member. The police did go to his house and he ran away from his house. The police pursued

him and knew where he was hiding. They went there and the shooting took place.

Mr. Deputy Speaker: Next Question. Hon. Kimeto, this is the third time I have called out your Question. Before you ask the Question, apologise to the House for coming late.

Mr. Kimeto: Mr. Deputy Speaker, Sir, I apologise for coming late.

Question No.554

ELECTRIFICATION PROGRAMME IN NDANAI

Mr. Kimeto asked the Minister for Energy:-

(a) if he is aware that there is high demand for electricity in the markets and public institutions in Ndanai Division, Bomet District; and,

(b) if the answer to "a" is in the affirmative, when the Minister will introduce rural electrification programme in the area.

Mr. Deputy Speaker: Anyone here from the Ministry of Energy? This Question is deferred.

(Question deferred)

Question No.096

COMPLETION OF MUUTI-O-KIAMA HEALTH CENTRE

Mr. Deputy Speaker: Mr. Murungi still not here? The Question is dropped.

(Question dropped)

Mr. Munyes: Mr. Deputy Speaker, Sir, I apologise for coming late.

Question No.592

IMPROVEMENT OF FISHING SECTOR IN TURKANA

Mr. Munyes asked the Minister for Natural Resources:-

(a) how many fishing boats are operating in Lake Turkana this year compared to the year 1980; and,

(b) what steps he is taking to improve the fishing sector in Turkana District.

The Assistant Minister for Natural Resources (Mr. Lengees): Mr. Deputy Speaker, Sir, I beg to reply.

(a) In 1998 there are 168 wooden fishing boats and 106 fishing rafts operating in Lake Turkana as compared to 320 wooden fishing boats and 87 fishing rafts operating in 1980.

(b) The Ministry is undertaking the following steps to improve the fishing sector in Turkana:-

(1) Fish stock assessment study jointly with Kenya Marine and Fisheries Research Institute (KEMFRI) is being carried out.

(2) Intensify extension and training services to the fishermen.

(3) Re-introduce Fishermen Loan Scheme.

(4) Develop and improve the fishing boats and nets.

(5) Improvement of fish handling and preservation methods.

Mr. Munyes: Mr. Deputy Speaker, Sir, I asked this Question because there has been a reduction of fishing boats and nets in Lake Turkana. This can be confirmed from this report. The Assistant Minister has not given me the figures in terms of what the Ministry has done to improve the number of boats in Lake Turkana. Could he tell this House how many boats the Ministry has delivered to Lake Turkana in order to improve fishing in Lake Turkana?

Mr. Lengees: Mr. Deputy Speaker, Sir, the Ministry has initiated a project through JICA and ASAL to develop and improve the fishing boats and nets for Turkana fishermen. So far, the project has distributed 36 fishing boats and 96 nets to the local fishermen. Currently, there are 31 boats under-construction and when completed, they shall be distributed to the local fishermen around Lake Turkana.

Mr. Munyes: Mr. Deputy Speaker, Sir, the Assistant Minister has also talked of introducing fishermen loan scheme in the district. From my observation, I have never heard of this scheme. How much has the Ministry given so far to the local fishermen? Can he table the figures of how much the Ministry has given to the local fishermen as loan?

Mr. Lengees: Mr. Deputy Speaker, Sir, this scheme used to be there in the early 1980s. However, it was temporarily suspended due to lack of funds. The Government is planning to revive this scheme and give loans to the local people around Kalokol as soon as we get money from the donors.

Mr. Shill: Mr. Deputy Speaker, Sir, could the Assistant Minister confirm or deny that the Government is giving more money for famine relief than for improving fishing at Lake Turkana so that the local people can be self-reliant in food?

Mr. Lengees: Mr. Deputy Speaker, Sir, the Department of Fisheries around Lake Turkana is trying very hard to reintroduce that loan scheme so that the fishermen who had been very active in the past will be able to produce a lot of fish for the local people and probably for consumption in other parts of the country.

Dr. Omamo: Mr. Deputy Speaker, Sir, from time to time, we hear of accidents on the lakes as a result of boats capsizing. This is not only on Lake Turkana, but even in Lake Victoria. This is because the kind of boats that our fishermen use are so outdated and ramshackled that even a light wind is able to make them capsize. It appears to me, that the Government is busy checking the gauge of the nets and so on. But nothing is being done on the improvement of the boat itself. Could the Assistant Minister assure this House that the Government is going to take steps to improve the boat itself? For example, if the boat is running and you feel like relieving yourself, it is very difficult to do it. What is being done to improve the condition of those boats?

Mr. Lengees: Mr. Deputy Speaker, Sir, that is a very good question from the hon. Member. The Department of Fisheries around the lakes in the country has really given advice to fishermen and even to some industries which construct boats in order to construct better boats by using fibre glass although this is an expensive material. In future, when the Government gets funds, we will provide better boats for fishermen round the lakes in the country.

Mr. Munyes: Mr. Deputy Speaker, Sir, the Assistant Minister did not answer my question. I had asked how many boats the Ministry had so far delivered to Lake Turkana. We do not need this kind of an answer. How many boats are there around Lake Turkana? Turkana District is now getting a lot of relief food and yet it can be self-reliant in food. Why is this Government giving our people relief food when we have our source of food at Lake Turkana? We want the Ministry to give fishermen around Lake Turkana resources that will enable them to buy modern boats in order to fish. That is the issue. Can the Assistant Minister explain how much he has put aside for the loan scheme and for construction of boats around Lake Turkana?

Mr. Lengees: Mr. Deputy Speaker, Sir, I am not able to give the figures for the loan scheme nor for the construction of new boats. I have already given the figures of the currently constructed boats. That means there are some funds available for constructing more boats after the ones under construction are distributed to local fishermen. I will give the figures next time.

I will provide that information when the hon. Member puts another Question.

Mr. Deputy Speaker: Mr. Assistant Minister, the hon. Member is asking you for information regarding this Question and not another Question. When will you provide the information to make your answer complete?

Mr. Lengees: Mr. Deputy Speaker, Sir, as soon as that information is available.

Mr. Deputy Speaker: Order! Order, hon. Lengees! You seem to be taking this House lightly. We want a specific date which we can hold you responsible for. Could you give us a specific date? Is it next week or a week after and on which specific date?

Mr. Lengees: Mr. Deputy Speaker, Sir, I will provide the information on Tuesday, next week.

Mr. Deputy Speaker: Thank you. Next Question! Hon. Anyona, for the last time!

Question No.395

PAYMENT OF PENSION INCREASES BY KPTC

Mr. Deputy Speaker: Mr. Anyona still not here? His Question has now lapsed.

(Question dropped)

Mr. Deputy Speaker: Question by Private Notice! Hon. Anyang'-Nyong'o!

QUESTION BY PRIVATE NOTICEPURCHASE OF LAND BY KENYA
REINSURANCE CORPORATION

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Is the Minister aware that Kenya Reinsurance Corporation paid Kshs600 million purportedly to buy a piece of land off Kiambu Road which was subject to a caveat without raising a court order?

(b) If the answer to "a" above is in the affirmative, what steps does the Minister intend to take to recover this money?

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

(a) I am not aware that the Kenya Reinsurance Corporation paid Kshs600 million purportedly to buy a piece of land off Kiambu Road which was the subject of a caveat. But I am aware that the Kenya Reinsurance Corporation bought a piece of land off Kiambu Road known as LR No.12236 for Kshs550 million following normal legal procedures. The Corporation has a clear title deed for the land, which was bought without any encumbrances.

(b) Since the answer to "a" above is not in the affirmative, I do not intend to recover any money.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, arising from the answer given by the Assistant Minister, and indeed, agreeing with him that the land was bought at Kshs550 million instead of Kshs600 million, which is a fact, could the Assistant Minister explain to this House how the Kenya Reinsurance Corporation is intending to go on floatation on the 28th of this month without:-

(a) Having its audited accounts properly presented to the Public Investments Committee (PIC) and cleared and;

(b) Ensuring that it has no undue debts? Collecting money from the public will mean just using that money to clear its debts.

Mr. Keah: Mr. Deputy Speaker, Sir, that could form a totally different Question, but, I will attempt to answer it. The question of selling shares to the public on 28th October, 1998 is a technical matter. Before such action is taken, there are professionals and consultants who get involved in the valuation of shares, taking into account all the loans that are due. They also take into account all the assets and liabilities of the Corporation. This is not a matter that is hidden. In so far as I am aware, that floatation is on schedule and is based on professional information that has been prepared by professionals who are advising the Kenya Reinsurance Corporation on its floatation.

On the issue of debt collection, I was not aware that Prof. Anyang'-Nyong'o was referring to this as a debt. This is why I said that, if he was talking about debts and the floatation of Kenya Reinsurance Corporation shares, that should be a different Question altogether. I will be prepared to answer that Question should Prof. Anyang'-Nyong'o wish to bring it before this House.

Mr. Sambu: On a point of order Mr. Deputy Speaker, Sir. We have all heard the question touching on the Corporation just for yearly scrutiny by the PIC. That was the first question which has not been answered by the Assistant Minister. Is he in order to evade the vital first question?

Mr. Keah: Mr. Deputy Speaker, Sir, the first paragraph is informative. The substantive Question is: "Is the Minister aware that the Kenya Reinsurance Corporation paid Kshs600 million purportedly to buy a piece of land off Kiambu Road, which was subject to a caveat without raising a court order?" I have answered that substantively.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, the point of order that hon. Sambu was raising was with regard to my supplementary question. The first part of my supplementary question asked the Assistant Minister whether it is in order for the Kenya Reinsurance Corporation to go on floatation without its accounts being properly audited and presented to the PIC. That is where it relates to this piece of land that was bought.

Mr. Keah: Mr. Deputy Speaker, Sir, as I said earlier, the issue of floatation is a technical matter. Technical information regarding the floatation of the Corporation's shares has been prepared by lawyers and auditors and includes audited accounts. Indeed, there is no floatation that would ever take place---The Capital Markets Authority cannot permit any company to carry out floatation if there are no audited accounts. I am not up to date as to when the latest accounts of the Kenya Reinsurance Corporation were audited, but to the best of my knowledge, I believe that those audited accounts are available. This issue would have been taken into

consideration. This particular asset, that has been bought without any encumbrances, must have been taken into account in those audited accounts and floatation matter.

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

Mr. Deputy Speaker: Order! Order, Mr. Sambu! You have already had your chance.

Proceed hon. Keriri!

Mr. Keriri: Mr. Deputy Speaker, Sir, the Assistant Minister has been asked a very specific question. He has been asked why he has not submitted the accounts of the Kenya Reinsurance Corporation to the PIC. It is understood that the Auditor-General (Corporations) has audited these accounts and the Minister has either declined or overlooked presenting them to Parliament, so that they can be discussed by the PIC. Could the Assistant Minister tell us why these accounts are withheld by the Ministry? If he does not know we will give him time to go and check and then come back and tell us.

Mr. Keah: Mr. Deputy Speaker, Sir, first of all, I said that, that was a totally different question that I could not have envisaged following this particular Question. I am ready, if that is your ruling, to find out that information. I could not have envisaged for this type of question to arise because we were talking of a plot off Kiambu Road. That is the substantive Question. We were not talking about audited accounts. It will be unfair to bring in through the back door a question of audited accounts relating to only one asset of a whole Corporation. I have not refused to answer that question, but I do not have the information about why the Kenya Reinsurance Corporation accounts have not been submitted to the PIC. That is not the substantive Question here.

Mr. Sambu: On a point of order, Mr. Deputy Speaker, Sir. This is a very serious point of order.

Mr. Deputy Speaker: Order, Mr. Sambu! There is no such a thing as "a serious point of order" in this House: We have only points of order.

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

Mr. Deputy Speaker: Order! Order, hon. Sambu! Mr. Sambu you should obey orders.

(Mr. Sambu stood up in his place)

Mr. Deputy Speaker: There is no such a thing as "a serious point of order": They are all merely points of order. Really, you had your point of order in the last two seconds, and so you should give the other hon. Members a chance to ask questions.

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

Mr. Deputy Speaker: Order! Order! Mr. Sambu, you are flouting the Standing Order which you want to use now. When the Speaker is on his feet, all Members, including hon. John Sambu, must be seated.

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. We all know that Kenya Re is not an estate developer. For that reason we do not know why they would have been buying such kind of land there. Would the Assistant Minister, therefore, tell us; one, who was the vendor of this particular land? Two, why they would go to buy such a big piece of land in Nairobi in an area where they would not invest in the development of any estate? How will they dispose of that land to recover that money once it is floated?

Mr. Keah: Thank you, Mr. Deputy Speaker, Sir. I will certainly answer that question because it follows naturally. First of all, in its Articles of Association and Memorandum, Kenya Re has in its powers and objectives the ability and the right to buy property such as the one that was bought off Kiambu Road. In its Memorandum and Articles of Association, Kenya Re is empowered to deal in property. That is first and foremost. The other part of the question is who was the vendor? The vendor of that piece of land, whose number I read earlier, off Kiambu Road, were Messrs Sceneries Limited. Those are the people who sold the property to Kenya Re. By the way, I should explain here that the search was made prior to the purchase and even after the purchase. That property was clean. It has no encumbrances and it was registered as one title to Sceneries Limited. On the basis of that legal search the Kenya Re obtained a valid and clean title. This was done during the days of Mr. Mbote as the Managing Director. I should also make that quite clear.

Mr. Sambu: Is the Minister aware that all State Corporations are required by the State Corporations Act and the Exchequer Audit Act to submit their audited accounts within a specified period of time and that when the Minister responsible receives the said audited accounts, he is required to lay those audited accounts within ten days on the table of the House to enable PIC to deliberate on it? Why is the Assistant Minister acting as if he is not aware and yet that is the law? Could the Assistant Minister concede that he is going against the law as specified in the statutes I have referred to?

Mr. Keah: The question is: "Is the Assistant Minister aware?" Yes, I am very, very much aware. For the next part of the question, there are provisions of the law which state that if for any reason the Minister fails to

present those accounts the Auditor-General (Corporations) can do so if those audited accounts are ready. Those provisions are also there. So, I am not dilly-dallying or hiding anything. What I did say here is that, I am not aware of the situation of whether those accounts have been delivered to the Public Investments Committee or not. That I can check.

Mr. Wamae: Mr. Deputy Speaker, the hon. Assistant Minister was asked who the owners of this plot are and he gave the name of a company. In the course of that he also said Mr. Mbote was the Managing Director. Would he also tell us who are the directors of this Sunrise Limited because you usually hide the correct people under those names?

Mr. Keah: Mr. Deputy Speaker Sir, I said hon. Mbote was the Managing Director of the buying company, Kenya Re Corporation. I do not have with me the names of the directors of Sceneries Limited but those names can be obtained from the Registrar of Companies by any one of us or any member of the public.

Mr. Kariuki: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this house that there was no caveat on LR. No.12236, that was sold for Kshs150 million, when I know for sure that there was a caveat and the vendors of this land, the Sceneries Limited---

Mr. Deputy Speaker: Order, Mr. Kariuki! What is your point of order?

Mr. Kariuki: Mr. Deputy Speaker, Sir, given time I will be able to substantiate that the Assistant Minister is misleading the House by telling us that there was no caveat on this land before this transaction took place. He actually knows the owners of Sceneries Limited.

Mr. Deputy Speaker: Order, Mr. Kariuki! Are you undertaking to the House that you will provide that evidence? If so, when so that we can dispose of this matter fairly quickly? When would you like to do it, if you would like to do it?

Mr. Kariuki: I want to submit further that he knows very well that---

Mr. Deputy Speaker: Order, Mr. Kariuki! In fact, the Assistant Minister says there is no caveat and you say there is one and you can prove that there is one then he is misleading the House. Now, I am asking you to disprove him by producing a copy of that caveat.

Mr. Kariuki: Mr. Deputy Speaker, Sir, I would be more than willing to do that even tomorrow.

Mr. Deputy Speaker: Fair enough. I will give you until tomorrow afternoon.

Mr. Keriri: Mr. Deputy Speaker, Sir, there is some bit of this information that has been left in abeyance. The Assistant Minister did, in fact, ask you whether you would require him to produce the information he said he did not have because this was far from the question asked. That is the question of laying on the Table of this House the accounts of the Kenya Reinsurance Corporation. But when the Assistant Minister said he did not have that information he asked you: "If that is your wish, I will go and find out." I think we require your ruling as to when that information can be provided.

Mr. Deputy Speaker: It is not my wish, it must be the wish of the Questioner. Does he want that information to be tabled in order to make the answer complete? So, I am waiting for Prof. Anyang'-Nyong'o to say: "Yes, I want that information," and then I will compel the Assistant Minister to bring that information by a date which he will accept.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I think that answer is very necessary because of the last supplementary question that I want to ask the Assistant Minister. Is the Assistant Minister aware that it has been the practice of a lot of parastatal bodies to buy land for inflated sums of money and hence to commit those corporations to expenses which do not lead to productivity for a long period of time? This, indeed, reduces the value of the shares that they have floated. If the Assistant Minister is aware of that, could he confirm to this House whether or not the sum of Kshs550 million was a just price for 100 acres in that part of the world at the time that this purchase was done?

Mr. Keah: Mr. Deputy Speaker, Sir, I am not a valuer. I cannot say anything on these figures on the basis of the people who are professionally qualified to value the land. As far as I am aware, and to the best of my knowledge and belief, and on the basis of the information that I have, the purchase of the land was done on the strength and on the basis of a valuation that was made, which is the normal procedure. Based on that, I have no basis to say yes or no to the question that Prof. Anyang'-Nyong'o has alluded to. I can only say that based on the information available, the land was valued and the value was given, and Kenya Reinsurance bought that land without any caveat from the Commissioner of Lands or through following a search through the Commissioner of Lands. Therefore, I am not in a position to say whether the price was excessive or not. This is because there was professional valuation.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say that he is not in a position to affirm whether the price was just or not, when he knows that the way of

doing that is for the Corporation to present its audited accounts to Parliament, to be discussed in the Public Investments Committee (PIC), so as to ascertain whether the transactions of the Corporation are, indeed, fair business transactions?

Mr. Keah: Mr. Deputy Speaker, Sir, that is not the only way. I beg to differ with him. It is not mandatory for every Corporation to bring its accounts to the PIC. There is absolutely no question about it. He is at liberty to demand in a substantive Question, that those accounts be produced here forthwith. The law is quite clear in so far as the production of the Corporation's audited accounts to the PIC is concerned. As to proving whether the deal was valid, I am afraid to say that the audit only samples. I would like to explain to him that an audit will not always reveal to you, unless that is one of the sample items to be audited. We are talking about auditing now, and I could tell him a thing or two about auditing.

Mr. Kariuki: Mr. Deputy Speaker, Sir, the Assistant Minister is treading on a very slippery ground in the sense that this company is just about to be privatised. If it is going to be privatised, this will be a very material fact in the disclosure or prospectus, as to what it has been doing in the last three years. That being the case, this item is so important that it could easily depreciate the price of this company, when the shares are floated in the stock market. It also shows the element of mismanagement within the Corporation, which will jeopardise the investment, and which will make the Kenyan investor fear to invest in this Corporation, as was the case in Kenya Airways, which has fallen by about 75 per cent. This makes the investments that are floated by the Government to be dangerously jeopardised. It will be very dangerous for the Assistant Minister not to disclose to Kenyans full information at this material time, particularly when he mentioned valuation. Valuations are nothing to go by in this country, where we know that some of the valuers are mercenaries and are doing valuations just to appease. In fact, the value of this property---

Mr. Deputy Speaker: Order, hon. Kariuki! Please, put your point of order.

Mr. Kariuki: Mr. Deputy Speaker, Sir, the point of order that I was going to raise is this. It is very material that the Assistant Minister tells us why the accounts have not been submitted, so as to help Kenyans to assess whether or not Kenya Reinsurance Corporation is worth any investments or not.

Mr. Deputy Speaker: Mr. Assistant Minister, why do we not sort this matter out by you saying that the accounts have already been delivered to you and you will bring them. If not, you should compel the Corporation to bring them.

Mr. Keah: Thank you, Mr. Deputy Speaker, Sir, for your assistance. Please, Mr. Deputy Speaker, Sir, the question here does not deal with audited accounts. I have said that if hon. Members here want the audited accounts, they should bring a substantive question and I will go and find out. If they want a question on audited accounts, I will go and find out. That is not a problem. But on the Question that we are dealing with it here, let me say that I do not want hon. Members to bring personalised matters. This question is a family feud, and it has nothing to do with the Kenya Reinsurance and the audited accounts. I do not want to disclose names here simply because I am telling you the background that I have on this issue. We are not dealing with the investments of the Kenya Reinsurance and its floatation. That is merely a carrot brought in. We are dealing with a matter of a family feud which is not proper for us to delve into. In so far as the audited accounts of Kenya Reinsurance are concerned, I can assure the hon. Member that if the audited accounts of the Corporation are presented here, they will not see, Kiambu Plot No.12236 because it will only be one iota of the totality of the assets of the Kenya Reinsurance.

(Loud consultations)

Mr. Deputy Speaker: Order! Order, all of you! This Question is taking far too long and I would like to bring it to a close. Mr. Assistant Minister, finish that particular point and then I will rule whether they can continue or not.

Mr. Keah: Mr. Deputy Speaker, Sir, a Question has been raised with regard to the audited accounts of the Kenya Reinsurance Corporation. I have said that the Question concerning the Corporation is very remotely connected with this. They want the Corporation's audited accounts to prove whether this deal is appropriate or not. In my view, that is not the issue. If the hon. Members want the audited accounts of the Corporation, and they have every right to demand so, they can get them because they are mandatory. Therefore, if there is a substantive question on the Corporation's audited accounts, we will deal with the problem that way. That is my submission, Mr. Deputy Speaker, Sir.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. I have been in the PIC and I know the kind of audit queries that come in the Auditor-General (Corporations) reports. This is the kind of issue

which will definitely appear in the audited accounts. This is because a public corporation spending Kshs550 million to buy 100 acres, whatever valuation was done, that valuation must satisfy the Auditor-General (Corporations).

Mr. Deputy Speaker, Sir, this House is saying that should a caveat appear later, the Assistant Minister will still have to answer. That is one thing. Secondly, should there be an audit query in the Auditor-General (Corporations) report over this issue, Kenya Reinsurance Corporation should not go for floatation on the 28th.

Mr. Deputy Speaker, Sir, as far as we know today, Kenya Reinsurance Corporation has not presented its audited accounts to this House, nor, has those accounts been discussed by the PIC and, yet, the Assistant Minister is insisting that the Corporation is going to be floated on the 28th of this month.

Mr. Deputy Speaker, Sir, can we demand that the Assistant Minister should ensure that the audited accounts are brought to this House before the shares are floated on the 28th of this month?

Mr. Keah: Mr. Deputy Speaker, Sir, before I answer that, there are rules relating to floatation of corporations. We cannot flout rules and regulations relating to public floatation. So, where there are two conflicting pieces of law, it is important that either a judge or the Attorney-General determines which of the pieces of legislation is above the other. As far as I am aware, I totally agree with the sentiments being expressed here, that before any floatation, there must be audited accounts. As a professional accountant, I will be amongst those to even deny, disown or even throw down the drain any public corporation or company for that matter, that goes to floatation without having its audited accounts done by professionals. I would like to say that an hon. Member here alluded to professionals being distrusted. The day when we come to distrust professionals here, it will be a nail in our own coffin of development, in so far as professionalism in Kenya is concerned.

Having said that, I would like to reiterate the fact that a substantive question on the Corporation's accounts be brought and we will be happy to answer that question.

POINTS OF ORDER

MISREPORT BY THE *DAILY NATION*

Mr. Obwocha: On a point of order, Mr. Deputy Speaker, Sir. I wish to raise a matter that was reported by the *Daily Nation* newspaper about the proceedings of this House, on 17th October, with the title, "Votes That Gave KANU a triumph". In that report, they have said, "Three Opposition Members walked out of the Chamber before voting, but they had attended the Debate earlier. These include the Democratic Party patron and Kiambaa Member of Parliament, hon. Njenga Karume, FORD-(K), hon. Henry Obwocha and Social Democratic Party Chief Whip, hon. Sammy Kiminza". This is a very serious report.

For three days, I was in MP Shah Hospital admitted; on Thursday, Friday and Saturday. I was not in this House. In fact, I have the statement here, admission No.28760, Ward No.619. I have even the receipts which I was given after paying the money to MP Shah; receipt No.80451. This reflects very badly on me; that I cannot be able to make a decision on a Motion like this. I do not know where this reporter got this information from when I was in a hospital bed. I have requested the *Daily Nation* newspaper to put an apology. Up to now, they have not. They put this report on page one; that I was absent.

I would like, through you, to request that you direct the *Daily Nation* newspaper to give unqualified apology to me because I was not here on Thursday, Friday and I was discharged on Saturday. It should be put prominently because it is injuring my image.

CRITERIA FOR PUTTING MOTIONS ON ORDER PAPER

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. Last Wednesday, a Motion brought by me here was actually supposed to be the next after hon. Galgalo's Motion. I am surprised today that that Motion has been removed and several other Motions have now been put here getting preference over my Motion. I do not know who is arranging all these things and, in any case, we all have a responsibility to our people. We have a duty here and whoever changed this---

Mr. Deputy Speaker: There are two issues that have been raised and I will deal with yours first because, in your case, an explanation has actually been given to you. The House Business Committee did meet and decided that we dispose of Motions sponsored by parties. So, as the Order Paper prepared indicates, Motions sponsored by parties will take precedence over Private Members Motions. That is the position. Your Motion has not been removed from the Order Paper, it has merely been relegated to give preference to a Motion moved by a party. So, you should have been satisfied with the explanation that I have given to you quietly. I will now deal with hon.

Obwocha's issue. Our Standing Orders are quite clear on what should happen to newspapers who misreport or misrepresents what goes on in this House. That is Standing Order No.170. I will not read it, but I will want newspaper reporters present in this House to go and read it once again, and in respect of instructions of which hon. Obwocha has complained of, to make amends; if not so, the Chair will invoke the provisions of the Standing Order No.170 which will exclude the relevant newspaper from the proceedings of the House?

Can we now proceed to the next order.

(Applause)

MOTIONS

EXPLOITATION OF MINERAL RESOURCES IN ASAL ZONES

THAT, noting that the Government has inalienable duty to create enabling environment for economic and social development, concerned that mineral rich ASAL zones are marginalised and underdeveloped; this House calls upon the Government to carry out immediate surveys and studies in the ASAL zones to enable the people exploit their untapped resources and set aside funds which the locals could borrow for investing in mining industries to safeguard them against continued exploitation and further marginalisation.

(Mr. M.M Galgalo on 14.10.98)

(Resumption of debate interrupted on 14.10.98)

Mr. Deputy Speaker: Mr. Munyao, you are on the Floor again.

Mr. Munyao: Thank you, Mr. Deputy Speaker, Sir. Before we adjourned last Wednesday, I had stood to support this Motion and I will spend a few minutes giving the reasons why I support this Motion. I come from the arid and the semi-arid areas and so I am relatively aware that minerals are available in these particular regions. When we attained Independence in 1963, we had a reason to seriously go into agriculture as a main means of supporting Kenyans. At that time we were doing that still hoping that after agriculture stabilises, then we would go into mining. The reasons - I believe the policy had to be that way - is because we had seen several other agricultural countries where governments formulate policies to support mining as opposed to agriculture, when it stabilises they come back to it, and it does not succeed.

Now that our agriculture has stabilised, this Government has got time to change our policies to support mining industries. To do that, we have to begin with establishing supporting faculties in our universities which would increase the number of mining experts so that they would assist in that development. The surveys must be ready somewhere, because the Ministry has been there since its inception with no activities. You also served in the Ministry of Natural Resources at that time. We know what mineral is available where and, for sure, these arid and semi-arid areas, that is North Eastern Province, Coast Province, some parts of Western Kenya, Turkana, Lodwar and the rest, cannot be obviously so dry that nothing can grow on top without anything below.

Mr. Deputy Speaker, Sir, I feel that the Government ought to put more efforts into finding out what causes this dryness. There must be something. For sure, we have seen in Taita-Taveta, where it is equally dry, we rubies and all the precious minerals. Countries which have invested more in minerals, or finding out what is available underground, are major rich countries. I have no reservations in requesting the Ministry of Natural Resources to put more efforts and find out what we can find below. We know and we have seen the kind of samples available in some areas. I have got in mind the area along Athi River. This River which is usually very dry, because about five kilometres either way, there are some signs of various jewels all along up to the Indian Ocean. We only need the Ministry's experts to go out sampling, getting it out, taking it to the laboratories and finding out what type of jewels these ones are. I commend the efforts of a few Kenyans who have put a lot of efforts in exploiting and excavating minerals.

With these few remarks, I support the Motion.

The Assistant Minister for Natural Resources (Mr. Lengees): Thank you very much, Mr. Deputy Speaker, Sir, for giving this opportunity to support this Motion. We had intended to make some amendments but since it is not possible and we had no time, the Motion had to go the way it was there before. Before I respond, I have to thank the Members who have shown a lot of interest in this very important Motion which calls upon the

Government to explore minerals in this country.

The Government's overall goal in the management of mineral resources, as stated in the National Development Plan, is to maximize the benefits accruing from the exploration of these resources through careful and systematic exploration and exploitation. The benefits include job creation, both directly within the industry and indirectly in the multitude of industries that supply goods and services, the development of communities, export earnings and economic wealth of the nation.

Mr. Deputy Speaker, Sir, the Government has invested heavily in the development of its mineral resources since Independence. Enough personnel have been trained and the Department of Mines and Geology is now able to undertake geological surveys and research. To this end, the department has conducted geological mapping of the country in order to fully utilize and realise its mineral potential. Basic mapping covering about 90 per cent of the country at the reconnaissance level has been done and documented into maps while the remaining 10 per cent is being covered by remote sensing methods. The target areas known or reported to have mineral potential will be re-mapped in a greater detail at large, in order to review their mineral potential. The department is carrying out mineral exploration in various parts of the country. Several metallic mineral deposits have been evaluated countrywide and this will continue.

The following detailed exploration programmes have been conducted in the indicated high mineral potential areas; Kitui and Machakos in Eastern Province; Taita-Taveta, Mrima, in the Coastal Province. Barsaloi (?) area which is in Samburu and, my own constituency in the Rift Valley Province. Remote sensing and mapping has been done in Wajir, North Eastern Province. The department has plans to undertake the following programmes in ASAL areas:-

Geophysical exploration survey in parts of the Rift Valley Province, particularly, in the Kerio Valley Development Authority area. Geochemical prospecting in all areas covered by geophysical and detailed mapping programmes and work on mineral deposits countrywide. Some high mineral potential areas including gold potential areas of the Rift Valley which were mapped at reconnaissance level in 1940s and 1950s, when deposits of gold were discovered, will be mapped again.

Mr. Deputy Speaker, Sir, the exploration of minerals is carried out under the Mining Act Cap.306 of the Laws of Kenya which was enacted in 1940. The Government does not operate mines. The role of the Government is essentially developing and enabling legal regulatory, physical and institutional environment for private sector investment in mining. The profound economic reforms of the 1990s which marked a clear shift in favour of the private sector development have necessitated revising of our laws on minerals which is expected to be tabled in Parliament soon. Some of the mineral occurrences in the ASAL areas are shown here below:-

Private companies are mining those minerals that have been assessed to be economical. Coast Province; gemstones in Taita Taveta, in Kwale District, iron ore and gypsum, along the Coast and Tana River. Limestones, along the Coast and Taita-Taveta areas. Ballast increases with salt mining at the Coast. Silica sand that is in Kwale and Kilifi. Iron ore in Taita; granites and graphite, in Taita-Taveta.

In the Rift Valley Province, we have gemstones in Kajiado and Narok. Limestones are found in Kajiado, Kerio Valley and West Pokot whereas gypsum and Magadi Soda are found in Kajiado District. Gold is found in Trans Mara, West Pokot, Turkana, Samburu and Marsabit. Bromide is found in Samburu and Moyale. Fluorspar is found in Kerio Valley. Graphite, Permiculate (?) and magnetite are found in Samburu.

Mr. Deputy Speaker, Sir, in Eastern Province, gemstones are found in Kitui and Mwingi Districts. Gypsum is found in Mwingi District and permiculate in Kitui and Wote areas. Magnetite has been discovered around Wote area. Graphite is also found in Kitui District.

In North Eastern Province we have discovered gypsum in Mandera, Wajir and even Lolwak(?). Limestones along with graphite have been discovered around Mandera and Moyale.

Currently, the Ministry has sent a lot of teams to explore some minerals within Samburu and some other drier parts of the country.

With these few remarks, I beg to support the Motion and we will let it go the way it is. Thank you so much.

Mr. Deputy Speaker: Hon. Members, if you look at the time, we have about 10 minutes which should be dedicated to the Mover to reply.

Mr. Galgalo: Thank you, Mr. Deputy Speaker, Sir. First, I would like to thank all the Members from both sides of the House who have positively contributed to this Motion. Secondly, I would like to thank the Assistant Minister who also comes from the same zone, for having accepted this Motion. If you heard where the Assistant Minister was putting stress, it is in areas where geo-surveys and geological maps and mineral industry surveys have been done. These areas are mainly in the Rift Valley and Coast Provinces. Some of the surveys which have been carried out by individual companies and which are being mentioned by the Assistant Minister, just

started last year. I doubt whether the Ministry has even put it on record. This is because those companies have not even finished their surveys up to now. I know there is a company in Moyale and in Samburu which has not done so. I know that there is a company in Samburu and Moyale which is carrying out the same survey, but up to now, if you go to Madini House to search for the literature on this subject; to get some information to enable an intended investor to go and mine in a particular area, you will not find it. Documentation of what has been found out has not been done. We would like the Assistant Ministry to hurry up this documentation to enable us to get the same information that the Minister has given in his reply.

Mr. Deputy Speaker, Sir, although this Government reneges on its promises like the case of the teachers salaries, it has prepared some Sessional Papers which require certain rules to be put in force if mineral resource exploitation is to be environmentally friendly. I am appealing to the Minister to bring a policy Paper to this House on this aspect of mineral exploitation, so that industries or mineral exploitation can be made environmentally friendly.

Mr. Deputy Speaker, Sir, if one travels to Machakos, on the way to Athi River, one cannot see the sky if he look westwards because of the dust that comes from the cement factories around there. A way should be found so that people who live in that environment are not affected by this dust. The Ministry does not seem to take any action on this. I appeal to this Ministry to ensure that there is a policy paper on how best to exploit the existing mineral resources in particular areas and to ensure that our environment for the coming generations is not damaged.

Mr. Deputy Speaker, Sir, the Sessional Paper prepared by this Government alludes to creation of industries or making this nation industrialised by the year 2020. If industries are created, they are supposed to ensure that employment is created. In these zones, if the existing minerals were exploited, then, employment would be created and there would be wealth. This will ensure that cattle rustling between tribes will not be there, because it is the economic situation in an area that perhaps leads people to cattle rustling. Therefore, to create this wealth, the Government should hurry up the process of creating a conducive environment, which the Minister has accepted is the duty of the Government.

Mr. Deputy Speaker, Sir, in the 1980s when there was oil exploration in Northern Kenya, it had been said, or alleged in this House before, although I do not have the evidence, that there had been some dangerous items which might have been deposited in those wells. In Arbjahan, immediately after the survey was carried out in that area, livestock which drank water which was drawn from the wells around that area died. Towards the end of 1986, we were told that oil is available in Kargi area of Marsabit and the Matarba area of Isiolo District, and that the Government was going to bring a report to the House. Later on, whatever was mentioned by the Minister then, that is the "total man", hon. Biwott, we have not heard anything about it.

Mr. Deputy Speaker, Sir, what the hon. Member for Laikipia alleged here has also been alleged outside. Some individuals have got title deeds for some of those areas, so that when oil is available, it will not be exploited before those people get some compensation for that land instead of the local people or the whole nation benefiting. That has been alleged and we would like the Government to ensure that the wealth of this nation does not go to the hands of a few people. Some people can manoeuvre things because they are in power. I am appealing to the Ministry to ensure that this wealth does not go to particular individuals and the resources that are available are shared by the people of Kenya.

With these few remarks, I beg to move.

(Question put and agreed to)

MOTION

ESTABLISHMENT OF OFFICE OF OMBUDSMAN

Mr. Raila: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, in view of the fact that the Government is committed to the principle of transparency, accountability and good governance in the management of public affairs, and considering the high levels of corruption, tribalism and nepotism currently rampant in our society; this House urges the Government to establish the office of OMBUDSMAN with autonomy and strength to check these vices.

Mr. Deputy Speaker, Sir, this is the fifth time that this Motion has come before this House. That in itself signifies the importance that Kenyans attach to the institution of OMBUDSMAN. I do not want to dwell a lot on many things that I said the last time that I brought this Motion before this House. Suffice it to say that we are right

now in the process of establishing institutions that would ensure good governance in our country. For the last three years, we have been talking about transparency, accountability and good governance. In the established democracies, it is now taken for granted that an institution of OMBUDSMAN is an indispensable component of good governance. Why? This is because this institution provides an avenue for the members of the public to air their grievances and to enable the society to deal with those grievances before they reach uncontrolled levels.

Mr. Deputy Speaker, Sir, as early as the 1970s, the Ndegwa Commission that was set up by the Government, did make a recommendation that, time had come for the establishment of the office of OMBUDSMAN and I wish to quote here. It states:

"The evidence adduced before us during our inquiry indicates that a real need exists for the appointment of an OMBUDSMAN in Kenya. Serious allegations regarding tribalism, nepotism, corruption and other forms of malpractices were made against civil servants and other public servants. We feel that these allegations, if not heeded and investigated impartially, could undermine the integrity of the Government and adversely affect public confidence and the morale of the public services. The situation needs to be contained and we believe that one way to achieve this would be through the OMBUDSMAN. Accordingly, we reiterate our recommendation for the establishment of this office".

Mr. Deputy Speaker, Sir, that was a commission established by the Government itself that went around conducting investigations and it came to that conclusion. However, even the Government itself, in responding, did acknowledge that in fact, a need existed for a similar institution and this is what they said:

"The Government associates itself strongly with the views and the observations of the Commission of the need for a definite shift towards greater accountability and openness among public officers and also with a view that, there is merit in the institution of a Kenyan equivalent of OMBUDSMAN".

Mr. Deputy Speaker, Sir, in other words, the Government admitted that even at that time, there was need for the establishment of the institution of OMBUDSMAN. The question was that there were a few people who felt that the OMBUDSMAN could be used to victimise a few individuals. I want to assure members of the Government that, nothing of that would happen. That, in established democracies, the office of the OMBUDSMAN is not used to witchhunt or to victimise public servants. To the contrary, it actually helps the public servants, and here we have been talking generally about corruption and how to fight the cancer of corruption.

Mr. Deputy Speaker, Sir, how do you fight corruption? This is because no one is born corrupt but it is the absence of checks and balances in the society, that creates attractive conditions for people to engage in graft and corruption. So, if we had such an institution, people would be able to report that there are very many civil servants who are dedicated, patriotic and who want to serve this country without being engaged in corruption. They see their bosses being engaged in corrupt practices on a daily basis, but they have no avenue of reporting. This is because we are told that if you want to report or write a complaint about your boss, you must submit it through your boss to another higher boss. This is because you know what would be the consequences. So, most people actually restrain themselves from doing this but if such an office existed, those specific Kenyans would be able to report if they knew that they would not be victimised as a result of reporting this.

Mr. Deputy Speaker, Sir, there would be greater accountability and transparency in the civil service. At the moment, the work in the civil service is buried in opacity, because the people down have no opportunity to complain of the malpractices of their bosses. So, this is one area that we should deal with. Civil servants are frustrated; qualified people who want to provide services in expectation of promotions. They are frustrated and never promoted. You begin and you work and then when you are expecting promotion, somebody else is taken from another department and planted above you without any proper justification and without the right qualifications. These are the things that contribute to the frustrations and demoralisation of our public servants.

Mr. Deputy Speaker, Sir, if this institution existed, there would be an avenue for people to complain. If somebody has chosen a career in the public service, there should be an avenue for upward mobility. That in itself, is an incentive; even if you look at the low salary that the Government is paying. However, if somebody knows that he an opportunity for promotion in future that will be an incentive to stay in the service. At the moment, that is not happening. I want to give an example. I myself was once upon a time a public servant in one of the parastatals and I know there were people who joined that institution with me who were dedicated and who wanted to make a career in that institution. However, what happened is this. When the senior people left, other people were brought from other institutions. For example, the director of that institution, which is the Kenya Bureau of Standards, in this particular case died, there was a deputy director. But what did they do? They went to Kenya Science Teachers College to bring somebody who knew nothing about standardisation and made him the head of KBS. When this one retired, they went again to the Ministry of Public Works to remove an officer whose promotion was now

prevented because he did not come from the right ethnic mix and bring him to KBS as the boss.

Mr. Deputy Speaker, Sir, so in the meantime, the people who had joined and who were senior deputies there had no other option but to leave the institution. So, therefore, you find an institution like the KBS being run by people who know very little about standardisation; standardisation is a very specialised field and each time a senior officer moves away, they go outside and collect other people to come and head it. This applies to several institutions that I know of. So, there is no way these people can complain. So, tribalism and nepotism is rampant in our society. These are vices which inhibit growth and development.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, it was just last week that another example took place. A friend of mine owns a company that is qualified to supply timber to the Prisons Department. There was a tender which was an open one. People tendered and the department recommended three companies to the Central Tender Board. The Central Tender Board is an institution that is supposed to be impartial and to ensure that there is fairplay. However, when this was taken to the Central Tender Board, the contract was awarded to the third lowest bidder; that is the highest of the three was awarded the contracts. Why? Because he was able to offer a commission to the people in the Central Tender Board. So, if we had the office of OMBUDSMAN, my friend did not need to complain to me and in fact, he gave me documentary evidence. He would have gone to the OMBUDSMAN and said that, this tender has been wrongly awarded to this company and the office of the OMBUDSMAN could have quickly instituted investigations and corrective action would have been taken. So, we are saying that courts are not a substitute to the institution of OMBUDSMAN. They have very specific roles to play. Many junior civil servants have neither money nor the time to hire lawyers. There are people who want to see continuity. They want to raise issues which should be addressed without necessarily incurring legal expenses. The cost of law has been used regularly as an excuse to oppose this Motion.

Secondly, we need to take a very thorough look at our Judiciary. I would not want to cast aspersions, but I think time has come for us to bring a Motion to this House to discuss the performance of our Judiciary. We cannot move forward in this country when we have a judiciary that is for hire. For example, I know that the Value Added Tax (VAT) Department is right now being frustrated by the courts. I talked to some senior officers in the VAT Department who told me that there is a lot of money in this country, but the problem is that we are the people who owe the Government billions of shillings in uncollected VAT. When the Government arrests these people and freezes their bank accounts, they run to the courts where injunctions are issued, yet the Government has evidence. At the courts, also, the matter is postponed for long durations of time. The courts help defaulters to get away with theft of public money in unpaid VAT. If we had the office of OMBUDSMAN, some of these things could have been highlighted. Therefore, I think it is time for us to institute this office.

Mr. Temporary Deputy Speaker, Sir, it is a fact that members of the public are being frustrated by the Provincial Administration, and I do not need to belabour this one. Everybody agrees that there is need for a comprehensive reform of the Civil Service. We should look at the Civil Service in the context of the democratisation process; to see whether it is relevant to the new democratic Kenya we want to build, or whether it is, as I believe, a relic of colonialism which has no place in a modern democratic Kenya. So, people are frustrated by chiefs and sub-chiefs in the rural areas. The chiefs and sub-chiefs are, in fact, law unto themselves. They arrest and beat up the people, but there is nowhere the people can complain. Parliament has had to deal with Questions concerning individuals during Question Time. It would be fairer for Parliament to deal more with the policies of Government rather than hon. Members coming here to ask: "Why has So-and-so not been paid their pension? Why have So-and-so been arrested and beaten up by a chief?" Such complaints would be directed to the Office of the OMBUDSMAN, which would be part of Parliament.

Mr. Temporary Deputy Speaker, Sir, in the Nordic countries and Britain, the OMBUDSMAN-General is appointed by Members of Parliament, and he reports to Parliament. So, many of our hon. Members of Parliament would not be bothered by their constituents with parliamentary Questions. Instead of them raising Questions through their respective hon. Members of Parliament, they would go straight to the Office of the OMBUDSMAN. This institution would in itself strengthen Parliament as it would be performing one of Parliament's constitutional duties - that of being the peoples' watch-dog. This function at the moment is hampered by lack of proper institutions like the Office of the OMBUDSMAN. If we had this Office, the Parliamentary function of being a peoples' watch-dog would be enhanced.

Mr. Temporary Deputy Speaker, Sir, in 1985, the late hon. ole Tippiis, in opposing a Motion for the creation of the Office of the OMBUDSMAN said:-

"The Government regards this institution unnecessary, and the work it can do is already being done by the existing institutions and Government machineries. To allow it to be created will not only amount to duplication of responsibilities and thus a waste of public funds, but it will also encourage fitina, porojo, and what-have-you, which this country can ill afford."

Nothing can be further from the truth today. This issue has been raised several times, and I hope our learned friend here will see the need for the establishment of the Office of OMBUDSMAN, which will also help his own office in performing and discharging its constitutional duties.

Mr. Temporary Deputy Speaker, Sir, as far as the question of land grabbing is concerned, it would not have been necessary, for example, for some leaders to go to Karura and do what they did if the office of the OMBUDSMAN existed. This office would have investigated the matter and told our people who was responsible for the grabbing of the land, and how it was done. It would also have been able to rectify the situation before it reached such proportions. As matters were, the Minister for Natural Resources had said that the allocation was illegal and, therefore, those allocated the land in the forest should stop work on it. On the other hand, the allottees went ahead with their construction work. It was a clear case where the right hand did not know what the left hand was doing.

Mr. Temporary Deputy Speaker, Sir, in conclusion, I would like to say that we have embarked on a very important process of constitutional reforms. By this process, we want to resurrect some of the extinct institutions, create new ones and resuscitate some. The Office of the OMBUDSMAN is one of the institutions that we must create now. It must be provided for in the new Constitution as is the case in the Constitution of the Republic of Ghana. I have given examples of the Nordic countries and some European countries, where the Office of the OMBUDSMAN is in existence. In Africa, Tanzania, South Africa and the Republic of Uganda have the Office of the OMBUDSMAN. It is only Kenya that has now remained an island, this time round not of peace but, where a very vital institution is missing. So, I think the Government should take this issue very seriously and, in the process of the constitutional review, make sure that the institution of OMBUDSMAN is introduced. Action should be taken immediately, pending the review of the Constitution so that we have this vital institution.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to move. Hon. Kihoro will second the Motion.

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, I rise to second this Motion which was moved by the Member for Lang'ata, hon. Raila. I lived in overseas for a long time, more than 10 years especially in Britain and I know that there is an OMBUDSMAN there. The office of the OMBUDSMAN is a great office in terms of administering the Government and also helping the members of the public. Not every person who lives in Britain or in Kenya has got enough money to go to court, but it is possible for any person in Britain or in this country to get assistance from an OMBUDSMAN because he will be able to check the vices of the Government and make sure that the Government is kept on track and is doing the job that it is elected to do. An OMBUDSMAN will check the excesses that are possible in the exercise of power and we know that power corrupts and absolute power corrupts absolutely. It is, therefore, necessary that those who are in power are kept on track to ensure that they serve their country, serve the people and an OMBUDSMAN would make sure that, that would happen especially in our country.

As hon. Raila has said, it is true that neighbouring countries have got the office of the OMBUDSMAN. He minimises on costs and makes sure that things are done quickly. It is inevitable that this country establishes the office of the OMBUDSMAN because it is going to ensure that poor members of the public are not going to be kept away from the Government. In Uganda, we have got the office of the Inspector-General of Government and that is actually the office of the OMBUDSMAN, and in Tanzania, as my friend, the Member for Lang'ata has said, it is true that also there is an OMBUDSMAN.

The origin of the office of the OMBUDSMAN are the Scandinavian countries and it has spread across the world to ensure that the government works because if it does not work, it is unfortunate for those people who have put it in power. If we look at what has happened in the Central Government in this country, it is true that people can identify where things have gone wrong. It is actually the members of the public who would be the first to come out and clearly state where they think the Government has fallen short. We know that it is not possible for any individual inspector employed in the country to keep the Government on track, but the members of the public, wherever they are, can identify where problems are and very quickly approach the office of the OMBUDSMAN who would be able to ensure that, at least, the vice is going to be exposed. If this Motion is adopted by this House, it would be inevitable that, maybe, we would have an OMBUDSMAN for the Central Government and also have one for the local authorities. It is true that many of our local authorities in this country have no vigour and an

OMBUDSMAN would ensure that wherever services are falling short or where the local Government is actually not performing, the members of the public would be able to identify and, at minimal cost, be able to resuscitate what is actually not being done. So, the OMBUDSMAN would be a watchdog of the public interest that must always be there in affairs that are being done in a country.

The OMBUDSMAN is bound by law to listen. In the busy society that we live in today, it is possible to have the situation like we have not only in this country, but elsewhere, where I find so many people saying, "I have been all over, I have talked all over, nobody wants to listen to me, the last thing anybody would want to do is to listen to me". The OMBUDSMAN is bound by law to listen about the vices that will come up in the Government. Hon. Raila has talked about corruption in the Government and questions about corruption in the Government are bound to come up. Those who have got the opportunity might exploit their positions by maybe buying land in certain situations where it should not be bought or making uneconomic decisions that should not be made or making decisions to purchase certain properties that should not actually be purchased at the prices quoted. In such a case, the OMBUDSMAN would be the first person to step in and question the wisdom of the public officer who has made that particular decision. The members of the public would be able to know that very quickly and be able to approach the OMBUDSMAN to stop the vice.

The office of the OMBUDSMAN should be manned by an independent person. It must be an office that is going to be occupied by a very independent person who is only interested in doing what is right; to investigate; not a witch-hunter. It requires somebody who is going to serve the members of the public; to investigate and not crucify some people when there is no need to do so. Certainly, if things have gone wrong, it will be his duty to come out and expose the vice. He must be a diligent person, somebody who is going to work hard. A workaholic would be recommended for this office because I know very, very many members of the public would want to see that whatever they feel is not going right is going to be attended to by OMBUDSMAN. The OMBUDSMAN will fight corruption, expose it before it happens and that will be very good for this country. Sometimes we discover corruption cases when it is too late and we do not want to go for the horse after it has bolted; we would like to have somebody who would be there to stop some of the corruption cases that are about to come up, stop them before they happen and make sure that public funds remain in the hands of those who are responsible.

The Press will also be very useful in supporting the work of the OMBUDSMAN because exposure of some of the vices that come and go is important. Maybe, we forget them as soon as they happen because they are just too many. The Press will come in to assist the OMBUDSMAN and prevent some of the corrupt cases that have become rampant. The question of tribalism is also very important. If somebody is denied a job because of tribalism, he will be able to come out very quickly and say, "I have got merit, I know I can do this job, I was called for an interview, I know that was just window dressing and I was not given the job because I do not come from such-and-such tribe." It is unfortunate that we got to continue talking about tribalism in this country. It is something that we must fight against and I believe the Office of the OMBUDSMAN would be the right instrument to fight this vice of tribalism.

Mr. Temporary Deputy Speaker, Sir, the question of transparency in Government is there in this country now. It is very clear that with the globalisation process that has been going on with the collapse of communism - even capitalism might collapse in due course - the world has become smaller. With the globalisation that has come up, it is possible that the Government can become more transparent. In the near future, most likely this House will be debating the Intelligence Bill, one of those institutions in a country that could all be very opaque. But the members of the public would want to know what is actually happening in every sector of the Government. Secrecy would only be justified, if the work cannot be otherwise done, when you expose and endanger the people who are doing it or the nature of the work that is being done. But where it is not necessary to be secretive, the members of the public have got a right to know exactly what is happening. The right person again who would be able to deal with these matters is the OMBUDSMAN.

The privatisation process, is going on. Public assets have been there for a long time in this country, accumulated over 35 years and even during the colonial period, but when we go through the process of privatisation the right person who would step in to ensure that the privatisation is done in accordance with the correct economic practice is the OMBUDSMAN. We have had instances where public assets have been privatised in situations where maybe some other commitments have been made that have depreciated the assets that could be privatised and the OMBUDSMAN would be the right person to stop this. If the asset is quoted at Kshs100, he will be able to come out very clearly and say it is not worth Kshs100; this is another fraud; let it go for Kshs50 and our people would be yet happier.

The issue of professionalism in society is very important. We are going to have professionals everywhere and we have got trained people and most of them do their work in accordance with the practice that is in that trade or profession. But we also know that there are very many other professionals who are not prepared to do the work

professionally. I remember a case about a valuation that had been done in this country of land that was supposed to be bought by the NSSF. This land had been valued for Kshs100 million but the following day, it was re-valued for Kshs400 million. It had been done by professionals in this country. So, again, it would be possible for an OMBUDSMAN to check on such vices and make sure that, at least, people know that it is happening and it should not happen. I will state that because of the vices of the Government, it would be inevitable to have an OMBUDSMAN to check them.

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

(Question proposed)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to respond to this important Motion brought by hon. Raila Odinga. I am glad it has been also seconded by a member from my profession hon. Wanyiri Kihoro.

I want at the very outset to state that the Government supports this Motion in principle.

(Applause)

It is important to state from the outset what is the scope of an OMBUDSMAN. An OMBUDSMAN is an institution or a person who really listens to the complaints of the public against public officials. An OMBUDSMAN is there to deal with the issues of maladministration, abuse of administrative powers and inefficiency within the system. The institution of an OMBUDSMAN goes a long way to correct what one would term as bureaucratic incompetence, or change the attitude, particularly on the part of the public officers who may not give a damn over responding to inquiries made by the members of the public. The role of an OMBUDSMAN is to take up those complaints with the institutions concerned with a view to correcting that particular situation, or ensuring that the public officials actually respond to the complaints from the members of the public. An OMBUDSMAN is not there to take issues to court. I will be speaking later on the delineation of the powers of the OMBUDSMAN of the courts and other institutions that provide avenues to address what a member of the public may feel were infringements of his rights. But that is in essence the purpose of an OMBUDSMAN which began in 1809 in Sweden and spread to other Scandinavian countries. Other civil law systems took up the issue by way of instituting what they call administration courts. For example, if you go to France today, they have also a system of administrative courts parallel to the normal court system. If you have any complaint against the public administration, that is where you go. This system goes up to the highest courts, which is the constitutional court.

Mr. Temporary Deputy Speaker, Sir, one can say that the institution of an OMBUDSMAN, of course, goes under various names in various countries. But, one can say that in most countries today there is that institution even if it is called by other names. For example, in Britain, they call it the Parliamentary Commission; in Tanzania they call it the Permanent Commission of inquiry, and in Uganda they call it the Inspector-General as my learned colleague said. In Austria, they call it the Peoples' Attorney while in Australia and New Zealand, they have a Parliamentary Commission. But, the institutions are there and their scope and jurisdiction is well taken care of in the legislation under which they are set.

Mr. Temporary Deputy Speaker, Sir, I will not take long in my contribution. Of course, I am aware that when a similar Motion came up in the past, it was rejected by the Government of the day really on the basis that we have other mechanisms under which peoples' complaints could be addressed. The fact of the matter is this: That, a number of the commissions that had been appointed since independence to look into the structure and functioning of the Civil Service have recommended for the institution of an OMBUDSMAN. Whether you are talking about the Waruhiu Commission, the Ndegwa Commission and other Commissions that came thereafter, they did recommend that the institution of an OMBUDSMAN be created. Then there was also another commission which is normally forgotten, on the code of ethics, chaired by the Mr. Bethwell Mareka Gichaga, also a member of my profession. That Commission also recommended the creation of an OMBUDSMAN.

Mr. Temporary Deputy Speaker, Sir, one may say that we have various avenues of addressing complaints and, therefore, by setting up another unnecessary commission, it will be a duplication because these various institutions can work very well. In response to that particular concern, I would say this: Even in the developed countries where the civil societies are working efficiently, and the courts are meting out justice expeditiously and cases are being heard on time and so on, it has still been found necessary that an institution of an OMBUDSMAN does play an important role. Of course, it may very well be that many of the complaints that may go to these institutions may be complaints which do not have merit. In fact, in some countries which I know, like in Sweden and Britain, they have found out that only 30 per cent of the complaints have some merit while 70 per cent of the

complaints have been thrown out. I would like to state that even in the 70 per cent of the claims which were thrown out, the mere fact that an independent institution looked at those complaints, even when thrown out, went a long way at least to educate that member of public on the functioning of the Government. Therefore, it left that member of the public in a better position to appreciate the workings of the Government and gave that member of the public some confidence in the system as a whole.

Mr. Temporary Deputy Speaker, Sir, I have said that even in those countries where the court system is most efficient, they have found it necessary to have this type of institution. I have tried to emphasize very clearly on the scope of the institution of the OMBUDSMAN and what role it does play. I would like to go further and show you how the institution may fall in place together with other institutions.

The institution of the OMBUDSMAN is not there to undertake those matters which can be subject of the ordinary courts of the land, that is of the Judiciary. If there is any matter which is justifiable, then that matter has to go to court for determination. If it is a criminal case or a civil matter, it should go to court for determination.

On the administrative aspects, we know that administrators have a very wide discretion in deciding on various things. That wide discretion, of course, must be exercised properly and judicially, particularly in areas where they affect the rights of persons and where an Act of Parliament or a regulation has imposed a specific duty on a particular officer to make a particular decision. It is not so much the institution of the OMBUDSMAN which will be faced with the matter but the ordinary court of the land, because where that officer fails to make that decision, which the law states specifically that he must make, or if he makes the decision wrongly, taking into account facts which the law says are not facts which should be taken into account, in other words, if he takes into account extraneous or irrelevant facts which go beyond what the law requires at that time, then the aggrieved person must file an application in court on what is called the prerogative writs of *certiorari* or *mandamus* or prohibition so that the court can compel that officer to act in accordance with specific powers conferred upon that officer by law. Also, if a public officer has committed a criminal offence, for instance, corruption--- I mention corruption because the Seconder specifically referred to corruption. If an officer has committed an offence of corruption, then that is not really an issue of the OMBUDSMAN. That is an issue for the Kenya Anti-Corruption Authority who should investigate that matter and bring it, where there is evidence, before a court on a charge of corruption. Therefore, where there is a clear case of a duty being given to a person to perform and he does not perform it, that is a matter for the courts. If there is a clear case of an offence being committed, then it is a matter for the police or the Kenya Anti-Corruption Authority.

Mr. Maore: On a point of order, Mr. Temporary Deputy Speaker, Sir. Since the hon. Attorney-General is acting as the Official Responder of the Government, and there were salient issues which were raised specifically on the issue of corruption; could he respond to the vacuum that is being created by his own office when a member of the public goes to protest in court about the issue of the Commissioner of Lands, overstepping his boundaries and allocating public plots and in the process, the Attorney-General saying that the member of the public has *no locus standi*?

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Maore! If you are seeking an opportunity to contribute, you can get that in due course. Continue Mr. Attorney-General.

The Attorney-General (Mr. Wako): I can respond to that very effectively but not now. Let me first of all finish my points. If I have time, I will respond to that quite clearly. That is really an issue for the court.

As I was saying, the institution of the OMBUDSMAN is to deal with those very grey areas which a member of the public may not necessarily--- For example, an official refuses to answer a query from a member of the public, that may not necessarily be a matter which can be dealt with by the courts. But it is a matter that can be dealt with by an OMBUDSMAN to enquire why that public officer has failed to reply to a particular letter or to deal with a particular query. In other words, there are issues of abuse of administrative power or maladministration, or sheer inefficiency or incompetence, which make it very difficult for those issues to be justifiable in the sense that they can be brought before the court for adjudication. Those are the issues that this particular institution will be dealing with. Therefore, to the extent that the administrative official has not answered because he may be waiting for "kitu kidogo", to the extent that the OMBUDSMAN may question him why he has not answered, to that extent, he may prevent the commission of an offence occurring; he may prevent corruption from occurring.

There are very many areas where matters cannot easily be dealt with by the court. Where in fact, it may be very expensive for the common mwananchi to file this expensive application of prerogative of writs and so on in the High Court, an OMBUDSMAN can deal with it on the mwananchi's behalf. Therefore, it becomes very important that the issue of the appointment of the OMBUDSMAN must be gone into very carefully. If you have a wrong person in that job, then obviously, the whole process can go wrong. He can victimise others and even grind the administration to a halt. We need men of integrity, a person who knows what his job is all about, a

person who can address the issues of the public carefully, properly and efficiently. All these things can be done.

Mr. Temporary Deputy Speaker, Sir, in fact, in this country we have OMBUDSMAN type of institutions. For example, we have the Advocates Complaints Commission. That is a kind of an OMBUDSMAN because it deals with complaints by members of the public against the advocates which can then, of course, go on to the Statutory Committee.

Mr. Temporary Deputy Speaker, Sir, you may recall that during the Jamhuri Day, in 1996, the President mentioned that he may appoint an OMBUDSMAN. Following that, vide Kenya Gazette Notice No.3482 of 1996, the President appointed the Standing Committee on Human Rights whose type of work is that which can be done by an OMBUDSMAN. He said: "To investigate complaints of alleged violation of fundamental rights and freedoms set out in the Constitution; to investigate complaints of alleged injustice, abuse of power, unfair treatment of any person by a public officer in the exercise of his official duties." Those are the duties of the OMBUDSMAN.

Mr. Temporary Deputy Speaker, Sir, under the Constitutional review exercise, as you said, we are going to---

With those remarks, I beg to support.

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, I wish to support this Motion.

This Motion is extremely timely and I am glad that the Attorney-General has agreed that it is a necessary office. It is just that he feels that it will duplicate some functions which I do not believe is the case. Had this Motion been passed by the previous Parliament, I am sure that we would have saved Kenyans a lot of problems which we have experienced lately and which we are experiencing now. By that, I mean that this Motion will be Kenya's hope which is what is missing right now. Those institutions which the Attorney-General has referred to are there. But we know that they are not working. They have failed to deliver. If they had delivered, we would not be in the situation we are in today and those failed institutions are all there for people to see. Had corruption been checked, it would not be as deep as it is right now because it has contributed to poverty, which has reached such levels that most Kenyans cannot even afford a day's meal, leave alone sending children to school.

Mr. Temporary Deputy Speaker, Sir, when the President was officially opening the School of Monetary Studies, at Ruaraka, he said that Kenya has a strong economy, but it is not properly managed. It is the management that has failed Kenyans. However, the people who mismanage our institutions are allowed to mismanage one institution after another. Instead of being demoted or barred from holding public positions in this Government, they are promoted to head Ministries so that they can run them down as well. For example, the persons who ran down the Kenya Posts and Telecommunications Corporation and Kenya National Assurance Company are now heading full Ministries.

Mr. Temporary Deputy Speaker, Sir, I believe with an independent office to check these issues, for example, an office of OMBUDSMAN, Kenyans will have hope that their problems will be addressed. The senior Government officials have become immune to cries from Kenyans. In fact, it does not bother them any more whether Kenyans eat or they do not eat. A good example is how the public coffers are emptied year-in-year-out, even after Parliament has made a lot of cries about public funds being used for the purpose they were voted for, like providing social services to wananchi, school facilities, to Kenyans. It is the responsibility of the Government to build schools in this country and not the responsibility of hon. Members.

Kenyans are heavily taxed. At least, some of us put a lot of effort to pay school fees. For example, in my constituency, there is the Dagoretti Education Fund which has paid over Kshs3.4 million as schools fees for over 3,000 children. It is not the responsibility of the parents to do harambee in order to pay school fees for their children. It is the responsibility of the Government to provide education to its citizens.

I am sure when the President made that observation at Kenya School of Monetary Studies, he meant well.

But I would like to put on record that the Government officials and the Minister have put cotton wool in their ears and they no longer hear cries from Kenyans. We need an independent person, appointed by this Parliament and one who will not be misused by any powers that be. We want somebody who can deliver services to Kenyans.

A person who can hear the cry of our people and help them.

Mr. Temporary Deputy Speaker, Sir, I raise this concern because the management of this country has gone haywire. Government officials no longer care about the plight of Kenyans. For example, consider the grabbing of public land and other property. It is a pity that every forest in this country is now divided among individuals. In Nairobi, there is no public toilet because the land has been dished out to politically-connected individuals. The other day, in Dagoretti, some private developers grabbed a piece of land. The City Council Askaris looked helpless and all they could say was that land had been grabbed. This is shameless grabbing. Who is dishing out public land? What planning can there be in urban areas, even in Nairobi, if the public facilities are not spared by grabbers? Nairobi is growing and we need more public facilities.

I hope the Government will support this Motion because we need somebody who is independent---

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that she hopes that the Government will support this Motion, when the Attorney-General has said the Government will support it? It is also very clear that the Attorney-General has also said that under the Standing Committee on Human Rights, something is being done in this area.

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, I am very happy to hear that the Attorney-General will support this Motion.

I hope that the person who will head this office of OMBUDSMAN will not be patronized. I hope that he will be independent and speak on behalf of all Kenyans, that when people go to him, he will not need to check with anybody else first. We hope he will assist our people accordingly. We want to know who has grabbed some parts of Karura Forest. Let us be transparent and know who has grabbed Karura Forest. It should not be such a big secret in this case. The other day, we went to plant trees on that grabbed land of Karura Forest, but we were stopped from doing so by policemen and yet we had gone there to protect our environment. Those who have grabbed Karura Forest have official backing and that is why they are protected by police. Grabbing of public property must stop. It is only the office of the OMBUDSMAN which can save this country. We hope that we will have an independent person who will not bother to please So-and-so at the expense of the public.

As a result of *El Nino* rains, the World Bank gave this Government a lot of money to repair roads. However, there are no roads which have been repaired. The few that have been repaired, have developed even larger potholes than before. We want a clear job done on our roads. There should be transparency in the awarding of contracts to do our roads. I am glad to see that the Minister for Public Works and Housing is attentive on this. Although, he says it is the Ministry for Local Authorities which should repair roads in urban areas, it is very sickening to see that money is spent on roads and yet our roads are so bad. For example, in Dagoretti Constituency, there is one road where over Kshs28 million was spent. But in less than two years, it had developed bigger potholes. In fact, one needs a Range Rover or a 4-wheel drive vehicle to drive on that road. Who paid this contractor Kshs28 million for a road on which he used "dust" to repair? He did not use murrum because it has a longer live. That is corruption of the highest order! As much as we would like to think that our institutions are working, they are definitely not working.

Why is there so much insecurity at the moment in Kenya? Why are people taking the law into their own hands? It is because when the policemen arrest somebody, they set him free in the next day because of the culture of "kitu kidogo". People are afraid of even giving evidence before a court of law. They prefer to take the law into their hands in order to punish the culprits. As much as I am not saying that people should take the law in their hands---

An hon. Member: Even in Karura Forest!

Mrs. Mugo: At Karura forest and elsewhere. We want an office of OMBUDSMAN properly established. Kenyans should know that there will be somebody that they can trust and justice will be delivered. In case this office is established, Kenyans will not take the law into their hands, but will have faith in the Government.

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

Mr. M.A. Galgalo: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to support this Motion. We, the minority tribes in this country, are aggrieved. We are being denied chances both in recruitment and promotion. Small tribes in this country cannot even get enrolment in Government training institutions. Therefore, this office of the OMBUDSMAN will be very important to us. It will act as a bridge between us and the Government. When you look across the board, in the Government, most of people in high positions hail from the larger tribes. The larger tribes are struggling to take over the leadership of this nation. They will all be favouring their kinsmen on the other side. Therefore, corruption has become rampant. It is the minority that is involved in corruption in this country. The minority community is that of Asians and not black people.

(Mr. Maore nodded his head)

I can see my brother on the other side of the House nodding his head.

Mr. Temporary Deputy Speaker, Sir, we can see the effect of corruption in the Civil Service, parastatals and the private sector. I would like to give an example the recruitment into the Armed Forces for the last ten years. If there was any recruitment, it was just favouring one group of people. As I speak here today, I have only one officer from my Constituency in the entire Kenya Army. However, I do not want to dwell on recruitment and

promotions in the Civil Service. What we are saying is that we had the Tana and Athi Rivers Development Authority (TARDA) which had put up a rice scheme. But because of corruption, that rice scheme was not benefiting the local people. All those who were recruited as staff, including sweepers and even bird watchers, for the rice scheme, were from one family. This was because the Managing Director came from that family.

An hon. Member: He was from the Kamba community!

Mr. M.A. Galgalo: Mr. Temporary Deputy Speaker, Sir, if you go to every parastatal you will find a similar situation. I think this office of OMBUDSMAN will be very important because the public will channel their complaints through it.

I would like to touch on the National Youth Service (NYS). The NYS has had a road project for the last 28 years. In all these years, it has only managed to construct 50 kilometres of tarmac road. It was being used as a training facility for our youth, but it is worrying that all that time only 50 kilometres have been tarmacked. That is one institution where corruption is most rampant.

I am happy that the Attorney-General is here. Look at the NYS Estate at Ruaraka which is yet to be completed. It has remained uncompleted for the last seven years. We have voted so much money for that project and the Government cannot decide what to do with that estate. Was it worth putting it up in the first place? Why was that money not used to provide clean water to the residents of Nairobi City and the neighbouring districts?

The other thing is that there is so much wastage going on in the Government. For example, in every district headquarters, you will find new vehicles being parked and waiting for the officer in charge to come and tow them away. If you look at the Bura Irrigation Scheme, you will find that the Kshs7 billion project has been run down. The officers who ran down that irrigation scheme are still happy. They are moving around in big cars and staying in posh areas of Nairobi. To be accountable to the people of this country, there must be checks and balances. We need this office to be established so that all those who "ate" from the Molasses plant in Kisumu, the Bura Irrigation Scheme and the Kenya Cushewnut Project will be brought to court. As I am speaking here, all the Corporations in Coast Province have been run down. The individuals who have run down those Corporations are still with us. Like Mr. Mugo said, if someone has run down one institution, how can you appoint him to head another parastatal? This has been the case throughout. We have reached a point in this country where we have accepted to be called any name.

Every year money is voted to the Ministry of Public Works and Housing to improve roads in the country. But look at the situation today. There are no good roads in Tana River District. In fact, I can hardly get to the District Headquarters from my constituency when it rains. Yet, every year we have been voting money for road projects.

Mr. Temporary Deputy Speaker, Sir, I would like to urge my brothers to be more serious and accountable because the situation is different now. I would like to know from the Minister for Public Works and Housing, who has been using Mombasa Road, what happened to this road. There are a number of occasions he has been shown on the television assessing the damage caused on the road. Why is Mombasa Road in that sorry state? We cannot get to Mombasa using this road. I would like the Minister to ensure that the road is repaired.

Mr. Temporary Deputy Speaker, Sir, I beg to support this Motion because, as I said earlier, the small tribes are aggrieved. I do not know for how long we are going to stay in the backyard. As I am speaking here, there is no water in Bura Constituency. The same case applies to Garissa Town. The residents in these areas depend on donkeys to get water, and yet there is a large project which anybody who visits Bura Constituency will see. It was run down! I think this office of OMBUDSMAN will be very important because we will channel our complaints through it.

With those few remarks I beg to support the Motion.

Mr. Mwiraria: Thank you, Mr. Temporary Deputy Speaker, Sir. First and foremost, let me thank the Attorney-General for clarifying the role of the office of OMBUDSMAN. I would like to concentrate my comments on abuse of administrative powers. I would like to start with the Judiciary, perhaps which the AG understands best. I fully support the establishment of the office of OMBUDSMAN because in recent years the AG has made the court process an expensive affair for aggrieved Kenyans. A Kenyan whose land has been taken and his title deed has been given to somebody else, while he is living on the land, cannot use the court process to get back his land. This is because it is too expensive and we are all very poor these days. I would like to give a few examples as to why I feel that there is abuse of power by the Judiciary. I will give one case where a judge decided on a Tuesday that the litigant who wanted a piece of land which he claimed he had bought from somebody had won the case. On Friday in the same week, the same judge issued a court order to evict the former assistant chief who owned the land. On same Friday, the lawyer of the litigant took the court and Administration Policemen to destroy this poor man's houses. Mr. Attorney-General, does that judge know that under the Kenyan Law people are given time to appeal? What should a poor man like that one do? He has attempted to appeal, but he cannot afford the cost. His

house and all the items which were inside, were destroyed. He is now a pauper. This would have been an excellent case for reference to the office of OMBUDSMAN, if we had one.

I will give you another example. An old man gets his son stabbed to death, while people are watching. The matter is referred to the police and after a few weeks, it disappears completely. What has happened? A state counsel somewhere has decided that this case is not worth forwarding. We have had to go back again and follow up the matter. We hope something will happen. But the poor old man has no recourse other than, perhaps, going to the police and appealing to them: "What happened to my case? My son was killed and there is evidence" So, we have examples galore. There was the other case in my constituency where robbers went to the house of a man who owned a matatu. They shot the man and robbed him of the matatu. The next morning the lady had to walk around looking for transport to take the husband to hospital. The next morning she went to Kerua Police Station to report the robbery. While she was reporting and somebody was writing it in the Occurrence Book, a man walked in and she said: "Oh! that is the robber." Then she is told: "Mama, nyamaza." As it turned out, she could not continue with her evidence. She was scared stiff. She did not know what to do. Ultimately, she reported the matter and we were able to go and see the DC and the OCPD and necessary action was taken. But how many more people would not have been that lucky? So, we have a cases galore for reporting to the OMBUDSMAN. I do pray, personally that we get an OMBUDSMAN because as I have said today it is possible to use the other available legal processes to deal with complaints from the poor Kenyans.

Having made these remarks about the Judiciary, let me go perhaps to the most notorious Ministry in Government, the Ministry of Lands and Settlement. I have had cases where an old man has owned his land for 30 years. He has gone to the Ministry of Lands and Settlement because he wants to subdivide his land among his five sons only to discover that he does not own one square inch of the land because the land now belongs to two people who have used the legal machinery in Kenya through courts in Nyeri. Today the poor man stays on the land purely because he has been there, but not because it belongs to him any more. He uses his sons to chase away these new owners. There are other even more depressing cases of settlement plots which somebody has been given. They are supposed to pay for them in 36 years. They have already paid more than three-quarters in 18 years, but the plots have been sold to other people for a pittance. Somebody has paid Kshs9,000 and the land is sold for Kshs6,100 to a new owner who then goes and sells the land and gets the title deed.

Surely if we had an OMBUDSMAN, he would be in a position to say: "These things are happening." The poor lady cannot afford to take the matter to court. As regards the instance I am talking about, we had to contribute money through Harambee efforts to enable her to go to court to stop eviction. I personally believe that if we had an OMBUDSMAN who would see the injustices being done to these people, he would be in a position to stop the process. Let me support a point made by Mrs. Mugo on the destruction of our natural resources. Today we have no forests at least in the North Imenti part of Meru. They have all been destroyed. At the moment people are busy cutting poles and timber and using the indigenous cedar and mcharage trees. When they are asked they say: "We are doing this for the DC and the PC." I have reported but nothing seems to be happening. The poles which are cut and the timber which is made is taken out of the forest in a Ministry of Natural Resources truck. Would that really not constitute part of abuse of administrative power?

In fact, in the lower Imenti Forest near Meru Municipality, there are only a few trees surrounding what used to be a forest. The rest is just a mere bush. People have cut all the trees. They have even cut trees which are not good for timber; to make charcoal. There is nothing you can do. You cannot stop them because they have got the blessings of the Forester and his team; surely, another good example for reporting to the OMBUDSMAN. I am completely convinced that if we are going to help this country get out of its present maladministration, we need someone who is accessible at no cost to the ordinary mwananchi because the cost of going through the court is prohibitive. We need someone who can accept the complaints and act on them promptly because this is really the basic requirement.

Let me finally say that the Ministry of Lands and Settlement has established what they call District Land Allocation Committee which goes to do development plans. The physical planning officer puts the papers in his pocket. There is no advertisement in the gazette as used to be the case when land has been alienated. Once again, wananchi are going to buy this land from these people.

For these reasons and many others, I support the Motion fully.

The Minister for Research and Technology (Eng. Kiptoon): Thank you very much, Mr. Temporary Deputy Speaker for giving me this time to contribute to this very important Motion. To begin with, I need to take this opportunity to thank Members of this Parliament for coming together and thinking about our country. I would urge them always to put this country before other interests. May I also commend the Mover of this Motion for having brought it at the right time. I would say this Motion is long overdue. In fact, it is one important step in our democratisation process. Its absence in the past has given room to mushrooming of all types of what we refer to as

"Gutter Press". The office of OMBUDSMAN is so important that it is going to act as a deterrent to most of the vices that this country currently experiences especially with regard to corruption. Corruption is one vice which, if not controlled, is going to consume us as a nation. Specifically, corruption is so rampant, especially in tendering for contracts or provision of services, where a few individuals connive and fix prices for any contract before actually letting the rest of us know that there is such a contract. In that way, contract prices are doubled and even in some cases tripled because there is no check. Even if you come to discover that, that vice has been committed, you have nowhere to report the matter to.

Even if you discover that crime has been committed, there is nothing you can do. There is nowhere to report to. You have nobody to complain to. The issue of tribalism has flourished because the citizenry has nowhere to complain to. Murders have been carried out by criminals and most of those who get such information fear to report to the police because they do not want to appear in courts as witnesses. That way, criminals have had field days carrying out their own deeds.

Mr. Temporary Deputy Speaker, Sir, if only we could set up this institution of OMBUDSMAN, most of these vices would be curtailed. On my part, I would not want to only support the issue in principle, I would urge that this office be set up soon, so as to be able to bring to an end the various ills that do affect our country. As we all know, the country at the moment has been carrying out privatisation of various Government institutions and companies. We have all heard of how corruption has wrecked havoc into the privatisation exercise. This has been so because the wrongdoers have all along known that there is nobody that one would complain to. Our people have not had any avenue in which to pass their observations and issues to the authorities.

I do agree that an OMBUDSMAN does not have to take anyone to court. But the mere fact that somebody knows that something wrong is about to be done in one place, will go a long way in deterring the wrongdoers from continuously looting this country. The office of the OMBUDSMAN will act as a form of scare. It will act to scare away the wrongdoers so that they do not feel that they are in their own world. We need to show that we are in control. My view is that this particular office should be answerable to this Parliament and it should not only be a person, but it should be an office that is set up in every locality.

Every district should have an office of the OMBUDSMAN, so that our people can have a way in which they can put their issues across. I know that somebody will ask: "Where will the money come from?" But I am sure that if we curb corruption, we will be able to save a lot of money, to be able to run the office of the OMBUDSMAN. Therefore, I urge the House to give this particular Motion its total support, and actually, urge the Attorney-General to set up this particular institution as soon as possible.

It will not only help us in curbing the wrongdoing, but it will also be able to advise this House as to the quality of our officers, so that if one officer is known to be corrupt, then this House will say: "Sorry, the particular officer should not be promoted because we have facts showing that he is corrupt, unable to perform his duties efficiently". It will also be able to contribute in building integrity into our officers. This is because most of them, whereas we may call them professionals, do not have the moral courage to be able to stand to some professional ethics. So, it will be for the OMBUDSMAN to be able to monitor and advise this august House as to the quality of each and every public servant.

As I said, there are a lot of misdeeds that have been carried out by wrongdoers. There are a lot of corrupt deals that have been undertaken by various individuals, purely because they have always known that there is no one seeing what they are doing. Let me refer to one institution that I think was set up in the recent past, called the District Development Committees (DDCs). These DDCs have actually become district corruption offices, where a few civil servants sit and determine the priorities for the people. DDCs have failed to meet the aspirations of those who thought them out in the first place.

The whole issue has now been left in the hands of a few executive officers who sit and decide for the masses. They not only decide on the things that have to be done, but they also decide on the prices of those services or projects that have to be undertaken. The common man in the district or in that locality is completely left out of what is going on; both in terms of the actual projects to be undertaken and also in the pricing of those projects. Even in the awarding of tenders for projects to be undertaken, it is always done by the same executive officers who may not have come from that particular district. They could all be people from outside that district, but since they have met in that district, they constitute themselves into the District Development Committee (DDC) and amongst themselves, they connive to loot the locals without the locals knowing anything about it. This is happening all over the country. If we have this office of the OMBUDSMAN, we would be able to report to the OMBUDSMAN that such-and-such a project is going and it is not a priority, or the cost of such a project is so much and yet we know it could cost so little.

Mr. Temporary Deputy Speaker, Sir, I would urge that this House not only endorses an urgency for the immediate establishment of this institution, but also goes further and looks into other ways in which this country

can be saved from the problems that it is currently facing. It is not worth our time to continue complaining about so many things that have gone wrong in the past. It should be our duty to look to the future; and to say, "Look, this has gone wrong in the past, what do we do to make sure that it wrong does not continue happening in this country?"

We have heard of land grabbing. This has gone on unabated. There are characters who do not work any more in this country. Their work is just to grab land, get pieces of paper and exchange them for money. It is very wrong and un-religious that people who do not work are actually being encouraged to be rich. It is very wrong. It should be the duty of this House to identify those wrongs and set up the institution that will be able to check, monitor and remove those officers who are not worth the offices they occupy.

A lot has been said about tribalism and I would want to say that most of us, especially those of us who come from those communities that are called the "right communities", there are no "right communities". We are all the same, but we have suffered a lot in terms of accusations being levelled against us. People are saying that all development is taking place in particular areas; like in my Baringo Constituency. I assure you that nothing that is not supposed to be there is there. There is no extra development that has been directed to us that has not been directed to other places.

However, we are not supposed to complain because if we all complained in this country, who is going to be thankful? We have to be thankful for the little that we have got, especially for the peace that we enjoy. We are very thankful and we would urge all Members to support this Motion.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Imanyara): I propose to have the Mover to reply in about seven minutes time.

Mr. Otula: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to comment in support of this very important Motion, which is going to serve the common man most. First of all, we have to know why this office of the OMBUDSMAN was started in Sweden. We know very well that it was started in 1809, and the purpose of this office was for democratic correcting. They wanted to make sure that democracy in that country was actually used in the right manner; that could go down to the common man.

In Kenya, we find that those who are enjoying the democracy that we speak about, are the "haves" but the "have-nots," have always suffered.

In Kenya we have got the "haves" and "the have-nots". The "have nots" have always suffered since we got democracy. They have never realised that there is democracy in Kenya because they did not have anywhere they could be able to air their views. When you go to our constituencies, you will find that the Members of Parliament have to sort out problems of the common man. Even in areas where you find that they should go to court, these people cannot go to court, because they fear that they are not going to get justice in those particular places. This has made Members of Parliament to step into matters which should be taken to court. If this office is established, we will be sure of the public getting justice.

Mr. Temporary Deputy Speaker, Sir, corruption is rampant in this country. There is no way we can be able to clear it unless and until we get this office established. For example, let us consider corruption within the Police Quarters. The police have denied wananchi the right to trade. If you go to the road here, you find that the policemen normally collect money from the matatu and bus owners to the tune of Kshs200. This is one way of denying our courts the right to collect the revenue from bus and matatu operators to pay their workers.

On the side of administration, the chiefs in our rural areas normally do think that they can be able to serve wananchi better. Members of the public are not served correctly. Once somebody has got money to give to the chief, definitely, any judgement against him may not be very valid. So, with this particular office being established, we will be sure of the common man getting a fair hearing.

With regard to tribalism, this is another area where we have a lot of problems. For instance, in Kisumu, we have the Lake Basin Development Authority (LBDA) which was established to help the common man down there. But as I am speaking now, if you go to the LBDA, you will find that it is dominated by one tribe and the work done in that region is not sufficient enough to help the people of that particular area. Because of tribalism, the molasses plant cannot work. If we had the office of OMBUDSMAN, we could be able to find---

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. Are you aware that there is no quorum? There is no quorum!

The Temporary Deputy Speaker (Mr. Imanyara): Order! We have quorum. Continue, Mr. Otula!

Mr. Otula: Mr. Temporary Deputy Speaker, Sir, if we had this office, the community of that particular area would have complained and their problems sorted out.

With those remarks, I beg to support the Motion.

The Temporary Deputy Speaker (Mr. Imanyara): I now call upon the Mover to reply. Hon. Raila!

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, I would like to thank all the hon. Members who have contributed to this Motion. First, the Attorney-General, and then my Seconder hon. Wanyiri Kihoro, hon. M.M. Galgalo, hon. Mrs. Mugo, hon. Mwiraria, hon. Kiptoon and lastly hon. Otula.

Mr. Temporary Deputy Speaker, Sir, they have enriched this Motion. I think the debate has been very healthy and everybody who has spoken, has actually stressed the need for the establishment of the Office of OMBUDSMAN. The Attorney-General talked at length about the role of the Office of the OMBUDSMAN. I do not intend to repeat many things that have been said in this House about the OMBUDSMAN. But I agree with a number of points that he raised. For this office to be effective, it must be an office within Parliament. That is, it must be an office that is appointed by Parliament. I said that, it is an office which is going to have Parliament perform its role of being a public watchdog.

Mr. Temporary Deputy Speaker, Sir, it is true that it is not the duty of the OMBUDSMAN to deal with matters that are before the courts because we all know that matters before the courts are *sub judice*. The OMBUDSMAN can actually, prevent matters reaching the courts by its intervention. There are certain issues which go to court in this country, merely because there is no other mechanism of resolving them.

Mr. Temporary Deputy Speaker, Sir, there is something which is very important. There is the question of efficiency of the bureaucracy. I have been saying, time and again, that if you were to carry out a proper evaluation on the performance of a bureaucracy, you would find that efficiency is something below even 20 percent. So, it is not just enough for somebody to walk into the office at 8.00 a.m. and be there until 5.00 p.m. It is important for us to find out whether this person, during all that time, he was actually doing any productive work. Now, we have a lot of complaints, as hon. M.M. Galgalo mentioned. People who live in remote areas, who try to correspond with public servants in Nairobi, it sometimes takes months before a letter is answered. It is a common sight in all these public offices. You walk in and you see so many files pending. The pending tray is so full that these files are just put on top of each other. Some of them are not touched at all. Somebody has written a letter on something that is very dear to him in Lamu and it takes six months before this letter is even touched. Now, this fellow is forced to come all the way from Lamu to follow the letter. If we had this office, somebody could then write a letter and copy it to the OMBUDSMAN. Then, there would be some kind of compulsion on behalf of public servants to deliver. So, you will actually reduce the amount of suffering that our people undergo as a result of the inefficiency that we have in our system. The system would become more efficient.

Mr. Temporary Deputy Speaker, Sir, hon. Kiptoon talked about corruption in the tendering system. I had mentioned it myself, but it is true that the tendering system in this country has gone haywire. If we had this office in this country, it would arrest some of these corrupt practices. Because, before a tender is actually awarded, somebody who knows that it is going to be wrongly awarded could complain and the OMBUDSMAN could intervene before the tender is wrongly awarded.

I know that the World Bank has got a similar institution in its system to deal with this type of complaints, so that if a tender is awarded wrongly and a complaint is made to the World Bank office anywhere in the world, it will reach Washington and investigations will be instituted immediately. So, this is something that is almost universal.

Mr. Temporary Deputy Speaker, Sir, with regard to recruitment in the Public Service, there have been a lot of complaints like recently, where the Police Force carried out recruitment countrywide. They went to the district headquarters to recruit people. It was advertised. However, what happened is that the people who went out there went with a list from the headquarters here. They went with the names of the people that they wanted to recruit so that, the interviews which were carried out in the district were a cosmetic exercise. The people had already been recruited. I know this is a fact and this is what happened. For example, in a place like Bondo, I know that is what happened. The same applies to Migori and several other districts. This is something that could have been arrested if we had an office of the OMBUDSMAN. That is, people could have been able to complain. A similar thing has happened in the army.

Mr. Temporary Deputy Speaker, Sir, in places like the United Kingdom, Denmark and Norway, they have an OMBUDSMAN for defence; an OMBUDSMAN who looks at the operations of the defence department. They have an OMBUDSMAN for public administration. They also have an OMBUDSMAN for consumers who just deals with consumer complaints and this is what we want in this country. That, the OMBUDSMAN department would have sections dealing with specific aspects of our public life. My colleague, the Minister, also talked about corruption in DDCs. We call them "corruption courts". This is also a fact that the DDCs are no longer District Development Committees. They are an impediment to development in the districts. They are run in a very, very opaque way. The money that is sent to the districts for development is siphoned and used by the officers themselves. They have their own construction companies to which they award tenders at exorbitant prices,

so that the money that is sent to be used for road construction and building constructions, three-quarters of it ends up in the pockets of public servants and the public have no avenue of complaints. So, I believe that this is one of the things that the whole institution can deal with.

Mr. Temporary Deputy Speaker, Sir, finally, I was told by an American who came here and was being frustrated when he was talking to Government officials that, strange things happen in this country which will make Mr. Spiral Agnew look like a schoolboy. Mr. Spiral Agnew was a Vice-President to President Nixon in the United States. He was sacked because he was found to have been involved in a corrupt deal when he was a Governor before he became a Vice-President. However, when they found that he had been involved in corruption, he was sacked. Now, this American had come here and had gone to see a Cabinet Minister at that time, for a licence to operate a business in this country. He was told : "I will allow you to do it if you agree to give me ten per cent". That Minister was then known as, "Mr. Ten per cent". The American came and told me that things happen in this country that will make Spiral Agnew look like a schoolboy. So, if we have this institution, we will be able to create transparency and accountability in the management of public affairs.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I thank everybody who has contributed and I beg to move.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): With that, we shall interrupt the business of the House until this afternoon. The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.