

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 15th May, 1996

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No. 024

ARREST OF MWANGI'S KILLERS

Bishop Kimani asked the Minister of State, Office of the President:-

(a) what steps he is taking to apprehend the killers of Mr. David Kamau Mwangi, ID/Card No. 8287592/70, from NDEFFO - Engacura, who was killed on April 30th, 1995 and his body was found rotting by Kiamaina Primary School pupils near Menengai Crater;

(b) the number of people that have been killed around Menengai Crater since 1990 and May, 1995; and,

(c) what action the Government is taking to ensure that the lives of people around the crater are protected.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I beg to seek the indulgence of the House that I do not have the answer ready. If it will be placed on the Order Paper for tomorrow, then I will be able to answer it.

Mr. Speaker: Bishop Kimani, I think we will try to see whether we can accommodate your Question in tomorrow's Order Paper.

Bishop Kimani: That is okay.

(Question deferred)

Question No. 087

TERMS OF AMERICAN MILITARY BASES

Mr. Speaker: Mr. Muite is not here? Next Question, Mr. Ruhiu.

Question No. 248

REPATRIATION OF MR. LEKIMENCHO

Mr. Ruhiu asked the Minister for Foreign Affairs and International Co-operation:-

(a) whether he is aware that Mr. Daniel Lekimencho, a 25 year old Samburu moran dancer, was repatriated from the United Kingdom on Friday 8th September, 1995, after marrying a British house wife Ms Cheryl Mason; and

(b) if the answer to "a" above is in the affirmative, whether he could tell the House if he has communicated with Her Majesty's Government to find out why this Kenyan national was unceremoniously expelled from Great Britain.

Mr. Speaker: There is nobody from the Ministry of Foreign Affairs and International Co-operation? We will come to it later.

Question No. 243

INTERDICTION OF MR. MWANIKI

Mr. Speaker: Mr. Mutahi is not here? Next Question.

Question No. 315

ALLOCATION OF PLOTS IN IJARA

Mr. Arte asked the Minister for Local Government:-

(a) whether he is aware that Ijara and Masalani trading centres have been surveyed and planned;

(b) whether he is further

aware that Garissa County Council has collected money from wananchi, ostensibly for the allocation of plots at both centres; and,

(c) if the answers to "a" and "b" above are in the affirmative, whether he could explain what is causing the delay in allocating the plots.

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

(a) I am aware.

(b) Yes, I am aware.

(c) The actual allocation of plots has been carried since the plots referred to are already developed. The Council is awaiting the release of letters of allotment by the Commissioner of Lands so that they can be issued to the respective owners.

Mr. Arte: While I appreciate the answers by the new Assistant Minister, I wonder whether he could give us the Minute number which authorised the council to approve the allocation of those plots? As far as I am concerned, the council has never sat to ratify the allocation of these existing plots.

Mr. Kamuren: Those applications are still with the Commissioner of Lands. Immediately the allotment letters are sent to the owners then, that is the time when the owners will receive their allotment letters for development.

Mr. Arte: On a point of order, Mr. Speaker, Sir. When will they receive these allotment letters? I have told him that there is no time when the Garissa County Council sat and allocated plots in Ijara, Masalani, Bura, Hulugho and Modogashe. The land has been surveyed and people have been waiting for years. Last week I enquired from the County Council of Garissa and they said that they are going to sit next year and yet they have collected money from these people in form of land rates. When did you receive this allotment letter in your office?

Mr. Kamuren: I talked to the officer in charge this morning and they are following up. Immediately those allotment letters come, we will send them.

Mr. Nthenge: Is it not true that this allotment was done by other people other than the Garissa County Council?

Mr. Kamuren: Normally, letters of allotment are channelled through the official application process to the Commissioner of Lands office.

Mr. Shidie: Mr. Speaker, Sir, the Question is categorical and specific too. We want to establish from the Minister when he is going to allocate these plots?

Mr. Kamuren: We will get in touch with the Commissioner of Lands immediately to speedily organize and send these allotment letters.

Question No. 102

PAYMENT OF COUNCIL STAFF SALARIES

Mr. Ojode asked the Minister for Local Government:-

(a) whether he is aware that the employees of Homa Bay County Council have not been paid their salaries for the last two years; and

(b) if the answer to "a" above is in the affirmative, whether he could order the immediate payment of salaries to these people.

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

(a) I am aware.

(b) The financial base of this council has relatively been weak, but it has been making efforts to clear its salary arrears.

Mr. Ojode: The answer given by the Assistant Minister is quite unsatisfactory simply because we were with him in the Back-Bench the other day. He is relatively new in this Ministry and he would not give a satisfactory answer. I have asked specifically what action will the Assistant Minister take in order for these people to be paid salary arrears and he has not answered me. Could the Assistant Minister direct the payment of salary arrears to the employees of Homa Bay County Council?

Mr. Kamuren: The salary arrears are as follows: In 1994, salary due - Kshs11,831,820.

Mr. Nthenge: On a point of order, Mr. Speaker, Sir. The Assistant Minister is reading an answer that does not belong to this Question. He is telling this House something which nobody asked him to. He has not answered the Question put to him. Can he answer the specific Question asked by hon. Ojode?

Mr. Kamuren: Since that was a short and clear Question from hon. Nthenge, we have already requested the Clerk of the Homa Bay County Council to clear what is remaining.

Dr. Otieno-Kopiyo: Homa Bay County Council is absolutely insolvent. Since the Government has made it possible for them to buy--- and things like these when they want, can the Minister consider loaning a certain amount of money to Homa Bay County Council to enable them to get through this crisis that they are facing now so that when the financial position improves, they can recover their money?

Mr. Kamuren: The Council has a way to generate money and be able to pay the officers who have not been paid.

Mr. Rotino: It is not only Homa Bay County Council that has salary arrears. Many county councils including West Pokot County Council fall in salary arrears. Can the Ministry consider putting the salaries of all county councils through the Ministry, so that they can get a pay cheque from the Treasury to pay county council employees?

Mr. Kamuren: Mr. Speaker, Sir, if Mr. Rotino brings a question to that effect, an answer will be given.

Mr. Ojode: Mr. Speaker, Sir, the Assistant Minister is misleading the House by saying that he has ordered the Homa Bay County Clerk to pay the salaries of the County Council employees. This County Council does not have money. Can the Assistant Minister make a cheque from his Ministry in order to pay the salary arrears to Homa Bay County Council employees?

Mr. Kamuren: Mr. Speaker, Sir, once we get the Clerk of the County Council respectively informing us what is happening on the ground, then we will respond to that.

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

Mr. Speaker: Order!

Mr. Ojode: Mr. Speaker, Sir, I am rising on a very serious point of order. The Assistant Minister is saying that he has ordered the Homa Bay County Council Clerk to pay these employees. But these employees have not been paid their salaries because of financial constraints. There is no money at Homa Bay County Council. I am just asking the Assistant Minister kindly to do something about these workers plight because he was with us in the Back Benches the other day.

(Laughter)

Can his Ministry order a cheque be made for salary arrears to be paid for Homa Bay County Council employees?

The Minister of State, Office of the President (Mr. Kones): From where?

Mr. Ojode: From the Consolidated Fund.

Mr. Kamuren: Mr. Speaker, Sir, there is no money that would come out of any other place apart from what the Council can generate for its employees.

Mr. Speaker: Next Question, Bishop Njeru.

Question No 215

TITLE DEEDS FOR MWEA RICE GROWERS

Mr. Speaker: Bishop Njeru is not in. Next Question, Mr. Mwangi Gichuki.

Question No 233

TITLE DEEDS FOR NDARAGWA RESIDENTS

Mr. Gichuki asked the Minister for Lands and Settlement when the residents of Nyakariang'a, Ol-Jorok Location will be issued with title deeds.

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

Nyakariang'a residents of Ol-Jorok Location will be issued with title deeds once the farm is formally transferred to Settlement Fund Trustee (SFT) by the Directors of the Company which originally owned the farm. The Ministry has had problems in tracing the directors of the Company in whose names the land is still registered.

Mr. Gichuki: Mr. Speaker, Sir, Nyakariang'a issue is a pathetic case. The owner of the farm is alleged to have gone to South Africa and he is the one who has the original title deed. The people in the area who number about 200, cannot get the title deeds because the Ministry is not able to trace this fellow.

Mr. Speaker, Sir, for the land to be valuable, you have to use the title deed to borrow money, develop and et cetera. In view of that, what is the Ministry doing, because this answer is not satisfactory, to trace the fellow who owns the original title deed, so that the people who now occupy the farm can be issued with the title deeds?

Mr. Kaino: Mr. Speaker, Sir, I am happy that my colleague in the Opposition side is actually with me by saying that the directors are really lost, nobody knows where they are. The Ministry is consulting with the Attorney-General's Office to have the land declared Government property under the provisions of the Company's Act Cap 486. In the meantime, the owners should continue to develop their plots until the legal process is completed.

Mr. Ndicho: Mr. Speaker, Sir, we are very worried now. The Assistant Minister says that this land is going to be transferred to the Government and we know that once this land is transferred to the Government, these people will never get it again because it would be grabbed by people who work in that Ministry. We appreciate the fact that they are trying to do that in order to help these people get their title deeds because the directors of the company could not be traced anywhere. But can the Assistant Minister assure this House that once this land is transferred to the Government, it will still belong to the rightful owners and it would not be sub-divided by people like Mr. Gachanja and Mr.

Sang? Can he assure us here because we know what they have done with Government land in this country?

Mr. Kaino: Mr. Speaker, Sir, I think I would not go very far from what the hon. Member has just said. There is no any other procedure or process in which the Government is going to give those people title deeds except by consulting with the Attorney-General's Chamber and transferring the land to (Settlement Fund Trustee (SFT), whereby when it is so transferred it will be sub-divided according to the owners acreage and title deeds be issued to the rightful owners of the plots.

Mr. Speaker, Sir, what hon. Ndicho has raised would not arise because we are also asking the members of that farm to develop their plots and nobody is interested in grabbing somebody's plot.

Mr. Rotino: Mr. Speaker, Sir, can the Assistant Minister assure the House that when that land is transferred to the Government, other people would not grab it? Can he assure the House that he is not answering something else?

Mr. Kaino: Mr. Speaker, Sir, what I have said here is that the rightful owners of the farm would be given title deeds and nobody else.

Mr. Gichuki: Mr. Speaker, Sir, the Assistant Minister is saying that he is consulting with the Attorney-General's Office about the transfer of the land. It is over 30 years since we got Independence and the fellow, who owns the title deed, went to South Africa, we understand. In view of that, can the Assistant Minister, therefore, give us the time frame when we should expect the Ministry of Lands and Settlement, and the Attorney-General to liaise immediately, then we give our people title deeds? Give us the time frame because we are waiting for too long.

Mr. Kaino: Mr. Speaker, Sir, I will not commit myself on the time frame. What I would only assure the hon. Member is that his concern about those residents getting title deeds, the Ministry is equally concerned about the same. But we are going to do it very, very fast.

Mr. Speaker: For the second time, Mr. Paul Muite' Question.

Question No 087

TERMS OF AMERICAN MILITARY BASIS

(Question dropped)

Mr. Speaker: For the second time, Mr. Henry Ruhiu's Question.

Question No 248

REPATRIATION OF MR. LEKIMENCHO

Mr. Ruhiu asked the Minister for Foreign Affairs and International Co-operation:

(a) whether he is aware that Mr. Daniel Lekimencho, a 25-year old Samburu Moran dancer, was repatriated from United Kingdom on Friday, 8th September, 1995, after marrying a British housewife, Ms. Cheryl Mason; and,

(b) if the answer to "a" above is in the affirmative, whether he could tell the House whether he has communicated with Her Majesty's Government to find out why this Kenyan national was unceremoniously expelled from Great Britain.

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Muchilwa): Mr. Speaker, Sir, first of all, I would like to apologise for coming late.

Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Daniel Lekimencho was deported from the United Kingdom on Friday, 8th September, 1995, after marrying a British housewife, Ms. Cheryl Mason.

(b) Mr. Lekimencho did not approach the Government of Kenya for assistance and has not done so to date. However, I have learnt that the decision to refuse his application to stay in the United Kingdom was based on British immigration laws. After appeal, Mr. Lekimencho was granted a settlement visa on 11th December, 1995. He now resides in the United Kingdom.

(Applause)

Mr. Ruhiu: Mr. Speaker, this is a very serious matter, indeed. A British housewife comes to Kenya as a tourist and she goes to Mombasa and falls in love with a very handsome Samburu moran dancer and then, after that, she takes him to Great Britain. After taking him to Great Britain, he is now repatriated and leaves his wife in Great Britain. Can the Assistant Minister assure this House that Mr. Lekimencho was not discriminated against or he was not repatriated because of his race, but because of the British immigration laws? Can he confirm that?

Mr. Muchilwa: Mr. Speaker, Sir, I confirm that there was no racial discrimination. What happened, as the hon. Member has said, is that the warrior did not satisfy the British Immigration Laws and that is why he was deported.

Mr. Ruhiu: Mr. Speaker, Sir, my question was whether he had contacted the British Government? been assured that he was evicted from Britain because of immigration laws and not because of his race.

Mr. Muchilwa: Mr. Speaker Sir, it is so. He contacted Her Majesty's Government and found out that it was just because he had not at that time satisfied the immigration authorities in Her Majesty's Government---

Hon. Members: What about the housewife bit?

Mr. Muchilwa: Well, the housewives bit is different, but at that time he had not satisfied the authorities in Her Majesty's Government that he had qualified for a resident status.

(Applause)

Mr. Leshore: Mr. Speaker, Sir, I would like the Assistant Minister to confirm or deny that Mr. Lekimencho's case was one of the cases in which the British Government have re-introduced the visas for all Kenyans entering Britain so that they do not take their wives?

(Laughter)

Mr. Muchilwa: Mr. Speaker, Sir, I deny.

Mr. Mwaura: Thank you, Mr. Speaker, Sir, for giving me a chance. The Assistant Minister has told the House that the reason why the Kenya Government did not intervene is because this gentleman, a Kenyan who had been repatriated from U.K., had not sought the Government's assistance. Is the Assistant Minister telling the House that there is no machinery in the Government, which should intervene whenever Kenyans have been

involved in problems in the United Kingdom? Is there no machinery the Government can use on its own to find out what the problem is before it is approached?

Mr. Speaker: You did not read it within the papers?

Mr. Muchilwa: Mr. Speaker, Sir, we have machinery for such intervention and, indeed we intervened and that is why we knew the reason why he was repatriated back here. For example, the lady being so keen on this young man had the romance publicised so much in British tabloids and later on it was presumed that either the wedding had been financed by *The Sun* newspaper or that he was just going to enjoy himself there on British Government welfare system which later on was apparently proved wrong and that is why they appealed and the situation was corrected.

Question No. 243

INTERDICTION OF MR. MWANIKI

Mr. Speaker: Is Mr. Muhika still not here? Next Question, Bishop Njeru.

(Question dropped)

Question No. 215

TITLE DEEDS FOR MWEA RICE GROWERS

Mr. Speaker: Is Bishop Njeru still not here? Next question, Bishop Njeru.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

RE-INTRODUCTION OF DROUGHT LEVY

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

(a) Is the Minister aware that there is a looming drought and subsequent famine as a result of failure of Long Rains in the Northern and Eastern regions of Kenya?

(b) What urgent measures is the Minister taking to avert the loss of lives of many Kenyans who depend on livestock as a means of livelihood?

(c) Could the Minister urgently re-introduce the drought levy which was recently suspended by the Government?

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

It is true that there is some looming drought and, therefore, it is eventually going to cost some drought in certain parts of the country including Samburu. We are aware of this and a team has just come back which I sent to assess the effects of the drought and consequently the famine is likely to affect the country and on my table now is an assessment that kind of reveals that there is going to be a shortage of up to 1 million sacks of maize, but this shortfall will be distributed out to the famine affected areas.

Mr. Speaker, Sir, as soon as I get these funds from Treasury, we will be issuing this food in smaller amounts, but even now there is still some food that we are giving out to these areas except that we need to increase the ratio.

Mr. Speaker, Sir, on the issue of the drought levy fund, we do not, as at now, have a division to do that, but we might be forced to do that at a later date of the year but, as of now, we are not intending to re-introduce this drought levy fund.

Thank you.

Mr. Leshore: Mr. Speaker, Sir, I would like to thank the hon. Minister of State, Office of the President. He is one of those few Ministers who know what is happening around Kenya. I would like to inform the Minister that drought and famine is very serious in that area. I have just come back from upcountry and in Samburu and even in Laikipia there is a lot of famine. People have got no food, their cattle have been driven very far from their

home areas and I would like the Minister to take very urgent steps to ensure that such food is taken to the needy people in those districts. There are about seventy villages which I think have been affected. Could the Minister tell us when is he going to deliver those goods to the districts?

*(Hon. Boy passed between
hon. Leshore and the Chair)*

Mr. Speaker: Order! The hon. Juma Boy happens to be the Chief Whip. I just wish to bring to your attention that you should be in the fore-front of assisting the Chair in maintaining orderly conduct in this House and you have no business passing between a Member speaking and the Chair as you did. Would you apologise to the Chair?

(Hon. Boy bowed to the Chair)

Very well, Mr. Kones, can you proceed.

Mr. Kones: Mr. Speaker, Sir, I said earlier on that already these districts are actually under our department and we are actually giving some food only that the food that we are giving now is not enough because of the extended drought and, therefore, there are more people who are falling under that. Therefore, it is only a question of increasing the amount, but otherwise we are already there in trying to assist them.

Mr. Salat: Mr. Speaker, Sir, while appreciating the efforts being made by the Government, we realise that every other year we have got droughts and famine and it is not only enough for the Government to intervene when there is drought. What forward planning or agenda does the Government have in order to make the people self-sustainable because every year we lose our livestock and the Government plans to bring famine relief? Our people have become dependent on this famine relief. What measures does the Government have in place so that these people can become self-sufficient and only on severe famine that the Government intervenes but not giving them handouts every other year as the case is now?

Mr. Kones: Mr. Speaker, Sir, the hon. Member is one of those Members who have benefitted from the drought recovery fund. The drought recovery fund is meant to be a long term solution to the drought affected areas. For many years we have had this famine relief going on in Kenya, but the as the Government now we are thinking that there must be a lasting solution and the lasting solution is what introduces drought recovery fund which was started in 1993 and it is on up to now and by the end of this year, another fund which is called arid management resource fund is going to take over. The idea of this fund is to try and provide a lasting solutions to these areas by one, providing water to the livestock because we find that these areas, Garissa, for example, there is no way you can grow maize in Garissa and have these communities actually doing well in agriculture. The only thing is to support what is already doing well there and that is livestock. When drought comes, these are the areas which suffer a lot on having losses and, therefore, consequently, they get into this status of famine. What we need to do is to support that activity that is already there and we are doing that, as the Government, and there is now going to be a programme which will last six years. It is going to cost the Government US\$ 22 million to try and put in place this facility so that when famine comes it will not be as severe as it is.

Thank you, Mr. Speaker, Sir.

Mr. Kapten: Mr. Speaker, Sir, we are aware that---

Mr. Speaker: You are very nomadic, Mr. Kapten, why did you not ask the question from there?

Mr. Kapten: Because of the drought! I have to face the Minister for him to understand what I am saying!

Mr. Speaker, Sir, we are aware that the Government or the country is exporting some maize to South Africa. If we are expecting famine in this country, why is the Government exporting this maize to South Africa?

Mr. Kones: Mr. Speaker, Sir, I am not in charge of exporting or importing maize, but I can answer that one. What is being exported to South Africa is what we call "surplus" maize. We are not saying that there is not enough maize in this country. We are saying there is not enough maize in Samburu, Garissa and Isiolo. But we are not saying that there is not enough maize. There is "surplus" maize in this country and, therefore, we still need to sell some of this maize to be able to get funds to do other activities.

Mr. Cheserek: Thank you, Mr. Speaker, Sir. While we appreciate the Government's efforts in providing foodstuffs to famine stricken areas, some of these relief foodstuffs do not reach the people they are intended for. Can the Minister tell us what action he is taking to provide enough vehicles? Because, some foodstuffs that have been

provided for nomads in my Kerio Valley area are still in the District headquarters stores because of lack of vehicles. Can the Minister tell us whether he can do something to provide vehicles to ferry these foodstuffs to these ASAL areas?

Mr. Kones: Mr. Speaker, Sir, this is a very unfortunate event. Sometimes we give out the food and the District Commissioners out there are not able to mobilise the transport to take this maize to the needy people in the villages. In a case like that one, if probably the Member would assist, we could try and provide Government transport; either NYS transport or military transport to try and take that maize to the needy people. This can only be done when there is a specific request by the district team, to say that they are not able to transport maize to the needy people.

Mr. Speaker: Very well! Next Question, George Anyona!

PROCUREMENT OF FARMING INPUTS

(**Mr. Anyona**) to ask the Minister for Agriculture, Livestock Development and Marketing:-

(a) Is the Minister aware of, and satisfied with the procurement procedures being followed in the current Tender for the Increase of Food Production (KR2/1995) regarding the supply and delivery of fertilizers, agricultural chemicals, and agricultural machinery and equipment under the Grant Aid from the Government of Japan?

(b) Has the Ministry fully complied with the Provisions of Clause 6.8(1) of the GOK Supplies Manual on Procurement of Goods and Services?

(c) How will the goods procured under the Tender be used for the purpose of contribution to the increase of food production?

Mr. Speaker: Hon. Anyona not here? The Question falls! Next Question!

PAYMENT OF COURT AWARD

Mr. Shidie: Mr. Speaker, Sir, I beg to ask the Attorney-General, the following Question by Private Notice.

(a) Is the Attorney-General aware that Mr. Otieno Kajwang' practising in the name of Otieno Kajwang' and Company Advocates, has refused and failed to pay Mr. Rashid Hassan Mumim the sum of Kshs1,984,460 paid to him by the Ministry of Culture and Social Services, vide Cheque No.003084, dated 28th August, 1995 (Voucher No.0564) being damages awarded to him (the complainant) in Nairobi High Court Civil Case No.1587 of 1990?

(b) If the answer to "a" above is in the affirmative, what urgent remedial steps is he taking to ensure that Mr. Rashid H. Mumin is paid his lawful dues, and disciplinary measures taken against Mr. Otieno Kajwang' for the professional misconduct in accordance with Section 80 of Advocates Act Cap.16 Laws of Kenya?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that, Mr. Otieno Kajwang' practising in the name of Otieno Kajwang' and Company Advocates have failed to pay Mr. Rashid Hassan Mumim the sum of Kshs1,984,460 paid to him by the Ministry of Culture and Social Services vide Cheque No.003084 dated 28th August, 1995, being the damages awarded to Mr. Rashid Hassan Mumin in Nairobi High Court Civil Case No.1587 of 1990.

(b) The complainant is advised to lodge a petition with the Advocates Complaints Commission for disciplinary proceedings to be instituted against the said advocate and further to report to the police to enable criminal investigations to be undertaken with a view to prosecution.

Mr. Shidie: Thank you, Mr. Speaker, Sir. I am glad that the Attorney-General is aware of this case. As we stand in this House today, Mr. Rashid Mumin is incapacitated, he is crippled, he is on a wheel chair. He cannot even go to a toilet.

Mr. Speaker, Sir, I have every evidence and I am going to Table it in this House. Mr. Otieno Kajwang' gave a cheque on 15th, November 1995, to Mr. Rashid Mumin. The cheque number is 2364298 and the amount is Kshs1,180,845. He took the cheque to Barclays Bank and the cheque bounced. We know that when a cheque bounces, it means there is no money.

Mr. Speaker, Sir, the Government of Kenya, through the Ministry of Culture and Social Services paid the money, I have the voucher number. I have the cheque number that was given to Otieno Kajwang' and Otieno Kajwang' decided to "eat" his client's money. It is really sad. This same lawyer is purportedly claiming to be a

human rights lawyer. I do not want to damage his name.

Mr. Speaker: Can you put the question?

Mr. Shidie: Mr. Speaker, Sir, the Attorney-General refers me to the Advocates Complaints Commission and he is in charge of Government prosecutions. Why does he refer me to the Complaints Commission, a subordinate to his Office and since this is a criminal offence, why does the Attorney-General not take legal action?

(Applause)

Mr. Wako: Mr. Speaker, Sir, I was not aware of the additional facts which the Questioner has given to this august Assembly. Namely, that in fact a cheque was issued sometimes in August, not of the entire amount but at least of Kshs1 million plus and that the said cheque has bounced which shows a *prima facie* case of theft of a client's money. If the complainant reports to the police---

(Several Members stood up in their places)

Mr. Speaker: Order! What is your point of order, hon. Mulusya?

Mr. Mulusya: On a point of order, Mr. Speaker, Sir. Is the hon. Attorney-General as the Chief Government Prosecutor aware of the problems involving a Kenyan citizen who is already disabled, who cannot be able to go around reporting to police stations ills which are being meted against him by such a lawyer? Is it not out of order for the Attorney-General to insist that, that disabled person goes to report to the police?

(Applause)

Mr. Speaker: Order! Order, Members! I think, I did mention yesterday, and I will say it again. When a Member brings to the attention of a Minister a certain issue, I think it is out of order for the Member to be referred to a junior Government official.

(Applause)

Mr. Wako: Mr. Speaker, Sir, I do accept your ruling, but we shall still need the co-operation of the complainant, because to enable a prosecution to take place, we must at least have a statement from the complainant. That statement according to the laws of this country must be made to the police. Therefore, I would ask the hon. Member to ensure that the complainant does report to the police, make some statements and we shall follow it.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, this is a very sad case involving none other than Raila Odinga's "Attorney-General".

An hon. Member: He is FORD(K)'s Attorney-General!

Dr. Otieno-Kopiyo: FORD(K) has nothing to do with such activities!

Mr. Speaker, Sir, it is an important issue, because this is not the first case that has come before Parliament regarding this particular lawyer. There is a case of Grace Omoro, where Kshs328,000 which was paid by the Government again in 1994 to the same lawyer; that woman who is also a cripple in Migori has not received her money. Now, it is an abuse of the process of law and respect of the House for the Attorney-General to refer us to somebody else. What he needs to do now, is to promise, that if a statement is made to the police, he will undertake to prosecute the lawyer?

Mr. Mbeo: On a point of order, Mr. Speaker, Sir. It appears as if a precedent is being set in this House where people maliciously take money from their clients, cases like this are brought to Parliament and the Attorney-General is asked to respond. In this House as we see it---

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

Mr. Mbeo: Mr. Speaker, Sir, my point of order is this: We are sitting in this House, pointing a finger at somebody who is not here and asking the Attorney-General to take action. Yet in this House are lawyers who owe their clients money. Are we going to set a precedent in this House---

Mr. Speaker: Order! As far as the Chair is concerned, the Question as framed has no indication of malice, it falls within Standing Order No.35 and the Chair was satisfied that the Question is admissible. The only thing I would like to say is that, as far as the Chair is concerned, Questions that come properly before this

House become the property of this House and the Chair does not expect that any Member participating in that Question does so with malice. And if they ever do, the only thing I can do is to ask the House to consider all matters that come before it, in fairness and without malice. Unfortunately, if a proper Question comes before this House and it touches on somebody you think is probably a friend, it has nothing to do with me or the House. Order, now! Is Dr. Otieno-Kopiyo's Question answered? Did you answer? Answer now!

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

Mr. Speaker: Order! Order, Kamuyu!

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

Mr. Speaker: Order, Kamuyu! I think you have a little problem. Either you choose never to understand the procedure of this House or you have the greatest contempt. When you are called to order, you do not stand there still explaining what you want to say. You obey the order. Proceed, Attorney-General.

Mr. Wako: Mr. Speaker, Sir, I cannot recollect that case properly, but if it is a case that was referred to here sometime ago, as to whether the Government had paid a sum of money to a lady from South Nyanza, I cannot remember her name off head, and I replied that, "yes indeed, we had paid" the hon. Member who posed that question to me about six months later, did come to and said, that the client had not received that amount of money.

I checked and gave the hon. Member photocopies of everything to show that on the Government side, we had paid. I also advise that Member to make an appropriate complaint to the police so that we can take it up. Let me take this opportunity to say that unfortunately, the instances of the members of the legal profession taking the clients money, particularly cases involving damages awarded pursuant to injuries and so on, appear to be on the increase. In all such cases, where there is *prima facie* evidence that the lawyer has stolen that money, he will definitely be prosecuted and he cannot expect any mercy from me.

Mr. Speaker: I suppose that should end it now. Well, Dalmas Otieno, the last one.

(Applause)

Mr. Otieno: Thank you, Mr. Speaker, Sir. It is good that the Attorney-General has admitted that these problems are increasing. It means that there is a category of lawyers who should be weeded out from the practice of claiming funds from other people on behalf of clients. Would the Attorney-General consider an amendment in the law that first would ensure that there is adequate bond that these lawyers have to pay before they can be allowed to engage in these civil cases; and two, that there is automatic interest to accumulate on any of these clients money beyond a particular period?

Mr. Wako: Mr. Speaker, Sir, on the bonds, all professional insurance indemnity and so on, in fact on the whole issue of dispute within the profession, this is a matter that is under active consideration by the Law Society of Kenya, my office, the Chief Justice and all relevant parties.

Mr. Speaker: End of Question Time.

(Several hon. Members stood up in their places)

Mr. Speaker: Order, hon. Members! I have said that we have come to the end of Question Time now. I will have Mr. Kones first, then I will come to Mr. Maore.

MINISTERIAL STATEMENT

MEHTA BUILDING DISASTER

The Minister of State, Office of the President (Mr. Kones): Mr. Speaker, Sir, yesterday I promised the House that I will come with a comprehensive Statement on the incident that happened in the City on Monday afternoon. It is with a heavy heart that I stand here to issue the following Statement in connection with the incident that occurred on 13th May, 1996, where Mehta Building at Moi Avenue collapsed killing several people. A number of people were also injured. On behalf of the Government, I would like to send our heartfelt condolences to the families, relatives and friends of the victims of the tragedy, that has saddened us all as a nation.

I wish also all those who were injured a speedy recovery. The circumstances of the incidence are as follows: On 13th May, at about 4.00 p.m the balcony of Mehta Building---

(Loud Consultations)

Mr. Speaker: Order! Order, hon. Members! I suppose the Minister is giving to the House information about the tragedy that hit this nation. I think it befits this House to listen very carefully to what the Minister has to say about the tragedy that has hit our fellow Kenyans. Can we please listen to this very attentively? Proceed, Minister.

The Minister of State, Office of the President (Mr. Kones): On 13th May, 1996, at about 4.00 p.m, the balcony of the Mehta Building which houses Sunbeam Supermarket, at Moi Avenue, collapsed resulting in the falling down of the canopy and part of the top wall of the building. At the time of the incident, it was drizzling and many people had taken shelter below the balcony. The exact number of people that were sheltering below the canopy is not known but the locality is a very busy area with commuters connecting transport at a nearby popular Bus Stop. This circumstance explains the high number of the casualties during the incident. On receipt of the information on the incident, Police, Fire Brigade, Red Cross, and St. John Ambulance moved to the scene immediately and with the help of the members of the public evacuated the casualties to various hospitals. Five people were confirmed dead at the scene while 10 others died immediately on arrival at Kenyatta National Hospital. One child died immediately on arrival at Mater Hospital. The dead were eight male adults, five female adults, two male juveniles and one female juvenile. A total of 16 people were injured comprising 12 male adults, two female adults and two children. Four of those injured have been discharged from the hospital. Although the cause of the incident is being investigated, preliminary investigations by a team of builders, engineers from both the Ministry of Public Works and Housing and City Council of Nairobi indicate that the collapse of the portion of the canopy was due to failure of the ageing and deteriorating timber roof as a result of substandard maintenance and modification. The building in question is an old one having been constructed in the 1940's. Further investigation on this incidents are being conducted by a multidisciplinary team established by the Government to probe this incident and it comprises of architects, structural engineers, mechanical engineers, electrical engineers, material engineers, Director of Kenya Building Research Centre, the Attorney-General's Chambers, Chief technical advisor of the City Council and other concerned professionals from the private sector. The probe team has been asked to investigate the cause of the incident and make appropriate recommendation not only on the incident but also on the other building structures which may pose a danger to the public particularly in Nairobi and other towns in the country. They are to submit their report within one month for further necessary action. If it is established that there was negligence on the part of anyone, appropriate legal action will be taken against the culprits.

At this juncture, the Government wishes to advise the Ministry of Public Works and Housing and the Local Government to exercise their supervisory responsibility by ensuring that all buildings have their designs and structures checked to meet the required building standards before they are approved. There are allegations that a number of buildings are mushrooming, particularly, in Nairobi and do not have approved plans. If this is true, the situation spells doom for the residents in case of a major catastrophe such as an earthquake. Above all, local authorities should be checking regularly the structural position of all buildings under their jurisdiction before they are licensed for public use and ensure that they are properly maintained and not pose any danger to the public.

As I said earlier on, this is a national tragedy which all of us share the grief. In this regard, His Excellency the President visited the scene of the incident on the 14th May, 1996, to witness the extent of the tragedy and pledged on behalf of the Government Kshs 1 million to assist the families of those who died and also those who were injured. This money is in the hands of the Provincial Commissioner, Nairobi, Mr. Lekoolol. It is fitting for this august House to thank His Excellency the President for the concern he showed on this incident. All members of the public who may also wish to join the Government in this worthy cause are most welcome. I have a list of those who died and also those who are in hospital. If there is anybody who is interested in them, I will read out the names, but I do not think it is necessary.

Mr. Speaker: Very Well. Normally, as we all know, a Ministerial Statement is no bases for debate. The Member who raised this question may be inclined to seek some clarification. You cannot clarify what another Member has made but you can seek clarification if you wish and maybe one more Member can also do.

Dr. Kituyi: Thank you, Mr. Speaker, Sir. While I appreciate the concern that has been expressed by the Minister and commiseration that the Government has extended to the victims and their families, at a time of a national tragedy like this one, it is wrong to use it as an opportunity to start diverting into expressing loyalty and gratitude to the President. This is about the victims of the tragedy and not about the President. It has been said here before that a lot of the old buildings in Nairobi have major structural weaknesses and there is no systematic mechanism for checking on these weaknesses by the Government. When matters are raised, they are treated very contemptuously by the Government. Can this Government tell us if they are undertaking any systematic structural weaknesses assessment of all the buildings in Nairobi and if there are any consideration of imposing our

responsibilities for third party insurance on all the buildings? We know that the Director of City Planning has a responsibility to ensure that this kind of criminal negligence does not occur, why is the Minister not being categorical that this man, whom we only know because whisky is found in his office when people break in, is charged with criminal negligence?

The Minister of State, Office of the President (Mr. Kones): I think it is wrong to anticipate a problem here. What I have said is that there is a committee already that has been constituted. I have also said that they are going to work on this and I have also said that they are reporting back their findings within a month. I have also said that any culprits found will be punished according to the law. Let us give time to this Committee to work and once their findings are received, I promise action will be taken.

Mr. Anyona: Mr. Speaker, Sir, I think this country as a whole is in great danger in every aspect of life. It is not the first time we are having a tragedy. We have had the Likoni Ferry disaster, the Ngai-Ndethya incident and every time investigations are instituted, but nothing has ever come up. Now, here is one more and I believe it is not the last one because there is total negligence in this nation. It is not just the owners of those buildings or the engineers who are to blame but the whole system of Government in this House. Can this Minister tell us, in view of what has happened, what the Government is going to do to ensure that Kenyans throughout the country and in the rural areas where buildings are put up without any provision, are safe? Schools have collapsed in Kisii, Nyamira and Western Kenya and nothing has happened. Now, in Nairobi and all main centres in Kenya, buildings have not been under any manner of supervision at all and Kenyans live in great fear. Can he, in the meantime, identify buildings in Nairobi and elsewhere which are of possible immediate risk and either advise Kenyans accordingly or take some protective actions? There is total negligence on the part of the whole Government in the whole country.

The Minister of State, Office of the President (Mr. Kones): Mr. Speaker, Sir, I share that concern just as much as everybody else does. If, when this team will be carrying out their investigations, it will find out that an obviously dangerous building is under use by the public, it will have power to close it down immediately and without having to come to us after one month. We do not want to anticipate that there is going to be another tragedy. We hope that this will be the last tragedy. But there is no doubt that we need to exercise a lot of caution in this matter. We hope that after this report comes out a lot of stringent action will be taken, so that in future our citizens in public places like schools and elsewhere do not risk having roofs collapsing on them. This is a matter of big concern to us and I promise this House that something will be done.

Mr. Speaker: Very well; we have finished with that issue. Yes, Mr. Maore.

POINT OF ORDER

STATEMENT WANTED: FREQUENT BLACKOUTS

Mr. Maore: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Energy. I want him to give a comprehensive statement regarding the frequent power failures that have been occurring in various parts of this country. Sometimes these failures have been long and have had adverse effects on industrial production and tourism as well. Paying an idle work force is not an incentive to investors, especially when these power failures come without a prior warning. Thank you, Sir.

Mr. Speaker: Is there anybody from the Ministry of Energy who would like to respond to that? I can see that there is nobody here from the Ministry. I think they may wish to respond tomorrow. Next order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

[The Temporary Deputy Chairman

(Mr. Ndotto) took the Chair]

Mr. Mak'Onyango: On a point of order, Mr. Temporary Deputy Chairman, Sir. This time round you

did not bow to this side of the House!

The Temporary Deputy Speaker (Mr. Ndotto): Order! We will start with the Kenya Institute of Administration Bill.

THE KENYA INSTITUTE OF ADMINISTRATION BILL

(Clauses 2 and 3 agreed to)

Clause 4

The Assistant Minister, Office of the President (Mr. Manga): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, clause 4 be amended by inserting after paragraph (a) the following new paragraphs:

"(b) to provide training, consultancy and research services on a commercial basis to persons, local or foreigners, in the private sector;

(c) to provide training, to promote a culture of decency, honesty, hard work, transparency and accountability among the public servants"; and by renumbering paragraphs (b) and (c) as paragraphs (d) and (e) respectively.

(Question of the amendment proposed)

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

(Clause 4 as amended agreed to)

Clause 5

The Assistant Minister, Office of the President (Mr. Manga): Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, clause 5(1)(g) be amended, in line 3, by deleting the full stop and adding the words "drawn from the professional bodies and organisations".

(Question of the amendment proposed)

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Chairman, Sir, I do not see clause 5(g). It does not exist in the Bill that I have!

The Temporary Deputy Chairman (Mr. Ndotto): Order, Dr. Lwali-Oyondi! Clause 5(1)(g) is there in the Bill.

(Question, that the word to be left out be left out, put and agreed to)

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

(Clause 5 as amended agreed to)

(Clauses 6 and 7 agreed to)

Clause 8

The Assistant Minister, Office of the President (Mr. Manga): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, clause 8(2) be amended in paragraph (a) by deleting the words "signed by two members of the council", and inserting in place thereof the words "authenticated by the Chairman and the Director".

(Question of the amendment proposed)

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

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 8 as amend agreed to)

(Clauses 9, 10 and 11 agreed to)

Clause 12

The Assistant Minister, Office of the President (Mr. Manga): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 12(5) be amended, in line 3, by deleting the words "as soon as possible" and inserting in place thereof the words "within one month of the date of the receipt of the report by him".

(Question of the amendment proposed)

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

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 12 as amended agreed to)

(Clauses 13, 14, 15, 16 agreed to)

The Temporary Deputy Chairman (Mr. Ndotto): Order! There is a lot of consultation going on. I do not think the Government Bench is paying attention to what we are doing. There is a lot of consultation, hon. Members.

(Title agreed to)

(Clause 1 agreed to)

The Assistant Minister, Office of the President (Mr. Manga): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Kenya Institute of Administration Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

REPORT, CONSIDERATION OF REPORT
AND THIRD READING

THE KENYA INSTITUTE OF ADMINISTRATION BILL

Mr. Ndotto: Mr. Speaker, Sir, I beg to report that a Committee of the Whole House has considered the Kenya Institute of Administration Bill and approved the same with amendments.

The Assistant Minister, Office of the President (Mr. Manga): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister, Office of the President (Mr. Sunkuli) seconded.

(Question proposed)

(Question put and agreed to)

The Assistant Minister, Office of the President (Mr. Manga): Mr. Speaker, Sir, I beg to move that the Kenya Institute of Administration Bill be now read the Third Time.

The Assistant Minister, Office of the President (Mr. Sunkuli) seconded.

(Question proposed)

Dr. Lwali-Oyondi: Mr. Speaker, Sir, now that the Bill for this particular institute has been passed, we hope that the administration of the institution and the actual training that will be undertaken there, will be fair. I say this in view of the fact that many of the training centres in the Republic are not fair. Students are not being admitted in certain training centres, for example, teacher training centres, medical training centres like the one in Nakuru. There is a lot of discrimination against students. There are students who have passed and got very good qualifications are not admitted, especially, in the medical training centres.

Mr. Speaker: Do you know what Bill you are talking about?

Dr. Lwali-Oyondi: Yes. I am talking about the Kenya Institute of Administration Bill.

Mr. Speaker: Be relevant!

Dr. Lwali-Oyondi: Yes. But this is applicable. We hope that this is not going to be practised here; and that those who are going to man this particular institution will be chosen on merit and not according to tribal or political affiliations. So, in this case, we hope that this will be done. This particular Bill has been passed because we want Kenya to progress, and not because we want to make certain areas use it.

With those few remarks, I beg to support.

Mr. Mwaura: Mr. Speaker, Sir, although I did not speak on this Bill, I think it is a very important Bill.

This is because, when I was in the Civil Service, I was trained twice at KIA. I want to emphasise that it is important that this Bill should help the Government to ensure that the Civil Service in this country and the private professionals who will be trained in KIA, are trained to be good citizens of this country. They should be people who are loyal to their own country and not to individuals. They should have commitment to the survival of this country. This is what we want our future Civil Service to be. As the earlier speaker has said, let the admission of students there be on merit, and let the best student be given the opportunity. It should never be used as an instrument of indoctrination. It should be used as an instrument to help Kenyans become better people.

With those few remarks, I support this amendment.

(Question put and agreed to)

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

BILL

Second Reading

THE PHYSICAL PLANNING BILL

(The Assistant Minister for Lands and Settlement (Mr. Kaino) on 30.4.1996)

(Resumption of Debate interrupted on 14.5.96)

Mr. Speaker: Hon. Sunkuli was on the Floor. You may proceed.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, as I was saying yesterday, most of my colleagues who contributed, concentrated on the question of planning our cities. I said that, that is important because in future, majority of Kenyans will live in the cities. I said that I will address myself to the planning of the use of land in the rural areas, which at present, happens to be the habitat of the majority of our citizens. In future, that reality will change. The cities will become the homes of many Kenyans when we will become more and more industrialised. But as of now, it is the rural areas which carry the highest populations in this country.

Mr. Speaker, Sir, before I mention one of the aspects of planning of our cities that has not been mentioned much by the hon. Members, many of us who have had an advantage of having travelled out of Kenya, hon. Shikuku will bear me out because once we met on the streets of Seoul, and other hon. Members who have travelled to Washington, Santiago or even to London itself have realised that in Western cities, a lot of attention is paid to the control of littering. The biggest problem about garbage collection that exist in Nairobi would not be there if pieces of dirt were not deposited by our citizens indiscriminately. I know that very many cities, especially in the United States of America, do take the question of littering very seriously and on every street that you go to, you find a proper container for putting litter. I know in the city of Los Angeles, there is a very stiff penalty for littering. In fact, one pays nearly \$1,000 for littering in the city of Los Angeles, and in other cities in America, you actually pay a lot more than that.

It is very important that we also create regulations in order to punish littering very seriously so that our cities remain clean and so that we avoid the question of making our cities dirty, so that we have our City Council placing proper containers for depositing of litter and so that we can be able to punish those who deliberately flout the rules.

Mr. Speaker, so much for planning our of cities. As I said myself, I believe that the biggest effort that should be made, is that we should be planning land use in the rural areas because for the time being that is where the majority of our citizens live. Coming from Trans Mara, I should be able to say that now that land is undergoing adjudication, it is incumbent upon the Ministry of Lands and Settlement, and here I am referring not to the Minister and Assistant Ministers in that Ministry, but I am referring to the civil servants in the Ministry of Lands and Settlement, that in the process of demarcating land, and in the process of adjudication of land, they should pay special attention to planning. A lot of these things that I am saying may not be apparent to my hon. colleagues here because they do not live in the rural areas. But when it comes to the question of planning, the group ranches, one needs to say the following, there is need to look into the environment, and the adjudication of land to help the committee's that are demarcating group ranches, so that we can be able to allocate areas for schools, we should be able to have a proper consideration for the environment when taking into account that factor of planning.

I want to say here that when we say, as the Government, that civil servants sometimes do let us down, I particularly mean the civil servants in the Ministry of Lands and Settlement, especially those who are responsible for adjudication. Today, we are putting in place so many regulations including regulations on objections, regulations on so many other things, but if we are not careful the civil servants can take the advantage of the loopholes that exist in the law. For instance, the Land Adjudication Act, Cap.284, has been used by certain officials in the Ministry of Lands and Settlement to ensure that the process does not take place smoothly. I know that after adjudication of land, many people have no land because officials in that Ministry of Lands and Settlement have not followed the regulations. For example, in Trans Mara, we have difference zones; we have the wildlife zone, sugarcane belt, we have the area where we grow tea, we have the area that we grow maize and so on. In the areas that we have wildlife, a private company was issued with a title deed by officials from the Ministry of Lands and Settlement without the process of adjudication taking place. A private company is given trust land in a place where adjudication has not taken place. I think that the civil servants in the Ministry of Lands and Settlement should be fair to the people of Trans Mara, so that they should not be issuing title deeds in areas which have not been planned for issuance of title deeds and in places where adjudication has not taken place.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, as I said, it is a very serious issue, because I do believe that every district should be properly planned. If you take a district like Trans Mara, for example, there should be assistance from the officials both from the Ministry of Local Government and officials from the Ministry of Lands and Settlement or officials from the Ministry of Agriculture, Livestock Development and Marketing as well as officials from the Ministry of Tourism, so that we can be able to have the proper things in the right place. We should not have maize everywhere, there should be a grand plan for the whole district to say that this is an area that should have maize. We should be able to say that this is the area that is designated for livestock and we should be able to say that wildlife can only come this far. That is what I mean by the planning in our districts.

In conclusion, therefore, because this Bill has been debated by many of my hon. colleagues, I would like to say the following: That when we plan in the rural areas, it calls for the understanding of everybody and I wish that the hon. Member for Butere could be listening because last week he made an allegation that certain rural areas are inhabited by cattle and goats. I think it is important to note that the rural areas are inhabited by people, they are not only inhabited by antelopes.

When it comes to planning, even the question of planning eventually for our constituencies, schools, hospitals and so on, let us not use the criterion that was used in the first 15 years of Independence of saying that because people are few in a particular area they do not deserve development. Even two people in an area deserve a school.

I know that in late '60s and early '70s, if you asked for a school, say, somewhere in Samburu, you would be told that you do not deserve it because you are not many; if you asked for a hospital, you were told that you do not deserve it because you are few; if you asked for a road, you were told you do not deserve it because you are few and so on. That is why it took so many years for our district to get one single tarmac road because there was a process of discriminating people by civil servants who were planning things wrongly.

It is very important to know that development is for everybody and we cannot use the fact that there are a few people in a certain geographical environment or situation in order to deny those people development. We must build a school for us even if we are 40 people only in the whole area, you must build a hospital for us and so on. That is why the Government has been making deliberate efforts to ensure that all areas are developed. All areas of Kenya should be developed. In order to allow my friend from Juja an opportunity to contribute, I beg to support.

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to draw your attention to the hon. Member for Juja?

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, you can see the hon. Member for Juja was actually sitting directly opposite me, and at any rate, he speaks a little more intelligently than the hon. Member for Nakuru.

(Laughter)

Dr. Lwali-Oyondi: That is an insult!

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. Some of us cannot sit here and see the Standing Orders being flouted. We know that in Private Members' Motions it is the discretion of the Mover to suggest his Seconder. But, nonetheless, the Speaker, will just be co-operative to allow that, but he can choose anybody else. Is he in order, in a Bill like this, to say: "I would like to give way to so-and-so?"

The Temporary Deputy Speaker (Mr. Ndotto): It is not in order, but I think he said it with a light touch and that should not---

An hon. Member: Will that influence your decision?

The Temporary Deputy Speaker (Mr. Ndotto): Well, I hope it will not be taken that my decision has been influenced by the Assistant Minister.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I would like to thank you and, definitely, I know that my friend, hon. Sunkuli said what he did with a light touch.

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. There was an insinuation by the Assistant Minister against my person that I am less intelligent. He should know that I have got a degree in Science, not in Arts. He cannot do what I have done, while I can do what he did.

(Applause)

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

Mr. Ndicho: I know that my friend made his comments with a light touch.

I thank you for giving me this opportunity also to say something concerning this Bill. On the onset, after going through this Bill, I would like to say that I quite support hon. Shikuku on his proposal that the draughtsmen in the Attorney-General's Chambers should liaise with hon. Members of Parliament before they bring these Bills here. Since I know this Bill will pass, what we shall pass here is something that we shall regret later on for having passed as we shall also have to amend a lot of Clauses in this Bill because they are very faulty.

I have my fears that the Seventh Parliament is also being turned into a rubber stamp the way the Fifth and Sixth Parliaments were. During the Fifth and Sixth Parliaments, things used to be brought here, they were not debated and Members were just told to say "ayes" and they just said "ayes". Every Bill used to be passed without any amendment. I know very well that at this stage of the Bill, we cannot propose any amendments. The amendments and the observations that you have seen as you read through this Bill are only for debating purposes. There is nothing we can do. Possibly, we can do something at the Committee level. But you also realise that at the Committee level, most hon. Members leave the Chamber. So, I would like to support what hon. Shikuku said, and I am going to repeat it here: That if we are going to be serious about enactment of law in this country, before it reaches this stage, let the Legislators, the people who have been elected by Kenyans, sit down with the draughtsmen and then agree on the final draft of the Bill. I quite agree that the process of reviewing our Constitution and, the various Acts is a continuous process. If you look at this Bill which touches on physical planning in this country, you will realise that the craze of interfering with the planning of what was already there came into place very few years ago. Kenya is one of the most de-planned countries now. Most of the towns, including Nairobi City, are being de-planned because somebody from the Ministry of Lands and Settlement just wakes up and wants to have a portion of land somewhere. What he needs to do is just to go and tell the District Physical Planner: "Can you draw a Physical Development Plan (PDP) here?" The Physical Planner then draws a PDP as directed. That means gross interference with what was already planned.

The issue of land grabbing is also very contentious in this House. There is no way anyone can de-link land grabbing and the physical planning issue in this country. In Thika alone, for the last two or three years, over 1,000 acres of public land has been grabbed and the consequences of grabbing is that the new owners change the earlier intended purposes for the land. For example, if an area was originally intended for a cemetery and it is grabbed, the new owners will put up some residential houses or commercial buildings and that later amounts to gross de-planning of that particular area.

In 1963 when Kenya became independent, definitely, there were planners who started planning the City and the towns in this country. Questions from both Sides of the House have been raised here concerning grabbing of public utility land. But what we are experiencing today is interfering with what has already been planned. Instead of coming up with better ways of how our City and towns will be, the current planners are interfering with what had already been planned. This is an issue which concerns everybody in this country, from the President to the smallest child in Nursery School. Grabbing of land and interfering with what has already been planned is a very grave issue. More than once, the President himself has talked in a very concerned tone about grabbing of public utility land, like schools, hospitals, cemeteries and mortuaries. Between the months of March and April, a person, none other than the President himself has talked three times on blatant land grabbing. He said that he does not want to see public land being interfered with, being grabbed and later re-planned. But the President's complaints and warnings fell on deaf ears. Nobody listens because the grabbing of public is still going on. What we are seeing today about land grabbing is very unfortunate.

I will give an example. I have got a Physical Development Plan (PDP) of Kenyatta Primary School in Thika. Even after the Head of State expressed his concern on school land, as late as 11th April, 1996, the Commissioner of Lands gave permission for this land to be sub-divided into eleven plots. This happened after the Head of State and, teacher number one talked about the grabbing of public land. I am very happy because I have raised this matter with the Minister of Lands and Settlement and he has agreed to look into the issue. I will take to him the old map of this school, which I have so that he may see how it was before. I am sure that he is going to take action because he has promised me so.

If you look at this particular PDP, it is exactly what we are talking about. A certain Physical Planner, some years ago, planned that this particular area in Thika Town will have

(Hon. Ndicho displayed the map of the plot)

a school here, next to it will be a Church, and then there are residential buildings on one side and some factories across the road. Why does somebody, 20 years later, come up with his own ways of planning? This is what I

would call planning with vested selfish interests. The person who has done this, has definitely allocated one or two plots of school land to himself. I have talked to the headmaster of this school and the school committee is in agreement that by the end of this week, we will hold a very big demonstration to let the grabbers know that at no one time shall we allow them to take what rightly belongs to our children and the posterity of this country.

More often than not, it seems we are talking to a Government that does not listen. In the earlier Government, when such an issue was brought to its attention, immediate action was taken and remedial measures were taken to correct the situation. Today, you can come here and make a lot of noise, both necessary and unnecessary, and nothing will happen. So, it is our wish that the Ministry of Lands and Settlements rectifies this situation. It is very unfortunate that if you look around in the House, there is even nobody from that Ministry to take note of what we are talking about. It is very sad. You can see how the Government takes these things very lightly. If they do not take note of some of the complaints that we make, and yet we are the peoples' representatives, how and when will the Government take action? The Deputy Leader of Government Business is drawing my attention to the fact that there are people from the Ministry who are taking those notes. But those are professionals! What I am making here is a political observation and I would like the Government and the Minister and his Assistants, who are here through politics, to also handle it politically. So, it is our wish that this Bill---It will sail through because when it comes to voting, KANU will defeat us because we are few and all the things that have been said by hon. Members from the Opposition will not have any effect because there is nobody taking them down. All we can say is that we are powerless because we are fewer than those on the Government side. But what we know is that one day, we are going to form a Government and what we shall do, is that we shall be overhauling the Constitution and amend a lot of Acts that have been passed. So, it is a very, very lamentable issue and I really feel bad that such a legislation will be passed in this House without us rejecting it.

I discussed the Bill with hon. Anyona when we were exploring ways and means of how we can block its passing so that we can be seen to be effective. But since we are too few, there is nothing that we can do. So, if I may just comment very briefly on some of these clauses, most of my colleagues have gone through them and I do not wish to tire the rest of the House by repeating what has already been said. But if you look at the way things are going, there seems to be an "I do not care" attitude. Right now, the Minister of State in the Office of the President has just read a Ministerial Statement about 16 Kenyans who died on Monday after a house collapsed on them and he was laughing. It was very sad that even this House which consists of the elected leaders of those dead people now in the City Mortuary could not even observe a minute of silence to remember the souls of the dead. Those people have died just because of sheer negligence of professionals who were supposed to be supervised by this Government. Nothing can be done.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Ndicho in order to mislead the House that when the Minister was reading a Ministerial Statement he was laughing? Is it really in order? The Minister was serious and this is imputing improper motives against an hon. Member of this House. Is that in order?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, you can even see that hon. Dr. Misoi is not serious. This is a very serious and a grave matter. Possibly, one of the 16 people who died is from his constituency or his cousin or one of his relatives. It is a very grave matter.

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order, hon. Misoi. Hon. Ndicho is saying what he believes is correct. It may not be true that the Minister was laughing or was not serious. That is hon. Ndicho's point of view.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): I am a serious man. It is out of order for him to say I was not serious when I raised that matter.

The Temporary Deputy Speaker (Mr. Ndotto): Dr. Misoi has always been a serious man. Hon. Ndicho you are out of order.

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. When you were addressing the House, hon. Misoi stood there like a tree.

The Temporary Deputy Speaker (Mr. Ndotto): He was absolutely out of order!

Mr. Shikuku: Yes, remind him!

Mr. Ndicho: All I am saying is that what happened on Monday is a very serious matter and we should have people in the Government. They have said that after one month, there is going to be a report on that tragedy. In fact, after one month, they will have forgotten it. The report will be taken, read and kept somewhere and the issue will be forgotten. What we need is a serious Government; a Government that is concerned with the lives of its people.

In Eastlands, at Kayole, as we saw in the newspapers, a small house of about 10 feet wide going up to five

or six storeys like a tree. If there is a slight tremor in this country, all those people who live in those houses will come down rolling like stones and die. Are there no people both in the Government and in the City Council who should make sure that such structures do not come up? That is the purpose of having a responsible Government. It should not wait for the Opposition Members of Parliament to ask a Question so that they come and say: " (a), We are not aware. (b) We are not aware and since we are not aware of (a) and (b) therefore, (c) does not arise." What we are going to hear is that about 30 people have died in those illegal structures there because of poor planning; and then the Government will come here with a consoling statement from a Minister of State, Office of the President, shedding some crocodile tears and then he promises to bring a report within a month. I do not know what purpose that report will serve. So, it is upon the Government to ensure that there is proper planning and I do not see the difference between the City of Nairobi and the City of London or such other cities in Europe. If you go to these cities, you cannot stop admiring the way those cities are planned and the way that planning is maintained. You will also not stop admiring how the physical plans of those cities are taken care of by their respective Governments.

Mr. Temporary Deputy Speaker, Sir, the way physical planning is done in Kenya, as the previous speaker said, leaves much to be desired. Our greatest concern is how the Government will manage our cities for the sake of posterity. We shall not be here about another 10-50 years to come. But what will our children and grandchildren say about what the people who were there did? The current generation in a City, like London, is very happy with the way those people planned that City. Today, they are still enjoying the planning of that City. But I am afraid that 50 years to come, the current generation will be cursed even in their own graves, by the generation of that time when they will find out that there is no place left for them to rest or for recreation. Those who have visited Cairo and Alexandria, will bear me witness how those two Cities were so badly planned that throughout the day there is hooting because there are no road reserves to expand the roads in Cairo and Alexandria. There are only very narrow roads because they grabbed all the road reserves and the population of vehicles has increased. What will eventually happen in the future is that we shall have traffic jam from morning to evening. I am afraid that this is exactly what is happening in Kenya. It is has already started with Langata Road. The people who stay in Langata would bear me witness that to come to work in the morning and to go home in the evening, you have either to come very earlier in the morning or go very late at night, so that you are not bogged up in the jam. Instead of people having some vision of what they should do to remove that kind of traffic jam every morning and every evening, they are going on drawing physical development plans for allocating petrol stations, shopping malls and so forth. The problem goes on and on. But the biggest question comes up here. Who is responsible for the management of affairs in this country? I support what was being debated here this morning one of my fellow colleagues, that it is time now that the Head of Government, should come here and answer some of these questions like it happens in Great Britain. We are becoming a progressive democracy and there is no reason why our questions should not be answered like in the House of Commons. We should have the Head of Government, here, so that some of these very pertinent questions are answered by him on behalf of his Government, because what we get from the Ministers here, is nothing but very big jokes. More often than not, we feel like weeping when we ask questions concerning planning our roads, buildings, schools and everything else in this country. A Minister just stands up here and answers questions the way he wants. It is very, very appalling. However, we take consolation that very soon, when we form the next Government, these Ministers will be on the Opposition side and we shall teach them how a Government should be run. We shall teach them how serious it is to be concerned with the welfare of Kenyans.

Mr. Temporary Deputy Speaker, Sir, it is my earnest wish and appeal that although this Bill will be passed, the way we live here, posterity will find that in this country, the planning of our cities and towns, left much to be desired. If you look at the way some things have been done in this country, you even wonder who is the physical planner around. I am not trying to question why a mausoleum was put in the precincts of Parliament. But I remember in 1993, when we came here I asked a question why the Government of Kenya should not plan for a Heroes Square or Corner, where the dynamic men and women of this country could be buried for the posterity to be going there in the future to see that this is the grave of Jomo Kenyatta, Jaramogi Oginga Odinga, Wangu wa Makeri and Dedan Kimathi, after reading their history. Why could we not have a Heroes Square instead turning Parliament into graveyard? I am saying so because I am fearing that according to our Constitution now, a President will be serving only two terms of five years which is a very short period of time by any standards. If we have about five, six or seven Presidents who have died and then they would be buried near Kenyatta's Mausoleum, then I am afraid that we shall be looking for other grounds to shift Parliament to and leave this area for makaburi.

Which physical planner decided that Kenyatta should be buried here? The so-called physical planners should come up with a Heroes Square because when somebody now comes from Europe, he would like to see or put some wreath on Jomo Kenyatta's Mausoleum. Jaramogi Oginga Odinga was also a veteran politician and freedom

fighter in this country. There is no point of planning to have his grave about 300 kilometres away from Nairobi. I am picking that one just as one example. We should have physical planners who are planning for our country in a better way, but not having physical planners, who are only serving selfish interests. Most of the physical planners we have are doing so just for selfish interests. I went to one physical planner in my District and asked him: "Gentleman, can you tell me what is wrong today with the physical planners? Why are you de-planning our towns, the City and the country?" He answered me that a physical planner is only ordered to draw a physical development plan and after drawing it, he hands it over to somebody else.

Mr. Temporary Deputy Speaker, Sir, history will judge the Ministry of Lands and Settlement very harshly because the officers who are there have no interest of this country at heart at all. In this respect there are two gentlemen in that Ministry; Mr. Wilson Gachanja and Mr. Sang. These are people who sit in their chairs swinging the whole day calling the District Physical Planners in Kakamega, Thika, Mombasa and asking, "what is happening with that plan? I want it here tomorrow morning; draw it very fast." They just sit in their chairs swinging. The plans go to them and they sign without knowing what is on the ground. They do not know exactly what is on the ground about what they are asking for.

Recently we have had a lot of hue and cry in Thika when somebody came up with a letter of allotment for a plot which houses the Officer Commanding Station. He went to the Municipal Physical Planner and he wanted to be shown where this plot is. The planner took the letter and the map and he told the gentleman to come around. He took him up to the plot where the house of the Officer Commanding Station is. Then the physical planner asked "Who is the owner of this house?" This gentleman asked the physical planner to accompany him so that he could show him the owner of the house. They went to the gate of the Police Station and the gentleman told the physical planner to go to the man in charge of the Police Station because he was the owner of the house. The physical planner was astonished at this news. He ran very fast back to Nairobi to report on this matter.

Another one came with a letter of allotment indicating that he had been allocated Thika slaughter house. He told the people there that he had given them twenty one days to remove their animals there because he wanted to put up some structure on that plot. You then wonder whether this man thinks that the physical planner who planned this abattoir there was a fool. He tells the physical planner to remove the slaughter house there so that he puts up his structure there. So what we are seeing in the areas outside Nairobi and what is happening in areas where some of these hon. gentlemen from KANU come from is very bad and serious news. The Ministers and the Assistant Ministers cannot ask questions about what is happening in their respective areas is very serious, including Eldoret. I went to Eldoret, for example, and there was the bus terminus. The hon. Member for Eldoret is here. Can he tell us whether that bus park is now there? It is not there! Instead there are shops there. There is no bus park in Eldoret. It has all been grabbed and houses put there. Let us hear what he is going to say.

The Assistant Minister for Agriculture Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it really in order for hon. Ndicho, who knows that I am a serious hon. Member of Parliament, to suggest that there is no bus terminus in Eldoret? He is misleading this House. If he is not misleading the House where are buses being parked in Eldoret? Where do people embark and disembark from buses?

The Temporary Deputy Speaker (Mr. Ndotto): Order hon. Ndicho! Dr. Misoi you are out of order. Hon. Ndicho is a very serious Member of this House. Hon. Ndicho, proceed.

Mr. Ndicho: Thank Mr. Temporary Deputy Speaker, Sir. I do not know where hon. Misoi will go this weekend because he will be asked about the whereabouts of the bus park in Eldoret because it is not there. I do not know how he will defend himself. But I have been to Eldoret and I have seen that night buses drop people along the road on their way to Kitale and other parts of Western Kenya. The bus park is not there. All I am---

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order Mr. Temporary Deputy Speaker, Sir. Can you please protect me from these incessant attacks from hon. Ndicho who is misleading the House? He wants to ridicule me in the public eyes and that is out of order.

The Temporary Deputy Speaker (Mr. Ndotto): Order. There is nothing wrong with Members raising points of orders when they have to do it but what hon. Ndicho is saying is his own opinion and it may or it may not be correct. He is just contributing. Hon. Misoi when I give you time, you will say to the contrary and you will proceed.

Dr. Otieno-Kopiyo: On a Point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ndotto): I hope it is serious information, Dr. Otieno-Kopiyo.

Dr. Otieno-Kopiyo: Mr. Temporary Deputy Speaker, Sir, I just wanted to inform my friend the hon. Steven Ndicho, that the problem with my friend Dr. Misoi is that he spent a lot of time reading science. He read

science until---

The Temporary Deputy Speaker (Mr. Ndotto): Order! Dr. Kopyo. Order! Please, let hon. Ndicho continue with his contribution.

Dr. Otieno-Kopyo: Okay, Mr. Temporary Deputy Speaker, Sir.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I was even saying that it is not my business to talk about Eldoret bus park. I think I will concentrate with my constituency Juja but I was only expressing my fear that it has happened there but because he is an Assistant Minister, he cannot ask a question. It is our responsibility as hon. Members to point out such ills because we also have a collective responsibility to say what is happening all over the country since we are concerned. It is also happening in Thika, and I am very happy that the Director---

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. I can hear the hon. Member more or less apologetically trying to succumb to the threats from the other side. Does he know that this is a National Assembly and he has the right to speak on anything under the sun within the borders of Kenya, including Eldoret?

The Temporary Deputy Speaker (Mr. Ndotto): Dr. Misoi has not threatened anybody. Order! I am not going to allow any more points of order on this issue. Hon. Ndicho, if you have finished, please, wind up or proceed.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I have not even said half of what I wanted to say. I was only giving an example. Anyway I am finishing and I am not going to take long but all I am saying, and I support hon. Martin Shikuku, is that we can comment on anything under the sun, the moon and the stars. I also said that we have a collective responsibility from this side to comment on the very bad things that are happening in our country.

All I am saying is that if you go outside this city, what is happening is really very bad. I have information to tell this House that about 5,000 acres of land in a National Park has been hived off and residential houses and areas are now being put up in that area. Well, I think that is not very bad because the population of this country is increasing but my worry is: instead of doing that to help the less privileged people of Kenya, generally, those 5,000 acres are benefitting very few people; about less than five people. It is very serious and what we want to see this Government doing is to see to it that when there are plot allocations in a town, what used to be there and what is in the law should be observed. The local council should advertise these plots for Kenyans to apply for them, just like it used to be before.

Mr. Mak'Onyango: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am sure you must have heard the hon. Member for Juja making a very categorical statement that 5,000 acres of land have been hived off from part of a national park.

Could he substantiate, for the benefit of this House and country, and name the five people who own the land and which particular park this is?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, all that I know about land grabbing is not here with me but I have files of all these people and these things that are happening.

I am spending a lot of money to even get these things because some of these things are under key and lock. So if you want substantiation, I will just go and refer to one of my files and bring documentary evidence here and if you drive along Mombasa road, you will see that work has started there.

The Temporary Deputy Speaker (Mr. Ndotto): Order hon. Ndicho. I have noted that you have made a lot of categorical statements and you are not giving any evidence to that effect. Hon. Mak'Onyango wants to know where the park is, the 5,000 acres of land and who the beneficiaries are. And if you do not have that information, then withdraw and proceed and do not waste time on it. You either have information or you withdraw and proceed.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, you want two things, the man who has grabbed the National Park. I was only interested in those who have done this and I was told "five people." So, I do not know who these five people are, but for that particular part, I apologise and withdraw because I do not know who they are. I beg leave to continue.

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Ndicho, are you sure that your information is correct, that 5,000 acres of National Park has been hived off? Hon. Ndicho, I do not want to waste your time. Are you sure of that information or you are just imagining?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, that is the truth, the whole truth and nothing but the truth, so help me God. Let whoever has different information come and prove me wrong.

(Several Members stood up in their places)

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Proceed!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I want now to touch on issues pertaining to the Bill because I now want to continue.

Mr. Mwaura: On a point of order, Mr. Temporary Deputy Speaker, Sir. The allegation regarding 5,000 acres of our National Park is a very serious matter being made in this Parliament. Although the hon. Member says he does not know who has been given those 5,000 acres, I think, we need to demand that he substantiates that and brings the evidence to Parliament. National Parks of this country are a very important area of our nation.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I have said that I know that one as the truth. Let hon. Mwaura---

The Temporary Deputy Speaker (Mr. Ndotto): Can you substantiate?

Mr. Ndicho: I will give him physical substantiation. I want to give him homework. Let him drive along Mombasa Road and---

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Hon. Ndicho, because you do not have any documents to that effect, I order you withdraw and proceed until such a time you have the evidence. I order you to withdraw and proceed.

Mr. Ndicho: Okay, Mr. Temporary Deputy Speaker, Sir, because I want to continue and I do not have the documentary evidence with me here---

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Ndicho, I have ruled.

Mr. Ndicho: Yes, I want to apologise and then withdraw that. But as you rightly say---

The Temporary Deputy Speaker (Mr. Ndotto): Proceed!

Mr. Ndicho: At the right time I will bring it here because I have seen it myself. Let anybody drive along Mombasa Road, look on their right hand side and see. Let me now come straightaway to the Bill.

Mr. Achieng-Oneko: On a point of order, Mr. Temporary Deputy Speaker, Sir. I was once a Minister for Tourism and I know how such adverse publicity affects tourism in this country and for one to stand here and tell us all those stories without substantiation is damaging this country. The fact that I am in the Opposition does not prevent me from standing for the truth of this beloved country of ours.

The Temporary Deputy Speaker (Mr. Ndotto): I thank you for that comment, I think hon. Ndicho, you have heard, withdrawn and apologised.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I have withdrawn. I do not know why we went back to that matter.

The Temporary Deputy Speaker (Mr. Ndotto): Proceed!

Mr. Ndicho: Mr. Temporary Deputy Speaker, who is more damaging here? Is it Ndicho who is saying that, or the people who are doing that?

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order, hon. Ndicho! May I request you to contribute if you have any more to say about this Bill. That matter we have left that matter and if you repeat it again hon. Ndicho, I am going to cut your speech short.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I beg to continue and that is what I had said, before I was dragged back. I want to say that a lot of my colleagues have gone through the clauses of this Bill---

Dr. Otieno-Kopiyo: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ndotto): Overruled! Proceed, hon. Ndicho!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, a lot of my colleagues have gone through this Bill, I do not want to make a repetition of what they have said. But I wish to make very few comments here and there. First and foremost this Bill - because I do not want to go through it clause by clause - I have seen in it, that the Commissioner of Lands has completely refused to have his name anywhere in this Bill. He has pushed everything to the Director of Physical Planning. If you read this Bill and I concur with hon. Shikuku that the trouble with us Members of Parliament is, we do not read these things very seriously. But if you happen to read through it, I have seen the Commissioner himself deliberately made sure that the draughtsman omits his name and pushes everything to the Director. Whether it was intentional or it was not, I do not know, but the person whose misdeeds we are all crying about is not the Director; it is the Commissioner of Lands.

An hon. Member: Gachanja's name is not appearing!

Mr. Ndicho: Not Gachanja's name, the Commissioner of Lands. The only place he is mentioned, is just as if he was running away from what has been said here. If you look at Clause 4, the Bill talks about the

appointment of the Director by the Minister. I hope that these people have noted very clearly that, that Clause 4 is already faulty. We do not want it to be enacted as law, that the Director of Physical Planning will be appointed by the Minister. We would like that gentleman to be appointed by the Public Service Commission. Because, once you say that he should be appointed by the Minister, then the Minister can keep on changing them at his own will. Let him be there by an appointment of the Public Service Commission. So, that is why I said that all that I could have said here has been said by my colleagues but I would also like to mention these issues very briefly.

If you look at Clause 5, the Bill is stating what the Director should be doing or should do. Then as you read through it you ask, "what was the Director doing before?" Because he has been there since this Ministry was created. So, we hope that before this Bill becomes law, we shall want to see at the Committee Stage all these contentious clauses amended as per our contributions.

Mr. Temporary Deputy Speaker, I have got a very big war to wage on Clause 7, where we are now getting a new group of people called liaison committees. What we currently have, are the District Allocation Committees and the people who have been listed there are also the same people here, with a few exceptions of somebody like the District Education Officer. So, you wonder what relevance a DO has to with Physical Planning of land. For a District Agricultural Officer, to be included, there is some relevance there, but somebody like a DEO has no relevance to this committee. I would like to submit that, if you look at the composition of the liaison committee, it leaves out very important people; for example the politicians. That is, a Member of Parliament or a Mayor in a municipality. If a Member of Parliament is included in this committee, all the noise that we make here, all the questions that we ask in this House concerning grabbing of plots---

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is just on record that the Member speaking has said, "the noise we make here." Is it in order for him to state that we make noise here?

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Ndicho, did you use the word "noise"?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I personally have been making a lot of noise without any success. But if it is unparliamentary, I withdraw it and beg to proceed. All I am saying, is that even hon. Dr. Lwali-Oyondi could be included in Nakuru. I know he is now raising a question on the judge's house in Nakuru because it has been grabbed. If he was in the plot allocation committee in Nakuru, there is no way he could have agreed that, that house of Nakuru judge should be given to a Kabartonjo chief to come and start selling it at Kshs10 million. He would have refused and said "no". So, all I am saying is that, let the Mayors of Municipalities and all chairmen of county councils be included in this Liaison Committee because that will stop and minimize the politics involved where land grabbing and de-planning are involved. Although there is a Clause here where they are talking of co-option---

Clause 9 says:

"Notwithstanding the provisions of Section 8, a Liaison Committee may co-opt such other persons as it deems fit to assist the Committee in its deliberations." That is okay. It is in line with my argument or my appeal that some provisions be made so that a Member of Parliament or a Mayor could be co-opted. So, I hope that when I get co-opted in the Thika District Liaison Committee, all the questions that I raise here, inside and outside Parliament, I will not be raising them because after all I am part and parcel of the Liaison Committee and I could raise it there and make sure that things do not go wrong at that particular level. But when I am left out and then things go wrong, then I am told that such and such a school is gone, then I am bound to come here banging tables and asking all these questions. So, it is my wish that the co-option will be taken into consideration although, as the people's representative, as the Member of Parliament of all the people in that constituency, I am being reduced to the position of a co-opted Member; it is very serious because a co-opted Member has got no big say there, he can only make observations, he cannot vote and he cannot make an assertive move. He can only observe something. So, I would wish that there should be some provision in this Bill where a Member of Parliament is not a co-opted Member, but a Member of the Liaison Committee. This is the way we should like to see this thing being done.

As hon. Orenge said earlier here, the presence of the District Commissioner, being the Chairman there, can be a bit intimidating. Today, the District Commissioner is a nominated councillor in all the municipalities and in all the county councils and local authorities. But I have been told by various councillors that when they go for council meetings and the DC goes there as a nominated councillor, he goes there with all his might, and his presence there is nothing but intimidating. The councillors do not debate freely because they are fearing the DC. I am giving examples. I have never gone to those meetings, but I have heard councillors not only from Thika, but even elsewhere saying that the DC or the DO comes there and they feel intimidated. So, even in this particular case, I would wish that the DC should not become the Chairman, because even where the DC was

declared the Chairman of the plot allocation Committee, it is not something that is in the law. It is something that just came about from nowhere and it was imposed on the people of Kenya.

These are the contentious issues that we are always talking about and we are not frustrating the efforts the Government is making to help Kenya. All we are saying is that, let all be involved. If it is something as big as that, let it come through Parliament. I am happy now for the first time. All these years the DCs have been acting illegally as District Plot Allocation Committee Chairmen. But, now when this bill goes through, they will be there legally by an Act of Parliament and whatever they will be doing will be binding and legal. All that we have been doing is to see complaints about DCs messing up planning of areas. A District like Kiambu which was served by Mr. Samuel Oreta for 8 years, if you go there, you will not find a cemetery. The only cemetery that was in Kiambu has been allocated to people; one of them, a defector who was with us here. You can see how destructive the illegality of DCs being Chairmen of Plot Allocation Committees has been all over those years.

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Ndicho are you talking about Plots Allocation Committees or Liaison Committees?

Mr. Ndicho: No, I am saying that it used to be the Plots Allocation Committee, which was an illegal entity. It is now being legalised by this Parliament and---

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Ndicho, there is no plot allocation business in this Bill all the way through. This Bill is talking about planning, not plot allocation.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, what do you plan? If I am allocated this plot here, there was a planner who came and did the physical planning, that is all I am saying. So the planning in Kiambu is what I am complaining about because if that man was there legally, we could have taken him to court. This Bill is coming very late when a lot of mess has been done in our towns as far as physical planning is concerned. I am very happy that once this Bill goes through, the issue of plot grabbing will stop as somebody told us. I do not know how that will happen. How will this Bill stop land grabbing? So, I was on the issue of co-option of politicians, let them be in those committees. Clause 10 comes in the wake of what I was complaining about; the functions of the Liaison Committee. It has been mentioned here that there are four stages to go about when applying for plans in a planned area. There is a Director of Physical Planning who is supposed to enquire into the complaints made against the Liaison Committee. Then in Clause 15 (2); "The Minister may reverse, confirm or vary the decision appealed against" and then if you are not satisfied with all this then you go to the High Court. The Head of State of the country has said quite often that; "Mambo ya mashamba yote, pekekeni wazee nyumbani". That is what he has said, that he does not want land cases to be taken to court, and then this Bill is now---

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to interrupt my friend but, we have to follow some order. The hon. Member has been quoting the President from the beginning up to now, and it has been ruled in this House that it is only the Minister who can quote the President to reinforce argument. Is the hon. Member in order to quote the President?

Mr. Ndicho: I am quoting the President positively!

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Ndicho, whether you are quoting positively or otherwise, you have no authority to quote the President except the Minister. You are out of order, please. Quote the Government.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, you know that I am quoting the President very positively.

We quite admire what he says. What he says makes a lot of sense. But now, instead of removing the backlog of land cases from the High Court, this Bill is saying that if the Liaison Committee is unable to solve something, the Director, the Committee and the Minister can refer this matter to the High Court. This is a contradiction. It is a Government in total confusion. So you can see that it is a contradiction. It is a Government in total confusion. The liaison committee says: "Haya mambo yote ondoa kwa korti na kupeleka huko". Then somebody drafts Bills and says, "What you are saying, Mr. President, is bad. Let us go to the court". What we are saying is that we should--

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Ndicho is misleading this House throughout. The Bill talks about physical development plan or development application going to the High Court. Is it in order for him to confuse this House with systems which have nothing to do with planning?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, that building is built on land and if anything, even your kiosk in Eldoret is built on land. So, if there is some contention, all what this Bill is saying is that you go to the liaison committee, Director and Minister and if you are defeated, you go to the High Court.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, he is taking my time. I want to finish up so that I give him time to say what he wants to say. He should note down points.

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order, hon. Misoi! I think you may have some point but he is talking about the procedure which applies and this involves going through the Director, the liaison committee and the High Court and I think that is relevant because it is in the Bill. He is giving his own views on that particular issue on whether it is relevant or not.

Mr. Ndicho: Thank you very much. Let him take notes and when he stands up to speak let him say what I have said instead of taking all my time. It should be noted by the Minister that we do not want these cases to be taken to the High Court. There is already a backlog in the High Court. We want those cases which are already there presented to the wazee in the villages as the Head of State positively says and are dispensed within the villages.

Dr. Otieno-Kopiyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Standing Order No.72 prohibits any Member other than a Minister from using the President's name as authority for what he is saying. Is the Member in order to keep repeatedly referring to His Excellency having said this and that?

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Ndicho, I have already ruled you out of order on that issue and I do not know why you want me to rule you for the second time out of order on the same issue. Proceed!

Mr. Ndicho: I beg to continue. It is the good Government of Kenya which says this. I beg to point out something on Clause 14 which says:- "No member of the liaison committee shall be liable to any action, suit or proceedings for or in respect of any act done or---"

QUORUM

Mr. Achola: Mr. Temporary Deputy Speaker, Sir, do you realise that we do not have a quorum in this House and yet we are contributing to such an important Bill?

The Temporary Deputy Speaker (Mr. Ndotto): We do not have a quorum. Can you ring the Division Bell?

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Ndotto): Order! We now have quorum. Hon. Ndicho, proceed.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I was just finishing up on the issue of the liaison committee. Clause 13 (2) says:-

"Subject to sub-section (3), the liaison committee may reverse, confirm or vary the decision appealed against and make such an order as it deems necessary or expedient to give effect to its decision".

Here you see that the liaison committee is now becoming stronger than the Director. The liaison committee can confirm or vary the decisions. So what we are saying is that, this Bill should be redrafted. I am told that a man who was involved in the drafting of these Bills in the Attorney-General's Chambers passed away. He was a good draughtsman. Since he died, we have been having bills brought here which have not been researched and are badly written. The Government should pay these draughtsmen well so that we have best brains drafting these bills. This Bill has got a lot of mistakes.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Maundu): Point them out!

Mr. Ndicho: Listen, you will hear me pointing them. You have just come in and started making noise here. Mr. Temporary Deputy Speaker, Sir, can you protect me from hon. Maundu. He has just taken 14 *mandazi* and now he comes here to interrupt me. Protect me from him.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Maundu): Is my hon. friend, whom I respect very much because he has some Kamba blood, in order to allege that I have taken 14 *mandazi* when he knows that, that is not true?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, he is my very good friend. I was saying it with a very light touch. I withdraw it and apologise. But you should also protect me from him.

I was saying that Clause 14 is very dangerous, and I hope Hon. Maundu will listen to what it says. It states:-

"No member of a liaison committee shall be liable to any action, suit or proceedings for or in respect of any act done or omitted to be done in good faith in the exercise or purported exercise of the functions conferred under this Act."

So, you can see that this Bill is giving a lot of leeway to the members of the liaison committee. Even if they commit a big mistake like taking away from you land that is rightfully yours you cannot bring a court action against them. These are the things we are saying we would like to see removed. As I was saying, the Deputy Town Clerk of Thika Municipal Council, a Mr. Kang'ethe, has caused a great mess in the council. He went through the records, found out people who had not paid their annual rates to the council and the Commissioner of Lands and took away the plots from their owners without their knowledge. Before the owners realised what was happening, their plots had been taken away from them, title deeds had been issued and all the arrears of rates had been paid. These are the officers who are interfering with physical planning for land in the countryside.

I would also like to point out that recently a former councillor in Thika Municipal Council interfered with a previous planning of Kiandutu public cemetery. He went there and erected beacons. But when we went there, we took away all his theodolites and quick set levels and took them to the police. We did this because we had agreed to protect what rightfully belongs to the public. I was very disappointed to learn that later, when this man went to the police station, he was given back his equipment. But then we sounded a warning to the effect that if anybody interferes with the physical planning of that cemetery, we will not take any other action except lynching. I think that is the only language that these land grabbers can understand and stop to interfere with what has already been physically planned.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir.

Mr. Ndicho: Why does this man not wait for his time?

The Temporary Deputy Speaker (Mr. Ndotto): He is on a point of order, Mr. Ndicho.

Mr. Ndicho: But there is a lot of order in the House!

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): Is it in order for hon. Ndicho to threaten members of the public with lynching from this House! They cannot defend themselves! This is serious!

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Ndicho, as an hon. Member of this House, I do not think you can advocate for violence. You could have said what you wanted to say in a different language. When you categorically say you will lynch people, you are also asking your people to do the same. I think you are not in order. Will you withdraw please, and watch your words?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I withdraw and instead say that we will take very stern action against those kind of guys. This looks like a laughing matter, but when you are on the ground witnessing what is happening you can shed tears or do very horrible things. But I have withdrawn the remark.

Now, the land where Thika Prison used to grow vegetables, maize and beans to supplement the food the Government was giving the prison has all gone. That place was set aside a long time ago to be used to grow food for supplementing what Thika Prison gets from the Government. That land is now private property. There is also the area in Thika with houses for low cadres of Government workers. I know that when you are going home, you pass through Thika and you have seen the old red-tiled-single-roomed houses for the lowest cadre of Government workers. That land has been given out. What is coming up there are personal kiosks, shops and people's houses. What should we do in such circumstances? This Parliament is the supreme body which should say "no" and everything stops. During the era of the late President Kenyatta, if a Member of Parliament complained over something, everybody ran there and stopped what was being done. But during this Nyayo era a Member of Parliament is a nobody, especially in the eyes of very powerful and politically well-connected gentlemen, who receive land as gifts in exchange for political support. We are calling upon the Government to think what it will do about what has been physically planned. I hope that the liaison committees will, when they are in existence, reverse what has already been messed up. This is our earnest wish.

Clause 23(1) states:-

"The Director may, by notice in the Gazette, declare an area with unique development problems as a special planning area..."

We do not know what exactly this means. But this provision gives the Director some leeway. He is allowed to, by notice in the Gazette, declare an area with unique development problems as a special planning area. The draughtsmen should have given examples to enable us understand exactly what they mean. They should not put their professional jargon in a Bill because some of us are lay men in these fields. So, we demand to be given examples of what they are talking about.

Listen to what clause 24 states:-

"The Director may prepare with reference to any Government land, trust land, or private land within the area of authority of a city, municipal town or urban council, or with reference to any trading or marketing centre, a local physical development plan."

How can the Director of Physical Planning prepare a physical development plan with reference to private land? You can see how bogus this Bill is? It is talking of your and my private land! It is talking about Kenyans' private land. It should be noted that I have objected to clause 24 being in this Bill in the first instance. How on earth would the Director draw a physical plan for my father's or my land? This clause 24 of the Bill should be removed. There is no way the Director can be given a leeway to prepare a development plan for private land! If this clause goes through this House, then somebody will come with a theodolite and quickly set levels and start preparing a physical development plan for my private land, and I will not say anything because that action will be in the law.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir.

(Mr. Ndicho): Dr. Misoi, sit down! Why do you not protect me from Dr. Misoi. He is standing on a point of order every now and then! Why can he not take notes?

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Dr. Misoi, can you not leave hon. Ndicho alone?

Mr. Ndicho: I am just finishing!

The Temporary Deputy Speaker (Mr. Ndotto): Order, hon. Ndicho! Yes, Dr. Misoi.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Ndicho is misleading this House by saying that physical planning for private land should not be incorporated in this Bill. The Bill talks about physical planning of land, both for public and private use. So, he is misleading the House!

Mr. Ndicho: I did not hear what he is complaining about.

The Temporary Deputy Speaker (Mr. Ndotto): He is saying that there is no provision for the director to carry out physical planning for private land. He is saying that you are misleading this House, which I do believe you are.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I beg to continue.

The Temporary Deputy Speaker (Mr. Ndotto): But there is no provision for that. Do you agree with that? The director has not been given any powers by this Bill, to plan for any private land. Has he?

Mr. Ndicho: It reads as follows:

"The director may prepare with reference to any Government land, Trust land or private land, within the area of authority of a city, municipal town or urban council or with reference to any trading or marketing centre, a local physical development plan.

It is that preparation of that local physical plan that I am wondering about. I stand corrected because I did not major in this field. What does this particular Clause mean? That is what I was trying to enquire about.

However, I have noted that Clause 29 is very good. It talks about the control of development. It reads: "Subject to provision of this Act, each local authority shall have the power to prohibit, or control the use and development of land, and buildings, in the interest of proper and honourable development of an area". Clause 29 (a) (b) and (c) should be passed in its entirety. Some of these areas are quite acceptable to us. But if you look at Clause 30, it reads: "No person can carry out development within the area of a local authority without a development permission granted by the local authority under Section 33" It states that no person shall carry out development within an area of a local authority. Who was developing the area around Kasarani, Mr. Temporary Deputy Speaker, Sir? We read and heard that the former District Officer for Kasarani allocated a very large piece of land.

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Ndicho, you were here when I ruled hon. Shikuku out of order for touching on that issue which is before a Select Committee of this House. Were you here?

Mr. Ndicho: I think I was not here.

The Temporary Deputy Speaker (Mr. Ndotto): If you ask, that matter is before a select Committee and you cannot comment on it.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I was not here, but if it was there, then it is very bad.

But we also heard something from Komarock or Kayole area, where a chief sold a whole school to a Korean. The Korean was coming up with a different planning. The parents, pupils and teachers of that school went to Embakasi Police Station to protest the arrest of the deputy headmaster who was protecting that property. You can

see how KANU officials have now gone too far. Just this morning, we were discussing the conduct of chiefs. If a chief could sell a whole school, that just shows the extent to which they can go in flouting the law. It was not until higher provincial administrators intervened, that the pupils of that school were allowed in that school, and they were assured that their school will not be sold. So, you can see that if this Bill is passed and some of these Sections are applied to the letter, the PCs, DCs, DOs and chiefs will all be in Kamiti Maximum Prison for flouting the law. This is because somebody comes up and carries out development plans within an area of a local authority without considering what the planners had initially intended for the place.

Before I sit down, I would like to refer to Clause 16, which will be my last reference. Clause 16 (2) reads as follows:

"A regional physical development plan may provide for planning, replanning and reconstruction of the whole or part of the area comprised in the plan, and for controlling the order, nature and direction of the development in such an area".

When this Bill goes through, people who will implement it may refer to the above Clause which gives them leeway to mess up with what has already been planned. The Bill is talking about the planning from the beginning up to the end. But then, this Clause provides for replanning and reconstruction of the whole, or part of the area comprised in the plan. What does that mean? It means that somebody may come, having been given power by the Constitution and by this Act, and start replanning and reconstructing the Parliament of Kenya. When we complain, he will refer us to the law. He will refer us to the Constitution, and Clause 16 (2) of the Physical Planning Act. So, this and many other Clauses that we have referred to, should be done away with. I hope that those people in the Ministries, see the need to do so, because many hon. Members, from both sides of the House have contributed very well. Somebody like, hon. Ligale who is a professional in this field, contributed very well. I hope that it was noted very, very carefully. Just listen to what hon. Dr. Misoi will come here and do! He will tear this Bill apart, and yet he is from KANU. He is also not happy about it. Hon. Ligale was also not happy about it, and he gave professional advice to the Ministry of Lands and Settlement.

The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Ligale): On a point of order, Mr. Temporary Deputy Speaker, Sir. I hate to interrupt this good friend of mine, but he is misquoting me. I did not, at any one stage, say that I was not happy with the Bill. I made very constructive suggestions as to how this Bill can be improved, but I did not say that I was unhappy with it.

Mr. Ndicho: But I was complimenting him. I was giving compliments to hon. Ligale because I listened to his whole contribution and it was very nice. It was very good and professional. I am saying that you are the one who made me to read this Bill again and again. There was even one Clause, where you complained that somebody should be given powers to do something in the local authorities through this Act. You told them that they should not follow this Act, but the Local Government Act, Cap 265. So, these are the issues that make me give compliments to my good friend "Andy". It is my wish that what these people have noted down should be implemented. We want to see a very big change. We do not want to see roads and other public utility areas being sold. It is only through this Parliament that we can protect the people whom we represent and who own land or plots in Thika, Ruiru, Juja Township and other areas that we represent. We are the people who are expected by those people to come here and represent them, and make the Government of Kenya know their problems. This is because, what they are experiencing there is terrible. If you go to the headquarters of the Ministry of Lands and Settlement, you will wonder whether there is a Presidential rally there or not. Everyday, from Monday to Friday, it is jammed with people from all over the country enquiring about their title deeds, enquiring about their land being de-planned, grabbed and being re-planned and so on. Right now, there is an old man from Thika town in my constituency who is bordering a factory called BIDCO limited.

The owner of BIDCO, Bid Shah, all of a sudden came and fenced the whole of that man's five acres of land. Now, the man is living there with his family and all his land is surrounded with iron sheets. This man was given that portion of land by Thika Municipal Council to plan and he took his plans which were approved by the council and what he does there is to rear bees and make a lot of honey. He trains personnel even from the Ministry of Agriculture, Livestock Development and Marketing who take a lot of people there to learn about bee-keeping and preparation of honey. Five acres of this land has been taken away and somebody has got a title deed. This old man is Mr. Waweru Ngandu. He has tried since January when I wrote him the first letter to go and see the Commissioner of Lands. From January to May, he has not seen the Commissioner of Lands, and he wants to complain because the Municipal Council of Thika has given him a letter stating that as far as the records in Thika Municipal Council show, this area belongs to this old man and he has paid all the rates. He has paid all the dues due to the Council and he has got supporting documents and receipts of what he has paid. Then some people in the Ministry of Lands and Settlement have gone to process the title deed of that area. If you look at that scenario, what will it entail in re-planning of what was hitherto approved by the whole Municipal Council of

Thika? Who is supposed to protect that old man against this Government? That old man is now holding this Government with contempt and he was telling me: "I thought under such circumstances, it is the Government which is supposed to protect me. I am now fighting against the Government and the Government is not willing to talk to me." He was told to leave that area and he has been given an offer of Kshs3.5 million by BIDCO, Bid Shah.

As I understand, the people who grabbed that land sold it to Bid Shah at a cost of Kshs34 million. Five acres of land inside Thika Municipal Council next to BIDCO limited. So, you can see that this Bill will be passed, but our question is: Will what has happened be changed? Will this Government reverse these atrocities which have been done by some of its members to the members of public? Or shall they wait until we form the next Government and we reverse those things? I have often told them, always warned them to take the example of Nigeria where the Nigeria Government was brought down because of these issues that we are discussing here. So, you can see that the Government that will come after this KANU Government will have a lot of work to reverse decisions and actions that were taken arbitrarily by the people who never cared about the planning of their own country. I have said that I would like to be the "Minister for repossession" so that I repossess all those plots and all those public areas which have been grabbed. I only require one bulldozer per province, I go razing down all these storied buildings that we have been put at the expense of the public. So, if need be, we can "re-grab" them back to the public! But all I am saying is that should the Government---

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it really in order for hon. Ndicho to use this forum to threaten demolition of property of good loyal Kenyan citizens? Is it in order for him to use this and also to say that he wants to "re-grab" them?

Mr. Ndicho: If hon. Misoi has one such an area I think he had better return it back very first because we are not going to help him even if he is our friend when we will be taking it back.

Let me finish up---

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it really in order for hon. Ndicho to threaten me using this forum? This is the National Assembly! Can you protect me, Mr. Temporary Deputy Speaker, Sir?

The Temporary Deputy Speaker (Mr. Wetangula): Are you feeling threatened?

Mr. Ndicho: That was the question I wanted to ask him. Is he feeling threatened?

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): Mr. Temporary Deputy Speaker, Sir, I do not know what he can do when we are outside. I know you can protect me here!

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

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Shikuku, who has given you the Floor?

Mr. Shikuku: I am on a point of order, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Mr. Wetangula): He was on a point of order!

Mr. Shikuku: The two hon. Members were on their feet.

The Temporary Deputy Speaker (Mr. Wetangula): You are out of order more than they were!

(Laughter)

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I think he was out of order because he made three of us to be on the Floor of the House instead of two!

So, all what I am saying is that the Government should help itself and help Kenyans to make sure that we do not have a repeat of what happened in Nigeria. I want to finish up by saying that I am on record to having intervened for a plot in Juja township that was planned and I was given those plans by my predecessor the then hon. George Muhoho who was the former Member of Parliament for Juja and he was the Chairman of KANU is in Juja.

There was a plot belonging to KANU in Juja township which was planned for a big KANU office there and then on the extension there was a plan to build a dispensary in Juja and some other offices I cannot remember what they were meant for.

As we were just going ahead, we saw somebody pouring stones there and sand. I said, although I belong to FORD(A) there is no way that I am going to allow grabbers to grab KANU plots. No way, not in my constituency! We went even to case in the DC's office in Thika--

Mr. Mulusya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Ndicho

to mislead this House that he is sincerely protecting KANU plots? Which KANU in Juja? Is there KANU in Juja?

(Applause)

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, there are some few elements of KANU in Juja. Mr. Waira Kamau is the Chairman of KANU in Juja. I am very happy with Mr. Waira Kamau because he is with me. He is telling me to push it from that way and he pushes it from the KANU side!

I have also informed hon. J.J. Kamotho together with the national Chairman of KANU, hon. Ndolo Ayah. I have given them all the papers to show that this particular plot belongs to KANU and nobody should grab it. It should retain its intended purpose.

Dr. Otieno-Kopiyo: Mr. Temporary Deputy Speaker, Sir, could hon. Ndicho be kind enough to give us the names of these grabbers who are so audacious as to grab KANU land? KANU is the ruling party and he knows that they would have the machinery to make sure that their interests are taken care of. Who are these powerful people who are above KANU?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I have given those documents to hon. Kamotho, as the Secretary-General of KANU and to the Chairman of KANU, hon. Ndolo Ayah. Please protect me because they want me to infringe Standing Order No. 73 which you very ably invoke here.

An hon. Member: No, but they are not the grabbers. Name them!

Mr. Ndicho: I will not name them unless I am told to.

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member implying that mentioning anybody out there is contravening any Standing Order? Is he in order to mislead us in that way?

Mr. Mulusya: Substantiate!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I know the names anyway. If the Chair wants me---

The Temporary Deputy Speaker (Mr. Wetangula): Nobody has challenged you to substantiate.

Mr. Ndicho: Yes, nobody has challenged me. So, all I am saying is, you can see that even---

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. Now that it has come from the horse's mouth---

An hon. Member: Which horse?

Mr. Shikuku: The hon. Member is the horse. It is just an English saying, there is no horse in the House.

The Temporary Deputy Speaker (Mr. Wetangula): I know. Carry on.

Mr. Shikuku: But since it has come from the hon. Member on the Floor that he knows the names of those who have grabbed KANU land in Juja, is it not only fair that Standing Order No. 76 applies or is carried out where he is required to substantiate?

Hon. Members: Substantiate now!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I wonder whether there is anybody who wants me to substantiate.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Shikuku wants you to.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, what I have given to both hon. Kamotho and Ndolo Ayah---

The Temporary Deputy Speaker (Mr. Wetangula): No, tell them!

Mr. Ndicho: I am telling them---

Mr. Achieng-Oneko: On a point of order, Mr. Temporary Deputy Speaker, Sir. The fact that only the Opposition Side is interested in the names being declared and the other Side is quiet, means that the Government Side is already guilty of what is going on.

(Applause)

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Achieng Oneko what logic is that?

An hon. Member: Bunge logic!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I was saying that the papers and documents given to hon. Kamotho and hon. Ndolo Ayah---

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Shikuku is not asking you whom you gave

the papers. He is asking you to name the people who grabbed the KANU plot.

Mr. Ndicho: But I am coming to that. I am saying that in that list, it is shown that when the son of President Kenyatta, Peter Muigai Kenyatta was the area MP, and also the Chairman of KANU, Juja branch---

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): On a point of order---

Mr. Ndicho: But your Excellency, I am substantiating.

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Ndicho!

(Several hon. Members stood on points of order)

Order!

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, if it is indeed a KANU plot, you can rest assured that I have vested interest to make sure that nobody takes it. But, hon. Ndicho has said that he has not got the papers because he has given them to somebody else. I do not know whether it is in order for an hon. Member to substantiate, unless he has documentary evidence. What we want to prevent is an hon. Member just mentioning names for the purpose of maligning people's names. We do not want that. So, the point of order I am raising here---

Hon. Members: On a point of order!

The Temporary Deputy Speaker (Mr. Wetangula): No, he is on a point of order.

The Vice-President and Minister for Planning and National Planning (Prof. Saitoti): The point of order is; is he in order? This is because he has already implied that he does not have the papers now by saying that he has already given them to hon. Kamotho and Ndolo Ayah. Is he in order now to proceed as he so wishes to mention names?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I want to respond to the first point of order raised by hon. Shikuku. The Chair allowed me to substantiate, then His Excellency the Vice-President comes here and---

An hon. Member: Who is scared!

Mr. Ndicho: No, there is no cause for him to be scared. Even the people who have grabbed that plot are very junior people. So, I am substantiating.

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Ndicho, does it take such a winding and long speech to substantiate?

Mr. Ndicho: But I am saying that this person who paid Kshs23,000 in 1976 for this plot is the late Peter Muigai Kenyatta, who was the Chairman of KANU in Juja Constituency.

Mr. Mulusya: On a point of order!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, protect me. I am responding to a point of order.

The Temporary Deputy Speaker (Mr. Wetangula): Order, Mr. Mulusya!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, so, before the hon. Peter Kenyatta died, he had received---

An hon. Member: Why do you not say *(inaudible)*

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, protect me because I want to explain very well. The people who have grabbed that plot are very junior people and I want to relate how it came about.

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Ndicho, the matter is so simple. Hon. Shikuku wanted names and I do not see why you are giving such a winding speech. Do you have the names or do you not? That is all.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, since the plot was sub-divided, the person who took one portion is the person who became the next MP for Juja and Chairman of KANU Juja branch. He is a good friend of mine and I feel very sorry to mention him here in Parliament. *(Expunged)*. We went to the District Commissioner with him and the DC told him: *(Expunged)*. Come with your papers here because hon. Ndicho has brought papers regarding the KANU plot, come with your papers and then prove otherwise." He has never built there and the DC stopped any construction. *(Expunged)*.

The Minister for Labour and Manpower Development (Mr. Masinde): On a point of order!

Mr. Ndicho: Hon. Minister, you should know better; I am responding to a point of order. So, those are the people who have taken that particular KANU plot. When we went for graduation at Juja last year, I had the opportunity to talk to the Government. I was told to use the word "Government" instead of President Moi. When I talked to the Government, I told the Government about that particular issue and the Government called hon. Kamotho and told him: "Can you ensure that, that plot is not given to anybody?"

(Loud consultations)

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. My point of order is simple and clear. This is a serious House and when an hon. Member is asked to substantiate his own allegation, that substantiation is not done in the form of naming people. You name the people and if it is something they have done, you also lay down the documentation to support the claim. Therefore--

Hon. Members: On a point of order!

The Temporary Deputy Speaker (Mr. Wetangula): Order! He is on a point of order.

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Some of those people who have been named are not in KANU. This honourable House is here to protect the Kenyan people. It cannot be a House to malign people's names. All I am asking is--I am not protecting anybody, we demand substantiation in the form of documentary evidence laid here indicating, indeed, that the plot has been allocated, but not mere mentioning of names. We have a dignity to defend here.

Mr. Ndicho: Before, you comment, let me respond to the point of order--

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Ndicho, you will do one very simple thing. I will give you time up to tomorrow to bring documents to show that this plot was indeed, grabbed by one *(Expunged)*. You should bring the documents tomorrow afternoon and lay them on the Table. You said that you gave them to hon. Kamotho and hon. Ndolo Ayah.

Mr. Ndicho: Let me explain what I said. What I gave to hon. Kamotho and hon. Ndolo Ayah--

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order, hon. Ndicho. I am taking this position in view of your previous records in relation to documents on the Floor of this House. We have a precedent to that already. If you do not bring the documents tomorrow, from your own statements that you gave them to hon. Kamotho and hon. Ndolo Ayah. If you do not have them tomorrow, then I will order your contributions to that extent to be expunged from the records of the House.

Mr. Ndicho: But Mr. Temporary Deputy Speaker, Sir--

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am going by the Standing Orders of this House. As required in Standing Order No. 76, and taking into account the practice which we have had in the past, I think I will go to the Library and produce evidence to that effect. Mainly, substantiation means either the hon. Member saw, heard or has documentary evidence. But the submissions made by the Vice-President and Minister for Planning and National Development were completely misleading to this House and I am ready to produce the rulings by the late Humphrey Slade who was a very renowned lawyer and a very outstanding Speaker we shall ever have.

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order! There is no heard and first rule. The substantiation must not be necessarily be by way of documents. But when it is demanded, then you have to produce the documents. It is as simple as that.

Mr. Orengo: On a point of order.

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order hon, Orengo. We cannot both be on our feet at the same time. Substantiation does not necessarily have to involve documents but when it is demanded, and more so when you are dealing with an issue like a piece of land has been allocated, it cannot be verbal allocation it has to be documentary somehow; and the demand that documents be produced is not an unfair demand.

Mr. Ndicho: Let me first put something on record here. What I said that I gave to hon. Kamotho, and you have to listen to it very carefully, are documents to show the ownership of that plot as belonging to KANU and that is why I was soliciting the support of hon. Kamotho as the Secretary-General and hon. Ndolo Ayah as the Chairman of KANU, so that they come and protect this particular plot from being grabbed. Going by what hon. Shikuku has said, we have already had a meeting with the three people in the DCs office.

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Ndicho. The issue here is very simple. You said, and I heard you very clearly that a KANU plot in Juja has been grabbed. You further said that you have given documents relating to this grabbing to hon. Kamotho and to hon. Ndolo Ayah, being Secretary-General and Chairman of KANU respectively. You have been challenged by hon. Shikuku to name the grabbers and you have given us three names: *(Expunged)*.

The Vice-President has asked you to produce documentary evidence that indeed, this plot has been grabbed. All I am requiring of you tomorrow is that you retrieve those documents from those two hon. Members whom you gave

and Table them here for everybody to look at and if it turns out to be untrue, and as I told you, you are in an unfortunate situation because you have taken us for a long ride by Tabling untrue documents on the Floor of this House; you will have to bring the documents tomorrow and lay them here. I do not want to hear any more of that. Carry on with your debate on other points.

Mr. Ndicho: But, Mr. Temporary Deputy Speaker, Sir, for me to obtain such a document, it has costs me a lot of money to pay somebody to extract this document. Therefore, giving me a short period, tomorrow, and we are closing Parliament tomorrow, is unfair. Give me more time.

The Temporary Deputy Speaker (Mr. Wetangula): Order, Dr. Otieno-Kopiyo!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, give me more time. I am pleading for more time and I will bring them here.

Dr. Otieno-Kopiyo: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order, Mr. Ndicho. From your own statement, the documents are with hon. Kamotho and hon. Ndolo Ayah. It is not difficult to get them and I have told you that tomorrow we need them here, if not, we shall expunge that record.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I want to explain to you this. With all due respect to the Chair, what is with hon. Kamotho is proving the ownership of the KANU plot at Juja Township. That is what I have given hon. Kamotho and I have told him, "this is your plot, protect it".

Dr. Otieno-Kopiyo: Mr. Temporary Deputy Speaker, Sir, this is not the first time that this particular allegation against *(Expunged)* is being made by hon. Ndicho on the Floor of this House. It was done last year he promised to bring evidence, but he did not bring that evidence. I think let us be honourable; either he has the facts or he does not have the facts, but let him not drag in other peoples names in situations like this.

(Applause)

The Temporary Deputy Speaker (Mr. Wetangula): Thank you, hon. Dr. Otieno-Kopiyo, and that is exactly what I have ruled. Hon. Ndicho, if you go back to that point again, I would invoke the rules, cut your speech short and give the Floor to somebody else. Tomorrow at 2.30 p.m. whether I am on the Chair or not, you would be obliged to bring documents to prove that *(Expunged)* grabbed a KANU plot in Thika Township and lay them on the Table of the House.

(Applause)

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, you are being harsh to me. Even if you would not want to give me time to bring that document, surely, even if you, if I tell you to go for the document, you cannot get it overnight.

The Temporary Deputy Speaker (Mr. Wetangula): I have already made my ruling on that.

Mr. Ndicho: If you want the documents, give me more time. But all I was saying, and I thank His Excellency the President, through Government because he ordered---

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Ndicho, that point is over. Unless you---

Mr. Ndicho: It is over, Mr. Temporary Deputy Speaker, Sir. I am saying that I thank the President, through the Government, because one day he was passing through Thika to Kigumo, hon. Mwaura's Constituency, and I had the opportunity of talking to him as the Head of Government, on various plots that have been grabbed in Thika. He ordered a previous District Commissioner (DC) to make sure that all these things that are making me to make all this noise are looked into. So, I also thank the current DC, because when this issue came up, all the people who were involved were summoned to his Office and cautioned against doing any more construction. I think that is more of an evidence. But all I am saying is and as you know very well, and I have heard you complaining about grabbing of plots, activities in Town Hall and in the Ministry of Lands and Settlement, all we are saying is that, we should have a responsible Government. A Government that must take care of not only the properties of other people, but even their own properties too, like that KANU plot in Juja Township. That is all I am saying. So I hope that once this---

The Temporary Deputy Speaker (Mr. Wetangula): No amount of explanation would save you from bringing that document tomorrow.

Mr. Ndicho: I beg your pardon, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): That chapter is now closed.

Mr. Ndicho: So, Mr. Temporary Deputy Speaker, Sir, I am very happy to be given this opportunity to say

all that I know about land grabbing. You know very well what has disturbed me most in Thika is land grabbing which has affected the re-planning of Thika Town. Why this is so is because Nairobi is completely gone. There is no other plot to be allocated in Nairobi. All the Ministers and the Government know that. And so because of Thika's proximity to Nairobi, every mechanism and all the grabbing machinery has been focused on Thika. That is why we have a lot of problems there.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order. Mr. Temporary Deputy Speaker, Sir. Is hon. Ndicho in order to repetitively bore this House with the land grabbing mania?

The Temporary Deputy Speaker (Mr. Wetangula): Order! Hon. Misoi. That is a very unfair comment. Your colleagues are as entitled to their views on the Floor of this House as you are and there is nobody who gives any boring views here. You must withdraw and apologise to hon. Ndicho.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): Mr. Temporary Deputy Speaker, Sir, I do hereby withdraw and apologise.

Mr. Ndicho: you have finished your business. So Mr. Temporary Deputy Speaker, Sir, as I was saying before---

The Temporary Deputy Speaker (Mr. Wetangula): I thought you were saying "with those few remarks---"

Mr. Ndicho: No, let me finish, Mr. Temporary Deputy Speaker, Sir.

Mr. Maore: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Ndicho to try to pick up the debate again after he had concluded his contribution?

The Temporary Deputy Speaker (Mr. Wetangula): He cannot be out of order.

Mr. Ndicho: I want to conclude by saying that with those very many words, I beg to oppose this Bill. Thank you Mr. Temporary Deputy Speaker, Sir.

Mr. Mulusya: Thank you Mr. Temporary Deputy Speaker, Sir. This is a Bill which should have come to this Parliament way back in 1970s because it is immediately after the death of the founder of this nation, the late Mzee Jomo Kenyatta, that things started going haywire. There were times when once a development plan had been prepared by the physical planners, everything was to be adhered to, to the letter. It was very difficult during Kenyatta's time to hear of the Director of Physical Planning or the Director of City Planning trying to tamper with an already approved physical development plan of an area. That time there was no Act of Parliament which was regulating planning in this country but at least there were some ethics in existence in the planners themselves and those who work with the Commissioner of Lands in the implementation of the development plans for various areas in this country. But what we have seen of late is total erosion of ethics. Ethics have flown through the big windows of the Government offices in this country both in City Hall, Lands Office in Afya House and in every municipality in this country. When the planners have done a very good job, people who have no interest in the long-term welfare of the residents of a particular area, the planners come in droves to prepare part-development plans which are not in harmony with the original approved development plans.

Now, why it has been necessary to enact an Act of Parliament is simply to create a castrating element; a castrating tool for those people whose intentions are nothing, but sinister to the interests of the general Kenyan population. It is very sad when you look at a properly planned development plan with good road network, plans which have been thought out very meticulously both by the planners and the road engineers taking into consideration the future growth or population in that particular area, being changed without having to know what consideration the original people who sat down to prepare the development plan of that area had in mind and what statistics they used. Even today you will find a physical planner being given instructions to alter the density of a certain area from low density to high density and not considering the facilities those people had in mind when providing that plan. Whatever had been left out, is not to be provided for, because, initially, it was not essential. It is not going to be provided for.

Now, I have in mind a case where you find you have considered an area as high density and you have not expanded the road network. You have allowed people to build up to the boundary line of the road, such that, it is difficult for the Government or for the local authority to acquire additional land to expand that road because of population growth and traffic growth, because motor-vehicles have increased.

It becomes very difficult for the planners to come up with a solution about a problem which has now been created, because of nothing, but greed. This is what this Bill looks at; to make sure that in future you do not simply have to go to Ardhi House, call the Director and instruct him that you have somebody you want to allocate a particular piece of land even though it was meant for our children's play ground; divide it into four portions which are going to be residential - a very high density

residential area - without considering what the children and people who want to breathe fresh air---

Mr. Cheserek: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the fact that many speakers have expressed their views on this issue and given the fact that, tomorrow we will be adjourning and everybody will want to speak, shall I be in order to move that the Mover be now called upon to reply?

(Question, that the Mover be now called upon to reply, put and agreed to)

The Assistant Minister for Lands and Settlement (Mr. Kaino): Mr. Temporary Deputy Speaker, Sir, I wish to take this opportunity to thank all Members from both sides of the House for the way they have contributed to this Bill.

The Members' contributions shows clearly that they have taken this Bill very, very seriously. This is evident from the intelligent and constructive way they have contributed towards this Bill. So, I wish to thank all of them for their contributions and also wish to assure the Members that their contributions to this Bill have been taken seriously and appropriately---

QUORUM

Dr. Opere: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a very important debate, but we do not have the Quorum.

The Temporary Deputy Speaker (Mr. Wetangula): Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Wetangula): Order! We have Quorum now. Proceed, hon. Kaino!

The Assistant Minister for Lands and Settlement (Mr. Kaino): Thank you very much, Mr. Temporary Deputy Speaker, Sir. As I have said Members have really shown a keen interest in this Bill. I assure them that we have taken the sentiments and their contributions very seriously. Appropriate amendments will be made accordingly, at the Committee stage.

This is a very important Bill to this country, we need proper and orderly planned towns. Mistakes we have made in the past and we do not want to repeat them in the future for the benefit of our children and future Kenyans who will see that Members sat in this House and enacted the Bill which helped establish nicely planned towns. On the appointment of the Director of Physical Planning, Members suggested that Public Service Commission should appoint the Director of Physical Planning. That suggestion has been taken seriously and it will be done as the Members have said and the Director of Physical will be in charge of the policy matters in regard to physical planning; for example, the formulation of national, regional and local Physical development policies. He will also undertake the functions of physical planning in cases where local authorities have not acquired and established the capacity of competence. Not all the local authorities have the required professionals. It is only the city of Nairobi which has established such capacity and competence.

Mr. Temporary Deputy Speaker, Sir, the Physical Planning Department will be assisting the local authorities, urban councils and townships by way of planning. The role of local authorities as stated will be responsible for the preparation of local physical development plans within their own areas of jurisdiction. They will carry out functions subject to the provision of this Bill. There will be no conflict between the Director and the local authorities as some hon. Members stated. Because there will be cooperation and consultations within these two areas, we do not think there will be room for conflict. So, the hon. Members should feel comfortable about this fact.

As for the composition of the liaison committees, we have taken seriously the comments and contributions of hon. Members to include communities, leaders such as mayors, chairmen of the county councils and urban councils to the liaison committees. The Bills also will give room to those issues which are going beyond local authorities for hearing appeals and to resolve conflicts between the planning issues from their provinces. As far as the public hearing and appeal systems---

The Temporary Deputy Speaker (Mr. Wetangula): Minister, you know you are not supposed to read a speech.

The Assistant Minister Lands and Settlement (Mr. Kaino): I am trying to get some points which---

The Temporary Deputy Speaker (Mr. Wetangula): You can refer to short extracts prepared for your

reply but not read a speech.

The Assistant Minister Lands and Settlement (Mr. Kaino): Mr. Temporary Deputy Speaker, Sir, let me go to mention about satisfactory planning. This is an area where transparency and accountability is actually required because the people themselves need to know how the town is being planned and for that case, public participation or the community participation will be invited and people will view the plans.

They will see the zoning of industries, residential areas, hospitals and schools and when they are satisfied, the plan will go through. We do not want to do things behind the backs of people because this is an age of transparency and accountability. Even in physical planning, we want to be transparent and accountable in whatever we are planning so that accusations which we have levied in this House will not arise in future.

The Member who has just concluded his contribution mentioned about the physical planning as being toothless and that physical planners are just given orders to plan and they have nothing to do with the plans again. This Bill will make the physical planning department have powers to follow up their plans. So, the community will see exactly what is acceptable for them and also what is good for them in urban areas and also in townships. As far as the publication is concerned, Members have said that the *Kenya Gazette* is not widely read by the Kenyans. We have taken that point into consideration and will also put the notices into the daily newspapers, namely *The East African Standard*, *Daily Nation* and *The Kenya Times*. These are the newspapers which are widely read by our people. When reading these newspapers, they will come across the notices.

In conclusion, let me say that the issue of environment is not confined to Kenya alone, but is of global concern. We have taken a serious view of this point and at the Committee Stage, we will introduce some amendments in respect of environmental issues in physical planning.

With these few remarks, I beg to move.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Members, this may be an appropriate moment for us to interrupt our business. The House is, therefore, adjourned until tomorrow, Thursday, 16th May, 1996, at 2.30 pm.

The House rose at 6.25 p.m.