

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 11th November, 1998

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.660

PAYMENT OF HARDSHIP ALLOWANCE TO CIVIL SERVANTS

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

- (a) whether he is aware that some teachers in Kajjado District are paid hardship allowance; and,
- (b) if the answer to "a" above is in the affirmative, when he will pay the other civil servants the said allowance since all of them are working under the same conditions.

The Minister of State, Office of the President (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I would like to request the hon. Member to agree to have the Question deferred because I have not got the answer to it.

Mr. Parpai: Mr. Deputy Speaker, Sir, I have no objection to the Minister's request, but could he say when he will be ready to answer the Question?

The Minister of State, Office of the President (Mr. Ndambuki): May I answer the Question tomorrow, Mr. Deputy Speaker, Sir?

Mr. Deputy Speaker: Yes, and the Question is deferred.

(Question deferred)

Question No.477

PAYMENT OF DUES TO FORMER NYAYO BUS EMPLOYEES

Prof. Anyang'-Nyong'o asked the Minister of State, Office of the President:-

- (a) whether he is aware that dues to former Nyayo Bus Service employees have not been paid since the Corporation was wound up; and,
- (b) if the answer to "a" above is in the affirmative, what he is doing to rectify the situation.

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

I am not aware that the former Nyayo Bus Service Corporation employees have not been paid their dues since the Corporation wound up. However, I am aware that all former employees of the Corporation were paid their final dues in December, 1996.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, if, indeed, the Minister is aware that the Nyayo Bus Service Corporation's former employees were paid their dues in December, 1996, following the winding up of the Corporation on 12th July, 1996, could he tell the House how many employees were paid, and the amount they were paid, including their golden handshake?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, the employees who were paid their dues were 672, and the total amount paid to them was Kshs9,693,284.10.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, arising from that supplementary answer to my supplementary question, could the Minister deny or confirm that the Kshs9,693,264.10 that was paid to the workers amounted to only three month's salary for the 674 workers, and that it did not include the golden

handshake, which was Kshs108 million, disturbance allowance of Kshs8.7 million, and subsistence allowance of Kshs7.54 million?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, as I have indicated, the Kshs9.6 million, which was paid to them, was not golden handshake. That was one month's pay in lieu of notice and five days' pay for each completed year of service.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to avoid answering my supplementary question? He, indeed, confirmed that the Kshs9.6 million was just the salary and disengagement compensation. But he has not told the House what happened to the former employees' golden handshake money, which was part and parcel of the Corporation's privatisation process. Could the Minister confirm or deny the fact that the former Nyayo Bus Service Corporation and the Government are still holding more than Kshs123 million which should have been paid to the Corporation's former employees?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I am not aware that there was any golden handshake money which was supposed to be given to the former employees of the wound up Corporation. However, I would like to promise to look into the issue and then let the House know the true position.

An hon. Member: When?

Mr. Ndambuki: Immediately I get the information. Maybe, next week, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: You will do so on Wednesday next week.

Question No.308

CATTLE RUSTLING IN PASTORAL DISTRICTS

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

(a) whether he is aware that cattle rustling and general insecurity amongst the pastoralists is a major contributor to under-development in the districts of Turkana, West Pokot, Samburu, Marsabit, Wajir, Mandera, Isiolo, Garissa and Tana River; and,

(b) if the answer to "a" above is in the affirmative, whether he could state the programmes he has for the youths in these districts to influence them to forego abominable traditional practices in favour of norms which would lead to eradication of the said vices.

The Minister of State, Office of the President (Mr. Ndambuki): Mr. Deputy Speaker, I would like to ask the hon. Member to accept that we defer this Question to Thursday next week.

Mr. Deputy Speaker: Why?

The Minister of State, Office of the President (Mr. Ndambuki): Because we do not have the answer here right now, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Hon. Minister, for how long have these Questions been with you?

The Minister of State, Office of the President (Mr. Ndambuki): Mr. Deputy Speaker, Sir, we have not been able to come up with an answer. We are seeking the deferral of the Question until Thursday next week.

Mr. Deputy Speaker: Hon. Leshore, are you satisfied with that?

Mr. Leshore: Mr. Deputy Speaker, Sir, I will go along with the Minister, but he should hurry up and bring the answer. There are massacres in Wajir and Northern Kenya because of those practices.

Mr. Deputy Speaker: Question deferred.

(Question deferred)

Question No.645

REVIEW OF PENSION BENEFITS

Mr. Michuki asked the Minister for Finance:-

(a) to what extent the Government has implemented its stated policy concerning Government pensioners as per Paragraph 70 of Sessional Paper No.3 of 1985;

(b) how many salary reviews for Government employees have been implemented since 1985; and,

(c) whether the Government pensioners have benefitted from these reviews since the law was passed in 1996.

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

(a) The Government has fully implemented its stated policy contained in Paragraph 70 of the Sessional Paper No.3 of 1985 regarding review of pension benefits payable to retired public officers. Whenever there is a general salary review of serving officers, there is a correspondence pension increase to the retired officers.

(b) There has been one salary review since 1985; Civil Service Salary Review Committee, 1990/91, known as the Mbithi Salary Review Committee which was implemented in three phases; 1991/92/93. A further review by P.M. Munene Salary Review Committee, a former Permanent Secretary in the Directorate of Personnel Management (DPM) has not been finalised and that would form the second salary review. But its findings are yet to be made public.

(c) After the Pensions (Increase) Amendment Act, 1996 (No.4 of 1996) was passed by this House in August, 1996, all the affected Government pensioners were paid their monthly pension at the increased rates on 1st January, 1997. Subsequent pension increase arrears from 1st July, 1997 were paid in two instalments, in January, 1997 and July, 1997.

Thank you.

Mr. Michuki: Mr. Deputy Speaker, Sir, whereas the recommendation of the Munene Review Committee has been awarded to civil servants, the spirit of the Pensions (Increase) Amendment Act, 1996, has not been reflected in the cheques sent to the pensioners. The Memorandum of Objects and Reasons of that Bill stated:-

"The main object of this Bill is to implement the present Government policy contained in Paragraph 70 of Sessional Paper No.3 of 1985, that whenever there is a general salary revision for civil servants, there should be corresponding increase for Government pensioners."

Mr. Deputy Speaker, Sir, if I may declare my interest because I am a pensioner, although I have not brought this Question because of my own self; it is representation from the pensioners; there are salary increases which have not been implemented in accordance with the Act. Can the Assistant Minister confirm or deny that the law has been broken and the automatic increase in pensions has not been implemented?

Mr. Keah: I appreciate the hon. Michuki's concern and, indeed, his own personal involvement in the matter because he is personally affected. I would like to---

Mr. Michuki: On a point of order, Mr. Deputy Speaker, Sir. I only declared my interest because I am a pensioner, I have not been motivated by my personal interests. I have been motivated by the presentation brought to my attention by pensioners.

Mr. Deputy Speaker: Order! There are many pensioners in this House, including the Chair.

Mr. Keah: Thank you, Mr. Deputy Speaker, Sir. I am only being very friendly to hon. Michuki. He is absolutely right in so far as the law is concerned and in so far as the Treasury, Pensions Department is concerned. The application of the law in accordance with the Pensions (Increase) Amendment Act, 1996, has to the best of my knowledge been implemented to the law. He mentioned the Munene Salary Review Committee, but the report has not been made into law yet. To that extent, because the report has not been adopted, we have not been able to implement it until it comes to this House. Otherwise, all the other reviews, to the best of my knowledge and believe, should have been included in the payslips of the pensioners.

Mr. Keriri: Thank you, Mr. Deputy Speaker, Sir. Can the Assistant Minister tell us why the recommendations of the Munene Salary Review Committee have not been brought to this House?

Mr. Keah: That is a very good question, Mr. Deputy Speaker, Sir. The recommendations of the Munene Salary Review Committee have not been brought to this House because they are under deliberation by the Government to make sure that the recommendations therein can be implemented by the Government. We do not want a situation where it is published and then, the Government is not able to implement those recommendations. We want to avoid that situation and that is why it has not been published until the Government has fully considered the merits and ability to implement what has been recommended.

Mr. Kihara: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the pension we receive is an insult to pensioners? It is not enough even for a week's petrol supply. If you ask hon. Leting who is sitting next to you, he will tell you that it is an insult to pensioners.

Mr. Keah: Mr. Deputy Speaker, Sir, I do not want to comment on the view because I am not a pensioner yet. I do sympathise that it may be inadequate, but that is what the economy can afford at the moment.

Mr. Deputy Speaker: Hon. Obwocha, are you a pensioner?

An hon. Member: He is not!

Mr. Obwocha: Mr. Deputy Speaker, Sir, I am a Member of Parliament, I do not need to be a pensioner to ask a question. First of all, hon. Michuki is in the Committee which is reviewing our pension which is one over 600. He should have done that first.

My question to the Assistant Minister is this: Many of the queries we get from our constituencies are about delayed payment of pension and we are having a lot of problems. I have 10 cases with me now that have not been resolved. I do not know what the problem is. Could the Assistant Minister assure this House that he is going to clean up the Pensions Department, pay the pensioners and institute a new policy that a retiree is paid his lump sum before he goes to receive his monthly pension?

Mr. Keah: Mr. Deputy Speaker, Sir, I sympathise with hon. Obwocha because his sentiments are very correct. I too have problems with pensioners in my constituency. From the Pensions Department and the Treasury's point of view, I want to assure this House that, as part and package of the reform process, we are overhauling the Pensions Department to make sure that it effectively and efficiently services the pensioners of this land.

Thank you.

Mr. Michuki: Mr. Deputy Speaker, Sir, could the Assistant Minister assure this House that either by order from above or from any other source no salary increases have been ordered for civil servants? Could he assure this House that, that has not happened?

(Mr. Keah did not respond immediately)

It seems that the Assistant Minister is not catching what I am saying. Could he assure this House that other than the increases that he has tabulated in his written reply, there have been no other increases by orders from above?

Mr. Keah: Mr. Deputy Speaker, Sir, I would like to give the following assurance. The Minister for Finance, in his Budget Speech in June, 1994, announced a review of the Civil Service Salaries particularly medical benefits as part of the on-going Civil Service Reform Programme. So, over and above the Mbithi Salary Review Committee that became law, the Minister, as part and parcel of the powers conferred on him in the Civil Service Reform Programme in his Budget Speech of June, 1994, announced a review of the Civil Service salaries and medical benefits as part of the on-going Civil Service Reform Programme. These were implemented not only to the existing employees in the Civil Service, but to the best of my knowledge, I believe also to the pensioners. If that was not done, I can go and check and report back. But to the best of my knowledge, that review was implemented to everybody.

Mr. Deputy Speaker: Hon. Assistant Minister, your response was that no aspect of it has been implemented.

Mr. Keah: I am sorry, Mr. Deputy Speaker, Sir. According to the information available, the Munene Review Committee--

(Mr. Keah responded while sitted)

(Laughter)

Mr. Deputy Speaker: Order, hon. Keah. You are responsible for the answer you give. So, do not tell us about Mr. Michuki's affair. According to you, no aspect of the Munene Report has been implemented at all.

Mr. Keah: Mr. Deputy Speaker, Sir, to the best of my knowledge and belief, none has been implemented.

Mr. Deputy Speaker: Thank you. Next Question. hon. Ojode!

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

Mr. Deputy Speaker: Sorry, hon. Michuki. We are on the next question.

Question No.473

ADMISSION TO KENYA MEDICAL TRAINING COLLEGE

Mr. Ojode asked the Minister for Health:-

(a) how many students from Ndhwa constituency have been admitted to Kenya Medical Training College from 1996 to 1998; and

(b) whether he could table a list of those admitted to the said College.

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

(a) The intake of students to Kenya Medical Training Colleges is not done on constituency basis but on

provincial and district basis. Homa Bay District, where Ndhiwa Constituency is situated had 17 students in 1996, and 14 students in 1997, who were admitted. The intake for 1998 is yet to be concluded. I will table the list of those students admitted.

(Mr. Criticos laid the document on the Table)

Mr. Ojode: Mr. Deputy Speaker, Sir, I do sympathise with the Assistant Minister for his answer to this Question. In 1995, about 91 students applied for admission at KMTTC from Ndhiwa constituency. In 1996, we had slightly above 68 students; in 1997, we had slightly over 58 students, but none of them were taken. When I asked these students what the problem was, they told me: "If you do not have Ksh30,000 to give to the Principal, Mr. Boit you would never be accepted in this college.

(Applause)

The Assistant Minister, Office of the President (Mr. Angwenyi): On a point of order, Mr. Deputy Speaker, Sir!

Mr. Ojode: Mr. Deputy Speaker, Sir, Mr. Angwenyi is a friend of mine but I do not want to interfere with him---

Hon. Members: Mr. Angwenyi, sit down!

Mr. Deputy Speaker: Order, order hon. Members! Hon. Ojode, you cannot make such disparaging remarks about somebody who cannot come into this House and defend himself.

Mr. Ojode: Mr. Deputy Speaker, Sir, I am telling you this from the information, I have been given. I have been told that you must bribe your way in order for you to be admitted to this college and you have to pay Kshs30,000! I did ask a specific question: How many students have been admitted to this college from Ndhiwa Constituency? In any case, if a student goes for an interview, the first thing they are asked is to produce the ID. The ID will specifically tell which location or constituency you come from. I would want the Assistant Minister to first of all answer my question. The specific question is: How many students have been taken at the KMTTC from Ndhiwa Constituency?

Hon. Members: The co-operation is not doing you any good!

Mr. Criticos: Mr. Deputy Speaker, Sir, first, I would like the hon. Member to substantiate his allegation that the Principal is taking up money. Secondly, I have already replied to the hon. Member's Question and the hon. House as to how many students have been admitted to the KMTTC. That was the specific question which I have replied to.

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

Mr. Deputy Speaker: Order, hon. Assistant Minister. The question was specifically on Ndhiwa Constituency. You have given an answer as to the students from Homa Bay District. So, the hon. Member is asking you to reply to his question, specifically about those students from Ndhiwa Constituency.

Mr. Criticos: Mr. Deputy Speaker, Sir, I did say in my answer that we do not go according to constituencies, but we go according to province and district basis. This is what we use.

Mr. Wamae: On a point of order, Mr. Deputy Speaker, Sir. What the previous hon. Member has said is common knowledge; that for one to be admitted to the KMTTC, bribery is involved. What is the Government going to do? Could the Ministry of Health produce a list, for instance, for one year, so that we can know where these students come from? I believe there is favouritism in the admission of these students to this college.

(Applause)

Mr. Criticos: Mr. Deputy Speaker, Sir, I would deny the allegations because I do not have any proof that somebody has been given money in order to admit students to the KMTTC.

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

Mr. Deputy Speaker: Order, order hon. Members!

Mr. Criticos: Mr. Deputy Speaker, Sir, the other thing is that last year, I gave a whole list of the intake of students from every single district, which I tabled in the House. If the hon. Member would like to ask another question, I am very willing to table another list of the whole intake for 1998 or for any year he would request.

Mr. Ayako: Mr. Deputy Speaker, Sir, the allegation made by the hon. Member for Ndhiwa regarding corruption at the Ministry of Health is common knowledge. I have been to the Ministry of Health personally, and I

did meet armed policemen with sub-machine guns in the corridor to the office of the director. I was looking for the list of students taken from Rongo Constituency, and the secretary of the director told me that there is no such list.

Mr. Deputy Speaker: Order, hon. Ayako. Ask your question.

Mr. Ayako: Mr. Deputy Speaker, Sir, the question is this: Hon. Members on the Opposition side have evidence that there is corruption there, but we do not produce it in this House. Could this Assistant Minister undertake to investigate this director and bring a report to this House about this corruption and tribalism in terms of intake in those courses?

Mr. Criticos: Mr. Deputy Speaker, Sir, I think you would agree with me that this is a very serious allegation against one of my staff. The hon. Member says he has got evidence, and so I challenge him to produce this information. However, I am willing to table, next week, a whole list of the intake for every single district and province. I am willing to do that. But I would like the hon. Member either to withdraw and apologise to somebody---

(Several hon. Members protested)

Mr. Deputy Speaker: Order! Order, hon. Members!

Mr. Musila: Mr. Deputy Speaker, Sir, one of the biggest problems we are having in this House is that Ministers are getting answers from the same officers who are making---

(Applause)

If it is a matter of substantiation, I am prepared to bring my constituents who have been asked to pay Kshs30,000 by the principal. It is a fact, and I am prepared to bring names of my constituents who as late as last week, were asked for Kshs30,000. Could the Assistant Minister confirm that the actual admission to this KMTC, a very important institution, is not based on corruption and nepotism?

(Applause)

Mr. Criticos: Mr. Deputy Speaker, Sir, I am not aware.

Dr. Kituyi: Mr. Deputy Speaker, Sir, since the contentious issue is that there is bribery and nepotism; that there is lopsided recruitment and the Assistant Minister has undertaken to bring us the list of all admissions next week, could you not oblige him to give us the date and then you defer the Question until then?

Mr. Criticos: I will bring that list next week, on Wednesday. The list is actually available. So, I will just have to compile the 1998 list.

Mr. Ojode: Mr. Deputy Speaker, Sir, first of all, I wish to inform the House that the Minister and the Assistant Minister are just there as figureheads. When the Minister and the Assistant Minister go back to the Ministry of Health, the Minister is like a senior messenger and the Assistant Minister is like an assistant messenger. The person who is running and managing that Ministry is this same man, Mr. Boit!

Mr. Deputy Speaker: Order, hon. Ojode! Before these hon. Members become Ministers, they are first hon. Members of this House! They cannot, and they will not, be messengers! Can you now ask your question?

Mr. Ojode: Mr. Deputy Speaker, Sir, I wish to ask the Assistant Minister, who is the assistant messenger when he is there, whether he is aware that this man, Mr. Boit, reports to the office during ungodly hours? He goes there at 6.00 a.m. in the morning and leaves at 7.45 a.m., and he will never be in the office up to 12.45 p.m. He goes out some minutes to 2.00 p.m. and he will never be in the office again up to 6.00 a.m. the next day. Could the Assistant Minister confirm that he will bring a list of those who have been taken from Ndhiwa Constituency to the Medical Training Colleges and not a list for the whole district? I did not ask a question regarding the district. I want the Assistant Minister to confirm to this House whether he is going to bring a list of those who have been admitted at KMTC from Ndhiwa Constituency and, secondly, could the Assistant Minister also confirm to this House that this man of his, will be in the office during official hours for official duties?

Mr. Criticos: Mr. Deputy Speaker, Sir, I would like to inform hon. Ojode that we do not keep records according to constituencies. Secondly, I am not aware of these unofficial hours. However, I am aware that I even leave the Ministry at 10 p.m. at night working for the interest of the public!

Mr. Shidie: On a point of order, Mr. Deputy Speaker, Sir. I think the Assistant Minister is misleading us. It is obvious and we have seen it. I am a KANU Member of Parliament and I have seen it. The Principal of KMTC is operating during ungodly hours. It is a known fact and he is misleading us. Even the Assistant

Minister has got a problem. He cannot admit a person from his constituency and he knows that bribery is going on in that place. So, he is misleading us!

Mr. Deputy Speaker: Order, hon. Members! When a Member stands on a point of order, he is expected to direct it to the Chair to rule. Hon. Shidie has raised a point of order on which I cannot rule because I do not work in the Ministry of Health and I do not have facts about that matter. So, Mr. Criticos, can you help us if there is a problem in respect of this officer? This House only wants you to run your Ministry efficiently. But you have undertaken to provide a list of intakes per district. In fact, these hon. Members represent constituencies. So, if it is not possible within a week to extract that information, take more time to do it because their interest is not intake per district, but per constituency.

Mr. Criticos: Mr. Deputy Speaker, Sir, I will attempt to do that, but I cannot promise the House because we do not have any records on constituencies. However, we will try and get it.

The Assistant Minister of State, Office of the President (Mr. Angwenyi): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, hon. Members! The Assistant Minister was responding to a point of order.

Proceed!

Mr. Criticos: That list will be here next week, on Wednesday.

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

Mr. Deputy Speaker: Order! Next Question, Mr. Mboko! Yesterday, we spent two hours on Question Time and I am not going to allow that today.

Question No.664

ILLEGAL ACQUISITION OF PUBLIC UTILITY PLOT

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

(a) whether he is aware that a senior Government official in the Central Provincial Office has illegally acquired a public utility plot in Kiboko Settlement Scheme in Kibwezi Constituency;

(b) whether he is further aware that the plot had been reserved to enable the settlers to develop churches, village polytechnic, dispensary and a market centre; and,

(c) if the answers to "a" and "b" above are in the affirmative, what action he is taking to ensure that the officer surrenders the said land for public utility.

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

(a) I am not aware that a senior Government official in the Central Provincial office has illegally acquired a public utility plot in Kiboko Settlement Scheme in Kibwezi Constituency.

(b) I am also not aware that the plot had been reserved to enable the settlers to develop churches, village polytechnic, dispensary and a market centre.

(c) The hon. Member should name the senior official he has in mind and the number of the plot he or she was given in Kiboko Settlement Scheme, to enable the Ministry to investigate further if necessary.

Mr. Mboko: Mr. Deputy Speaker, Sir, the plot in question has been allocated to the Central PC, Mr. Peter Kiilu, and an Assistant Commissioner of Police, Mr. Peter Kimundi, and the plots are 30 acres in size. These plots have raised a lot of anxiety in my constituency, whereby even the local councillor--- Now that I have named the persons allocated that plot, can you confirm to this House that you are going to revoke the allocation?

Mr. arap Leting: Mr. Deputy Speaker, Sir, the plot which I presume you are referring to is number 946, measuring approximately 10 acres, within Kiboko Settlement Scheme. It was allocated to PC, Central Province, Mr. Peter Kiilu and there is nothing to hide about it because he followed the right procedure and there is no rule that civil servants cannot be allocated any land.

Mr. Shill: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the same senior officer grabbed almost half of the Government houses in Garissa District when he was the PC in North Eastern Province? Could the Assistant Minister stop this "monster" from grabbing Government property?

Mr. Leting: Mr. Deputy Speaker, Sir, we are discussing a plot in Kibwezi not Garissa.

Mrs. Mugo: Mr. Deputy Speaker, Sir, under what circumstances was the PC settled in a landless peoples' programme? Is he a squatter? That scheme was meant to benefit the squatters in that area.

Mr. Leting: Mr. Deputy Speaker, Sir, the PC applied for allocation of that plot. After the committee

looked at his application, it was satisfied that he needed that piece of land.

Mr. Katuku: Mr. Deputy Speaker, the plot in question came to the public attention during the burial of the late Prof. Sumbi when the chairman of the Makueni County Council raised that issue. He is now being intimidated by the Provincial Administration for doing so. Can the Assistant Minister consider revoking this allocation to the PC and revert it to public utility?

Mr. Leting: Mr. Deputy Speaker, Sir, there will be no revocation. The plot had been initially earmarked for a market centre, but this idea was shelved when ground reports showed that the commercial activities in the area were well catered for by a plot No.947, which had also been set aside as trading centre. Furthermore, about one kilometre away from that plot there is another market centre by the name of Mbui Nzau market. It is, therefore, not true that plot No.946 was set aside for what the hon. Member is alleging. It is not true that the plot was illegally acquired by the officer since the correct procedure was followed during the allocation.

Dr. Kituyi: Mr. Deputy Speaker, Sir, we have problems with contradictions in this Assistant Minister's reply. First, he said that if he knew the public officer from Central Province who has been allocated that plot, he would institute measures to reclaim that plot. But before he finished answering that question, he even told us the plot number. Actually, this plot has been allocated to this PC, which means he knew the answer when he was pretending otherwise. He proceeded to say that there was nothing wrong in giving him this plot. Of course, I can understand the hon. Assistant Minister has been a senior civil servant and he knew about giving land. But if the Assistant Minister is accepting that this plot was originally meant for public utility and even if it was legitimately given to a person, it is within the purview of his docket to cancel that allocation and revert it back to public use. There is nothing wrong with markets being one kilometre apart. Can the Assistant Minister now say that considering the strong opinion of elected leaders from that area and, notwithstanding the fact that there is another market centre a kilometre away, the Government will undertake to look for more land elsewhere, if the PC needs land because he is a landless squatter and give him, but instead revert this plot to public utility service?

Mr. Leting: Mr. Deputy Speaker, Sir, I did not understand that question by the hon. Member because he capitalised very much on the fact that I knew the PC. I will assume this is the position until it is proved otherwise. When you say it is a civil servant who was allocated this plot how do you expect us to have known him? It is all by coincidence that I was intelligent enough to guess who he could be.

Mr. Wambua: Mr. Deputy Speaker, Sir, since the Assistant Minister has said that the PC was [Mr. Leting] legally allocated this plot, could he table the minutes of the Makueni County Council meeting which allocated the PC this plot?

Mr. Leting: Mr. Deputy Speaker, Sir, I cannot table the minutes, but I can quote the reference letter under which he was allocated this plot. I do not have the copy of the minutes of that meeting, but I have the reference number of the letter which was written in March this year.

Mr. Parpai: On a point of order, Mr. Deputy Speaker, Sir. The question by the hon. Member is very specific. He is asking for the minutes to show that the allottee was legally allocated this plot.

Mr. Leting: Mr. Deputy Speaker, Sir, the plot was allocated legally by the Government.

Hon. Members: Who is the Government?

Mr. Mboko: Mr. Deputy Speaker, Sir, the PC who has been allocated that plot has several plots in other settlements in Kibwezi. For example, he has plots in Masongaleni and Kiboko settlement schemes. Now, he has been allocated a public utility plot meant for squatters. Where will those squatters now go since the PC has grabbed their land? Can the Assistant Minister tell us that he is going to revoke this allocation so that this plot will revert to its original use because my constituents will not allow the PC to settle in that plot? We will not let him live there!

Mr. Deputy Speaker: Order, Mr. Wambua! You do not have to threaten Kenyans from the Floor of this House. Kenyans can live anywhere in this Republic.

Leting: Mr. Deputy Speaker, Sir, I think it is not fair for hon. Member to issue a threat to an innocent person who has been allocated land lawfully. Here, hon. Members are confusing two things; first, this plot was not allocated to any squatter. It was a reserved plot for a market centre. But after reviewing the situation on the ground together with the local leaders, it was discovered that the existing markets were enough.

Mr. Katuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister says the usage of the land was changed by the local leaders where hon. Mboko and the County Council chairman are leaders in that area. Who changed the use of this plot? We want to see the minutes to that effect. Is the Assistant Minister in order---

Mr. Deputy Speaker: Order! Hon. Katuku, you are asking a question. You are not raising any point of

order. For Christ's sake, let us get it right, if you want to ask a question, stand up and if you catch the Speaker's eye you will be given an opportunity to do so. Mr. Katuku, you are cheating hon. Members by standing on a point of order while you intend to ask a question. Next Question, hon. Gitonga.

Question No.658

REPAIR OF MOI-KAGWE ROAD

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

(a) if he is aware that Moi-Kagwe Road in Lari has become very dangerous to motorists due to huge pot-holes; and,

(b) if the answer to "a" above is in the affirmative, when the Ministry will carry out the necessary repairs to make the road safe to motorists.

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

(a) Yes, I am aware.

(b) The Ministry has plans to rectify the situation by undertaking the necessary repair works. The Kiambu District Works Officer will carry out the repairs and a total of Kshs526,846 has been aside for the work.

Mr. Gitonga: Mr. Deputy Speaker, Sir, I am grateful to the Assistant Minister for that answer. But could he inform this House when this work will commence?

Mr. Khaniri: Mr. Deputy Speaker, Sir, the work on that road will start anytime from now because money was availed to the District Works Officer on 30th September, 1998.

Mr. Kihara: Could the Assistant Minister tell us which organisation has been responsible for allocating the *El Nino* emergency funds? It appears that these funds have been given out selectively. We, the people of Nakuru District, have not received a single cent of the *El Nino* emergency funds. What criteria have been used in the distribution of this money meant for the rehabilitation of our roads?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I am sorry that I am not in a position to answer that question because that fund does not fall under my Ministry. The source of funding for this road will be fuel levy and not the *El Nino* recovery fund.

Mr. Gitonga: Mr. Deputy Speaker, Sir, as you have rightly observed, this road was named after his Excellency the President. Could the Assistant Minister tell this House why the Government has waited for the road to deteriorate so badly before repairs are carried out?

Mr. Khaniri: Mr. Deputy Speaker, Sir, this was due to unavailability of funds. But now the Ministry has availed funds to be used for the repair of this road. As I have promised the hon. Member and this House, the work on the road will commence any time from now.

Question No.557

MAINTENANCE OF KERICHO-NAKURU ROAD

Mr. Deputy Speaker: Is Mr. Kimeto not here? Let us move on to the next Question!

Question No.492

MANAGEMENT OF MERU NORTH CO-OPERATIVE UNION

Mr. Ndwiga, on behalf of **Mr. Maore**, asked the Minister for Co-operative Development:-

(a) why the Meru North Co-operative Union has operated for the last eight years without holding a single Annual General Meeting (AGM);

(b) whether he could list key assets of the Union as of 1990 and its inventory of 1997; and,

(c) where the money for rent proceeds from Nyambene House and go-down at Nanyuki is banked.

The Minister for Co-operative Development (Dr. Anangwe): Mr. Deputy Speaker, Sir, I beg to answer.

(a) I am not aware that Meru North Co-operative Union has operated for the last eight years without holding a single AGM. On the contrary AGMs were held in 1991, 1992, 1993, 1994, 1995, 1996 and 1998.

(b) As at 30th September, 1990 the assets of the union were as follows:-

<u>Asset</u>	<u>Value (Kshs)</u>
Land	8,552,000
ASK Stand	14,600
Nyambene House	7,733,435
Ruaraka House	82,189
Meru House	1,264,491
Nanyuki go-down	254,883
FISS stores	484,563
Meru go-down	655,000

Mr. Deputy Speaker: How long is the List?

The Minister for Co-operative Development (Dr. Anangwe): Mr. Deputy Speaker, Sir, it is very short.

Mr. Deputy Speaker: If it is long you can lay it on the Table.

The Minister for Co-operative Development (Dr. Anangwe): Mr. Deputy Speaker, Sir, as of 30th September, 1990 the total value of the assets was Kshs23,179,802.10. The Union's inventory of 1997 has land, buildings, furniture, equipment and motor vehicles. A summary of the net book value of the Union's assets as of April, 1997 was Kshs20,614,782.70.

(c) The whereabouts of the rent proceeds from Nyambene House, Nanyuki go-down and other monies from the sale of a Ruaraka plot is being investigated with a view to establishing the amount involved, and whether or not there has been misappropriation of the same. When the investigations are completed, the Government will take the necessary action in accordance with Co-operative Society's Act.

Mr. Ndwiga: Mr. Deputy Speaker, Sir, I sympathise with the Minister who is a very nice gentleman. This is because he is getting answers from the wrong people.

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. Why is hon. Ndwiga calling you "Mrs. Deputy Speaker"?

(Laughter)

Mr. Ndwiga: Mr. Deputy Speaker, Sir, hon. Kituyi is out of order. The reason why the Minister has instituted investigation into the mismanagement of this Union is because elections for the officials have not been held for the last eight years. If the elections had been held there would have been no need to carry out investigations.

Mr. Deputy Speaker: Ask your question, Mr. Ndwiga!

Mr. Ndwiga: Mr. Deputy Speaker, Sir, if the election for the officials of the Union had been held, then the Minister would not have needed to carry out further investigations. The issue of rent---

Mr. Deputy Speaker: Order, Hon. Ndwiga! Sincerely speaking, we have only four minutes per Question time. If you take a long time laying the background for your question then we will be unfair to other hon. Members who have not asked their Questions.

Mr. Ndwiga: Mr. Deputy Speaker, Sir, is the Minister aware that the investigations he will carry out--- Rent has been received every month for the last eight years as follows: Nyambene House - Kshs360,000, Meru North office - Kshs27,000, Kinoru House - Kshs15,000, Nanyuki go-down - Kshs10,000 and Meru Garages - Kshs8,000. The Ruaraka plot was sold for Kshs4.5 million. This money has not been accounted for and that is why AGMs have not been called. Is the Minister aware of this?

Dr. Anangwe: Thank you, Mr. Deputy Speaker, Sir. There are several answers to that question. In relation to the AGMs, I have the minutes here of AGMs for all those years. I am prepared to table them for his own consumption. As regards the rent proceeds from Nyambene House, Nanyuki go-down and the sale of the Ruaraka plot, which is missing, the Ministry is still investigating the matter. It is easy to accuse somebody, but it is hard to prove him guilty in a court of law. So, the Ministry is looking for adequate evidence to warrant any action. It is true that the Ministry has received complaints, and some of the allegations the hon. Member has made. We also have conflicting allegations as to the amount involved. That is why we need adequate time to investigate the matter before we can pin down anybody for any malpractice.

Mr. Deputy Speaker: Mr. Kimeto's Question for the second time!

Question No.557

MAINTENANCE OF KERICHO-NAKURU ROAD

Mr. Deputy Speaker: Mr. Kimeto is still not here? His Question has lapsed.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

DUMPING OF IMPORTED SUGAR

Mr. Achola: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Is the Minister aware that both transit sugar and untaxed imported sugar continue to be dumped into the local market despite Government's assurance that these practices would be curtailed?

(b) If the answer to "a" above is in the affirmative, could the Minister name the importers involved and indicate the amount of sugar so irregularly diverted or imported between January and August, 1998?

(c) In view of the apparent inability to stop the dumping of the imported sugar into the local market and not withstanding World Trade Organisation (WTO) regulations, could the Minister consider imposing a complete ban on sugar importation, including transit sugar, and allow only the Kenya Sugar Authority (KSA) to import quantities enough to satisfy the domestic deficit?

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

(a) I am not aware that both transit sugar and untaxed imported sugar continue to be dumped into the local market.

(b) In view of the answer to "a" above this part of the Question does not arise.

(c) In view of the measures taken to deal with this menace, the question of inability to stop it does not arise.

Mr. Achola: Mr. Deputy Speaker, Sir, I hope you heard the answer the new Assistant Minister has given. I am surprised that he is saying that he is not aware that transit sugar continues to be diverted into the local market. If he is not aware I would like to bring to his attention that as of August, 1998, irregularly imported sugar to the tune of 300,000 tonnes had already been brought into this country. Duty was paid on only 150,000 tonnes. In view of that revelation, could he tell this House who the importers were and why tax was not collected on 150,000 tonnes, which have already been imported into the country?

Mr. Arap-Kirui: Mr. Deputy Speaker, Sir, as I said, I am not aware of any irregular importation or any sugar that has been dumped in the local market since the Government took very stringent steps to curb the dumping. If, on the other hand, the Member has information as he claims, we will be keen to study and investigate and take appropriate steps. We are very keen to eradicate this menace.

Dr. Oburu: Mr. Deputy Speaker, Sir, the Assistant Minister says he is not aware that there is dumping of sugar. We all know that all the sugar factories are unable to pay farmers because their stores are full of sugar because of inability to compete with imported sugar. I would like the Assistant Minister to tell us the measures the Government is taking to seal the dumping of sugar into the local market by unscrupulous businessmen whom he knows, because some of them are in court, and the Assistant Minister cannot tell us that he is not aware, when some of them are even Members of this House, and they are in court for dumping sugar in the country.

(Applause)

Mr. Arap Kirui: Mr. Deputy Speaker, Sir, I believed that the Member was talking about the current situation. Otherwise, it is not a secret that this problem used to exist in the past. But the Government has taken steps to eradicate it. If there is any current breach of the existing regulations, we will be very keen to investigate it and take appropriate action. Otherwise, I agree that we have had this problem in the past and measures have now been taken. If I can enumerate some of the measures that have been requested by the Member, we now have a situation where the transportation of sugar meant for other countries is carried out in covered body vehicles which are fixed with customs fields and are escorted by the police along approved routes. We also have bank guaranteed bonds which are readily realisable in the event of non-compliance with the regulations. The Kenya Revenue

Authority also confirms with the recipient countries, in this case Tanzania, Uganda and Rwanda that the importers claims in the sugar that is imported for transit actually exists, and that the sugar is expected in the particular country. Bonds on sugar are only cancelled once confirmation has been received from the country of destination in the case of Uganda and Tanzania. In the case of the Democratic Republic of Congo and Rwanda---

Mr. Ayako: On a point of order, Mr. Deputy Speaker, Sir. When the Assistant Minister started answering this question, he said that he was not aware of dumping or diversion of sugar into the market. But right now, he is giving measures that are being taken to curb dumping. Is he in order to, on the one hand, deny that there is dumping and diversion, and on another hand, say that there are measures being taken to curb the problem that he denied it existed in the first place?

Mr. Arap-Kirui: Mr. Deputy Speaker, Sir, I would ask hon. Members to be listening as we answer these questions. I think I did deal with that particular issue and said that old cases of dumping existed. We are not aware of any cases now because these measure I am enumerating have been taken to avoid this menace. If I can be allowed, I can go further to---

Mr. Deputy Speaker: Order, hon. Assistant Minister! How many are you going to enumerate?

Mr. Arap-Kirui: I think there is only one more. As I was saying, we now receive confirmation before we cancel bonds. The KRA has established a transit monitoring unit to monitor the movement of sugar and other transit goods. We also have what is generally called the KRA police which is a revenue protecting unit within the KRA to strengthen investigations and prosecutions of any malpractices.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, in view of the apparent failure of the measures so far taken by the Government to stem illegal importation; and as an effort to encourage the growth of this industry, can the Assistant Minister tell us why they are not finding it easy to ban every Tom, Dick and Harry from importing sugar and restricting it to the sugar factories and Kenya Sugar Authority, so that the Twahas and the Sajjads cannot have a chance to import.

Mr. Deputy Speaker: Order, Dr. Ochuodho! Hons. Twaha and Sajjad are both Members of this House. No matter how you dislike them, you still must refer to them as hon. Members.

Dr. Ochuodho: I apologise, Mr. Deputy Speaker, Sir, but I just meant every Tom, Dick and Harry.

An hon. Member: Hon. thieves!

Mr. Arap Kirui: Mr. Deputy Speaker, Sir, I am sorry to have to repeat that what the hon. Member is referring to are old cases. None of these are current, with the measures that we now have in place. If there are any existing and current cases and breaches, we will be very keen to receive that information so that we can---

Mr. Kombo: Mr. Deputy Speaker, Sir. Since the Assistant Minister is pretending that he does not know, can he deny or confirm that Kenafric--- I would like to give him the names of the people who have the sugar at the port of Mombasa.

Mr. Deputy Speaker: You can raise that on a point of order!

Mr. Kombo: Mr. Deputy Speaker, Sir, I said point of information!

Mr. Deputy Speaker: Order! If you want to ask a question or you want to give information, stand on a point of information---

And hon. Member: But he said point of information!

Mr. Deputy Speaker: No, he said point of order!

Mr. Kombo: No, I said point of information!

Mr. Deputy Speaker: Well, if the Assistant Minister wants it, I will give it!

Mr. Arap-Kirui: Mr. Deputy Speaker, Sir, I believe I am well informed, but if the hon. Member is keen to give us information, we are ready to receive it. I think we have adequate avenues to investigate. We are very keen to eradicate the menace completely. If the hon. Members will co-operate, and if members of the public have any information---

Mr. Kombo: On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! If the Assistant Minister does not want information, you cannot force it on him.

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

Mr. Deputy Speaker: Order! Hon. Assistant Minister, do you want to accept that information or not?

Mr. Arap Kirui: Mr. Deputy Speaker, Sir, not in the manner that he wishes to give it.

(Loud consultations)

Mr. Deputy Speaker: Order! Let us move on to hon. Achola's Question.

(Several hon. Members stood up on points of order)

No, there will be no point of order!

Mr. Kombo: On a point of order, Mr. Deputy Speaker, Sir. The sugar industry is important and so, I think it is important that we clear this matter.

Mr. Deputy Speaker: Order, hon. Members! It is as important for me as it is for you, but we cannot clear it during Question Time. Hon. Kombo, when the Speaker is on his feet, you freeze; that includes your mouth. The best way to deal with that serious Question quite frankly is to bring a Motion so that we can debate on it fully. I do not think you are giving the subject fair treatment by bringing it up at Question Time. Bring a Motion and let us debate it fully because it is a matter of concern to this nation. This is the way I find it.

Mr. Achola: Thank you, Mr. Deputy Speaker, Sir. I would like to give my chance to hon. Kombo to ask a question.

(Applause)

Mr. Deputy Speaker: Order! Hon. Achola, you have no such powers real or imagined. Hon. Members, we do want to press on with our business. There is a Motion that we must conclude. As I told you we are going to allocate only one hour for Question Time. We are now short by ten minutes. So, I am going to ask the Member for Budalangi hon. Wanjala that his Question be taken tomorrow so that we can proceed with our business.

Mr. Achola: What happened to my Question?

Mr. Deputy Speaker: You did not want to ask it.

MINISTERIAL STATEMENT

STATUS OF KENYA MEAT COMMISSION

The Minister for Agriculture (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I would like to make a Ministerial Statement on the status of the Kenya Meat Commission. This is following the demand by the Member for Kathiani, hon. Kaindi for a Ministerial Statement on the current state of affairs at the Kenya Meat Commission.

In response to that demand, I would like to state as follows. Kenya Meat Commission is currently under receivership and Peat Marwick were appointed as the receivers on the 17th of September, 1998. They are represented by Mr. Andrew Douglas Gregory and Mr. Abdul Zahir Sheikh. The process of receivership will lead to the privatisation of the organisation, whereby, investors who are interested in investing in the company will do so with the intention of reviving the operations of the organisation for the benefit of the farmers and the livestock industry in general.

Now, turning to the specific issues raised by the hon. Member, I would like to respond as follows: One, the Kenya Meat Commission Primary School is located on the same plot as the Kenya Meat Commission Factory. This being a Government school, whoever will be the purchaser of the factory will be requested to allow this important facility to continue. The receivers have also been given clear instructions that they do not interfere with the operations of the school. Secondly, Kanani is not a primary school, but a nursery school. This school is not on Kenya Meat Commission land and, therefore, any development taking place in KMC will not influence the operations of Kanani Nursery School. Thirdly, this is the case again with the division offices allocated on the same plot as the KMC factory. This being public offices, arrangements will be made to ensure that they remain so. The receivers have also been instructed not to interfere with the operations of the offices during the receivership period. Four, the occupants of KMC quarters comprise of employees of KMC and tenants. The employees of KMC will be allowed to stay in the quarters until a buyer is found for the business. At this stage it is hoped that the employees will be offered employment by the new purchasers. On the other hand, the tenants of KMC will be allowed to stay in the quarters provided that they pay the rent that is due and meet the terms of the tenancy agreements. Fifth, the dues of the former employees of KMC will be handled in accordance with the laws of Kenya. In any receivership realisation from the disposal of the assets are disbursed in the following manner:

1. The cost of receivership
2. Preferential creditors

3. Secured creditors
4. Unsecured creditors

Preferential creditors comprise of certain Government taxes and arrears of wages. The secured creditors in the case of KMC comprise of the National Bank of Kenya and Mitsubishi Corporation. Unsecured creditors comprise of all other creditors including the dues of former employees. On the sale of the business, the receivers have been instructed to seek buyers for the whole factory that is land, building, plant and machinery. A piecemeal sale of the assets is not intended at all. As far as the depot and staff houses in Mombasa are concerned, these will be sold separately when the time comes. Since the appointment of the receivers, certain scrap machines, scrap metal and scrap paper has been sold. These assets were irrelevant to the continuing operations of the business and tenders for the sale of the same had been finalised just before the receivers took over. The value of the scrap metal sold came to Kshs300,000.

Mr. Kaindi: Mr. Deputy Speaker, Sir, I would like to thank the Minister for giving an elaborate answer. But I would like to point out to him the following: The process of disbanding KMC started way back in 1991 or 1992 when the most important aspect of KMC, the land, was taken over by the Government and given over to EPZ and the other land was given to private individuals. These individuals have been selling that land. They sold it to NSSF for over Kshs300 million which would have been used to bail KMC out. Today KMC owes debtors including the Government about Kshs1.5 billion. If the land that was taken by EPZ and given to private individuals, had been taken over by National Bank, KMC would not be under receivership today. KMC is so important in the agricultural sector. I think it is only fair that if the Government wants to look for a private investor to take upon itself to write off part of that debt. It is the same Government that sold the most essential assets of KMC; the land. People from Ukambani would like to participate in buying KMC but we cannot buy it when the Government has put on top of it a debt of Kshs1.5 billion. Kshs 800 million belongs to the Government and Kshs500 million to National Bank of Kenya although the Government has given the land which could have been used to offset that. Could the Minister review this case and find an appropriate approach to the issue of KMC either by way of the Government writing off? I can assure the Minister that the Kamba community and other nomadic communities will be able to participate in buying KMC.

Mr. Munyao: Thank you, Mr. Deputy Speaker. I will be very brief. We are very grateful for the statement made by the Minister. The Community in that area takes the Minister serious because of his past concern. The reason why KMC was grounded and later went to being what it is despite the fact that the Government and Mitsubishi has put a total of about Kshs7 million last year is because of the factors relating to animals to be butchered and caned. The holding ground was divided as the hon. Member said and, therefore, it rendered the project completely invaluable because without a holding ground for slaughtering the animals the project was not viable. We would like the Minister to go back and investigate because we are sure that some of the titles are just being reallocated not given. If it is possible we would like the allocation to be done within the holding ground which is not being utilised because without a holding ground, even the future buyers of KMC will not find it useful. We request the Minister to consider this request of giving the communities around there the priority to buy the factory. Otherwise it will be impossible. Whoever buys will be required to leave and take it elsewhere where it can be useful.

POINTS OF ORDER

MINISTERIAL STATEMENT ON DISRUPTION OF MEETING

Mr. Wambua: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I stand here to seek a Ministerial Statement from the Minister of State, Office of the President regarding a certain incident which happened in my constituency on Sunday, 8th November, this year. I was supposed to hold a meeting with my business people in Matuu Market and the reason was to elect the committee of the town which, of course, will run the activities of the town. This is a usual activity because it is there in every market or town. I had notified the OCS, Matuu Police Station in time. I have a letter which shows that I notified him on 6th, November, 1998, that I was going to hold that meeting. I also invited the OCS of Matuu---

Mr. Deputy Speaker: Hon. Wambua, what do you want to raise? Quickly make your point.

Mr. Wambua: Mr. Deputy Speaker, my concern is this: The police in Yatta came and disrupted my meeting. I would like the Minister to give a statement why this happened after I had already notified the police station. Secondly, the OCS, Kithimani came and started throwing tear gas canisters at the residents of Matuu

Town while, of course, we had already discussed and agreed to cancel the meeting. I have got some pictures which show that this happened. Can the Minister also lay on the Table my sound equipment which was taken by the OCS when he issues a Ministerial Statement? This equipment was looted during day time by this inspector.

MINISTERIAL STATEMENT ON CBK
TENDERING PROCEDURE

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I stand on a point of order to seek a Ministerial Statement from the Minister for Finance regarding an on-going tendering computerization process for the Central Bank of Kenya which may end up into being a "CAL- gate". The reason why I may consider it a "CAL-gate" is that, this tender was publicly opened on the 30th September and four companies put in their bids. The first company, MPC put in a bid for US\$1.8 million, ICM US\$2.2 million, Copy Cat US\$3.0 million and CAL US\$4.4 million. We may recall that a few months ago, the Public Accounts Committee (PAC) did recommend that this company, CAL should not be allowed to tender and I have the documents to support that. I will lay them on the Table when the time comes. But surprisingly, we are made to understand that on Monday this week, this tender was, in fact, awarded against all odds to CAL despite the fact that from that list, CAL had the highest quotation and also, in consideration of the fact that PAC did recommend that CAL should not even have been allowed to bid in the first place.

Mr. Deputy Speaker, Sir, we have also been told in this House that one reason for this irregularity is because of the influence of a certain Minister who is a director of this company, and also a senior computer manager within the Central Bank who is also a director of this company, CAL. I would want the Minister, when giving his Ministerial Statement, to address the following issues:- One, can he brief this House on the exact current position of this tender? Two, can the Minister tell the House why this tender was not publicly advertised? Three, I would want the Minister to tell this House why such a high and costly computer is required by the Central Bank while experts believe that a lower cost computer would as well achieve the same result? Fourthly, I would like the Minister to tell the House why CAL of all the companies is being picked to get this award? This is the reason why I was calling it a possible "CAL-gate". Finally, I would want also to know from the Minister, considering all these irregularities, if he is going to consider cancelling that tender and re-tendering?

MINISTERIAL STATEMENT ON DISAPPEARANCE
OF KSHS 2 BILLION

Dr. Kituyi: Mr. Deputy Speaker, Sir, on Thursday, 29th October, 1998, I raised a Question here concerning the disappearance of nearly Kshs2 billion from the taxes levied by Kenya Posts and Telecommunications which was not transferred to the Exchequer. The Assistant Minister, hon. Chris Obure, undertook to bring a new reply telling the House what happened to the Kshs2 billion on Thursday, last week. He did not do so last week and from the programme of activities for this week, the Question does not appear anywhere. Since the hon. Assistant Minister is here, would the Chair ask him to say when he will honour the promise of bringing the reply?

The Assistant Minister for Transport and Communications (Mr. Obure): Mr. Deputy Speaker, Sir, we were ready with the additional information requested last Thursday, but as you will recall, there was no time for all the Ministerial Statements that were to be issued on that day. So, we will be coming up tomorrow with the Ministerial Statement on that.

Mr. Deputy Speaker: Next Order!

MOTIONS

ESTABLISHMENT OF A PARLIAMENTARY
SERVICE COMMISSION

THAT, in order to promote and consolidate the dignity, independence and the supremacy of Parliament, this House urges the Government to take immediate steps, including the introduction of any necessary constitutional amendments, to establish Parliamentary Service Commission which shall be directly responsible to the National Assembly.

(Mr. Oloo-Aringo on 4.11.98)

(Resumption of Debate interrupted on 4.11.98)

Mr. Orengo: Mr. Deputy Speaker, Sir, I was on my feet last time, and I want to repeat the fact that, as regards the question of the doctrine of separation of powers and the reason why there is need for the Parliamentary Service Commission, Hon. Aringo did cover this subject extensively, and I only need to emphasize that, indeed, under our constitution, Section 30, the legislative power of the Republic of Kenya is vested on the Parliament of Kenya. It is important that this Parliamentary Service Commission is established as soon as possible. In consideration of this fact, I want to mention something which probably is taken for granted in this House.

Mr. Deputy Speaker, Sir, under the Constitution and the Standing Orders of this House, the Speaker of the National Assembly has enormous powers. He is a creation of the Constitution; no business of this House can be transacted ever before the election of the Speaker. Indeed, this should be contrasted by the fact that, if ever there was a vacancy of any seat in the National Assembly, that would not stop the business of this House from going on. But there must always be a Speaker elected by this National Assembly. Under the Constitution, the Powers and Privileges Act, and the Standing Orders, it would appear that the Speaker has enormous powers including disciplinary powers over Members of this National Assembly. He can, under the Standing Orders and under the powers and privileges Act undertake disciplinary measures against any Member of this National Assembly. But whereas the Speaker is a giant in relation to the Members of this National Assembly, the Speaker is a dwarf if not a midget in so far as the Clerk and other staff of the National Assembly are concerned. It is quite obvious that under the present system, the Speaker has no powers at all to supervise and oversee the administration of the National Assembly. Indeed, over the years the Clerk of the National Assembly has assumed powers that are not specifically spelt out either in the Constitution, or in any of the Statutes that govern the affairs of this House.

I would appreciate the fact that if the Parliamentary Service Commission was established, then the Speaker would assume a more important role in co-ordinating and overseeing the affairs of the National Assembly or any member as opposed to the Clerk of the National Assembly. The Clerk of the National Assembly is not an appointee of this House. We cannot take any disciplinary measures against the Clerk of the National Assembly or any member of staff of this House. There is no provision under which we can take such measures or any member of staff of this House. And yet, the Speaker can take disciplinary measures against hon. Members of this National Assembly. I think this is a dichotomy that needs to be looked into and corrected to ensure that the staff working for the National Assembly, do indeed, work in consonance with the requirements and the mandate of the National Assembly. Right now, the Clerk of the National Assembly is an appointee under the Public Service Commission and more generally is answerable to the Permanent Secretary in the Office of the President. In the process of budgeting and accounting, he is answerable to the Treasury.

[Mr. Deputy Speaker, left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, in those circumstances, the powers of this Parliament are being compromised against the very specific provisions and requirements of the Constitution. Traditionally, the Office of the Speaker was to speak on behalf of the House. It would look like it is the Clerk of the National Assembly who speaks for this House in relation to the requirements of the House. I think, the last time we passed the Financial Bill, when this House refused to give certain facilities to the Clerk of the National Assembly, that was a signal that until and unless the Clerk of the National Assembly is operating under the Speaker of the National Assembly, we cannot give him any privileges until that is corrected.

Mr. Temporary Deputy Speaker, Sir, you can see that even in organising security operations or security arms of the Government in the House; the police and the Special Branch, the Speaker has no say. In fact, when policemen come into the House, they are a force unto themselves. I am saying this as one of the persons who has been a victim of the police activity and operations in the House, where it was quite obvious that the Speaker of the National Assembly did not even know the identity of the security personnel who were operating in the House. But more specifically, I would like to say that in the creation of the Parliamentary Service Commission, it would require that Commission to be giving annual reports of its activities to this House, in performing its mandate and functions. It will not report to any other institution or organ, it will report to the National Assembly. The constitution of the Commission should include the Speaker of the National Assembly, the Leader of Government Business, the Leader of the Official Opposition and the hon. Members of the House who are not Cabinet Ministers

or Assistant Ministers. Then the Commission will be responsible for the recruitment of Parliamentary staff in the National Assembly and not the Public Service Commission. They would also be responsible for coming out with Estimates to be laid before the House, quite independent from the Estimates that are normally laid by the Minister for Finance. Because, the Minister for Finance has got a function for purposes of running Government, but not for running the National Assembly. In that regard, that Commission will present the Estimates to the House and not to the Ministry of Finance or the Treasury.

Mr. Temporary Deputy Speaker, Sir, this practice has now been adopted all over the Commonwealth countries. In Africa, there are countries which are emerging democracies like Mozambique, South Africa and the hon. Aringo mentioned others, where Parliamentary Service Commissions have been established. I think it is time now, that the affairs of this House were run by a Commission which is responsible and answerable to the National Assembly.

With those remarks, I beg to support.

The Assistant Minister, Office of the President (Mr. Angwenyi): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this very important Motion. The Government of Kenya is not a dictatorial Government. The Government of Kenya is not an individual Government. The Government of Kenya is a Government that responds effectively to the needs of its people including the Members of Parliament. The Government of Kenya supported a similar Motion in 1993 and a Commission was set, whose findings have not been brought up yet. But the Government supports this Motion again, simply because it wants to have the National Assembly to be an independent arm of the Kenya Government which is not controlled from anywhere else, apart from itself. The Government of Kenya is supporting this Motion, not because it wants to victimise specific individual civil servants who hold positions in the National Assembly. We are doing it, simply because, we want to have a unit that has got competent people, people who are appointed by the Parliamentary Service Commission which will be formed by this Parliament.

Mr. Temporary Deputy Speaker, Sir, we are about to embark on the Constitutional review exercise in this Parliament. We would have wished that these amendments were made through that review, because, if we begin amending our Constitution, we may not know what we are going to amend at the time of the actual review. In demonstration of its support for the Motion, the Government has already voted some money for preparing offices for hon. Members of Parliament so that they can have facilities where they can meet their constituents and prepare their contributions to this House. Year in, year out, the Government brings Bills in this House on taxes to Kenyans and appropriate the taxation which has been levied on Kenyans. That means that the Government respects the institution of Parliament. The need for a Parliamentary Service Commission has been explained very well by the Mover of this Motion. If it were not for some outrageous explanations that he gave about the Government of Kenya, I think a Bill could have been prepared by now. But I want to make it very clear to the Mover that, as we support this Motion, we do not support it out of intimidation or threats, that the Budget will not be passed in this Parliament, if we do not pass this Motion. We are doing it in good will and in an effort to improve our institutions, including our National Assembly.

With those few remarks, I beg to support.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, I will take a very short time. First and foremost, I want to display to this House the Presidential Circular No.1 which sets out the organisations of Government and it sets out some 42 departments under the Office of the President. The 18th department in the Office of the President is the National Assembly. This is an outrage; that this National Assembly can be one department among the 42 departments in the Office of the President and yet, the constitution does not need to be amended to give this Parliament its independence. The constitution as it stands today in Chapter 2 creates the Executive; Chapter 3 creates Parliament and Chapter 4 creates the Judiciary. So that, the constitution as it stands now does not need to be amended to make this Parliament independent. This Parliament by this old constitution, is itself independent. But the problem is that somehow somewhere, somebody decided to make Parliament a department of the Office of the President, so that there is no separation of powers any more and the Office of the President now controls Parliament and Judiciary. One arm of Government, the Executive, now runs rack saw over Parliament. This is what we are saying is wrong.

Mr. Temporary Deputy Speaker, Sir, this Parliament is an institution on its own and it should run on its own. But the Chief Executive of this Parliament, who runs the affairs of this Parliament in terms of signing cheques and making orders here and there and appointing staff, is not an appointee of this Parliament. He is an appointee of the Office of the President. That is where the problem is; that is the shame, that is disgrace. We are saying this Parliament must have a Parliamentary Service Commission to enable this House appoint the Chief Executive of this Parliament, so that the Speaker will be the supreme authority of this House. We elected Mr. Speaker here with a big majority, and we have confidence in him. But other than the powers which the Speaker

has to tell us "order!" and we sit down, and the powers to be escorted out in a gown, immediately he reaches his office, he has to bend to the Clerk and ask him whether his voucher has been approved or not. This is a serious sacrilege. That a whole Speaker, after entering his chambers, has to kneel down to the clerk to ask for his voucher to be cleared.

(Laughter)

That is a serious matter. We are asking that from today, after this Bill has been brought into this House and passed, the Speaker will be the supreme authority of this House and the Clerk will be subordinate to the Speaker.

(Applause)

Mr. Temporary Deputy Speaker, Sir, it is unconstitutional to put Parliament under the Office of the President. It is illegal; it is a conspiracy to stifle the voice of this Parliament and to undermine its authority. This separation of powers must be clear, it must be real, it is urgent and it must be done immediately.

An hon. Member: Today!

Mr. Kajwang: Yes, today, Mr. Temporary Deputy Speaker, Sir. This Parliament must take the destiny of this country and the destiny of this House in its own hands. We shall not allow ourselves to be run by the office of the Finance Minister. Just the other day, we were debating here about our mileage, just to put our mileage claim at par with the market, because the market has liberalised. Do you know what happened? There is a Permanent Secretary in the Treasury who says "I cannot give you that money."

An hon. Member: What is her name?

Mr. Kajwang: I do not know whether she is called Chemengich or who. That lady has got so much power over this Parliament that, she can determine what we get and what we do not get; how much it should be and how much it should not be. We are collecting taxes in this country. This Parliament collects taxes in this country and it appropriates those taxes. Yet, this Parliament has no power to say how much a Parliamentarian should get and how much--- Who is running this Parliament? Is it the Treasury, the Office of the President or is it running itself? This is the question. So, I am going to be very short and very categorical, that there is no patchwork which my learned friend has talked about here. We do not need to amend the constitution to get our authority, our independence and to do what this Parliament must do. This Parliament is the supreme body of this country, it makes laws, collects taxes, appropriates it and yet, it has no powers to determine what happens in this House!

So, with those few remarks, I want to say we must create this Parliamentary Service Commission forthwith.

Mr. Kombo: Mr. Temporary Deputy Speaker, Sir, I want to thank you for giving me the opportunity to contribute to this Motion, which I believe was brought up with the mind to look ahead, on how to develop democracy in this country. In a democratic perspective, as it has been said, the principle of separation of powers is a cornerstone in developing democracies. When the Government stands up and says: "We support the Motion," no one would think that we should feel happy about it. But I am actually saddened because in July, 1993, the same Government accepted a similar Motion and to-date, no action has been taken. This Motion brings out the weakness of the present system. It brings out the impotence of Parliament. If in 1993, Parliament said: "Let us have a Commission," and the Government said: "Yes," and nothing has happened, then this Parliament is really impotent.

Mr. Temporary Deputy Speaker, Sir, as we look ahead, it is not just the separation of powers of the legislature. In developing democracy in this country, we might even go a step further and say the country needs a symbol of unity, which we do not have at the moment. We may have to look at the Presidency itself and separate it from the Government of the day in order to give Kenya a symbol of unity. We may need to bring about, in our constitutional review, a position where a Government is headed by a Prime Minister who then comes to this House and is answerable to the House. When we do all these things, we need an independent Legislature that can question that head of Government. We need an independent and a strong Legislature, so that the actions of Government can be scrutinised by that Legislature. A strong Parliament will be able to put down its foot much more strongly and say: "Government, this is wrong and you will not move until you have accepted you have done something wrong." A strong Parliament can insist, for example, to vet all public appointments and that is what is needed in this country. We need to vet all senior positions in Government. But if we are, as Parliament, answerable or dependent on this same civil servant that we are going to vet, then our power of ratifying their

position is completely minimised.

Mr. Temporary Deputy Speaker, Sir, the Motion, apart from seeking to make Parliament independent and strong, also seeks to fight all the ills in this country like corruption and all those. We must develop institutions so that we have independent, strong institutions and that is what this Motion is all about. It is seeking to make the institution of Parliament strong, so that it can play its role as the watchdog of wananchi. A strong Parliament can be able to blow its whistle when corrupt practices are seen everywhere. Apart from making Parliament strong, it is also saying that the civil servants of Parliament should be independent. That is, independent of the Executive. It is saying that, the civil servants of Parliament must have their loyalty directly to Parliament itself and nobody else. As you know, there is a saying which states: He who pays the piper calls the tune. So, if the Executive is paying and is responsible for ensuring that the civil servants of Parliament are in place, then these civil servants will always sing the tune of the Executive and I think that is what is happening at the moment. Presently, for example, we have the position of the Deputy Clerk vacant. It has been vacant for a long time and we are saying that the Government or the Executive has got to appoint a person to this position. What guarantee have we got that the Government will not bring a special branch man to fill that position, so that he goes around watching over the Members of Parliament?

Mr. Temporary Deputy Speaker, Sir, this is extremely important that Parliament hires and fires its own people. It is important that the civil servants are independent, so that their loyalty is to Parliament. The civil servants in Parliament work for extremely very long hours. In fact, they work for much longer hours than the civil servants in Government. So, what we are saying is that, if they are answerable to the Commission here and they are independent of the civil service, then their terms and remunerations can be dealt with outside what the civil servants of the Government system is. We need to do that so that, we can boost the morale of the civil servants of Parliament. We need to do that so that we can ensure that, we have competent people working for Parliament. As we democratise, we are saying that we are going to depend a lot on Parliamentary Committees but the present Parliamentary Committees cannot function effectively because we do not have sufficient research material. We need competent civil servants for Parliament to do research work to ensure that Parliamentarians and their Committees can function and operate effectively. This is really important as we move ahead to democratise.

Mr. Temporary Deputy Speaker, Sir, I can see Professor Anyang'-Nyong'o is so keen to speak. He wants me to say: With those few remarks, I beg to support.

Mr. Sambu: Bw. Naibu wa Spika wa Muda, Serikali ina sehemu tatu ambazo zinajulikana wazi. Kwanza, kuna Bunge na ndilo linatoa mamlaka kwa hizo zingine zote. Hii ni kwa sababu Bunge ndilo linatunga sheria. Hata Katiba ambayo taifa limejengwa juu lake, Bunge ndilo linalotengeneza ile Katiba na ikitaka kufanyiwa marekebisho, ni jukumu ya Bunge kutekeleza wadhifa huo.

Bw. Naibu Spika wa Muda, sehemu ya pili ni Serikali inayotekeleza, yaani executive. Halafu kuna mahakama na kila moja ya hizo sehemu, ina mamlaka yake. Serikalini itekelezi na mkuu wake ni Mkuu wa utumishi wa umma. Mkuu wa Mahakama ni Jaji Mkuu. Mkuu wa Bunge ni Bw. Spika. Kiti kile ambacho unakalia, ni kwa sababu ya sisi Wabunge ambao tumekuchagua vile tulivyochaguliwa na Wakenya. Kwa hivyo, hapa ni watu wa Kenya wanaozungumza kupitia wewe kwa jumla.

Bw. Naibu Spika wa Muda, kwanza kama Serikali inataka Wakenya waiamini kwamba sio Serikali ya kiimla, ni bora kwanza wafike ofisini zao halafu ile Circular No.1 ya Ofisi ya Raisi walifute Bunge kama idara ya Ofisi ya Rais. Hii ni kwa sababu Bunge halitakiwi kuwa kama idara ya Ofisi ya Rais, Bunge ni Jumba la taifa la kuwakilisha watu wote wa Kenya. Kwa hivyo, ile circular ambayo walitoa ambayo ni nambari 18, kwamba Bunge ni idara katika Ofisi ya Rais, hiyo ni kupotosha taifa. Ni bora wafute na waseme kwamba katika circular yao kwamba Bunge ni Jumba la taifa ambalo ni huru lina ina mamlaka kamili.

Bw. Naibu Spika wa Muda, katika kutekeleza na kuoneysha Wakenya kwamba Bunge ni jumba huru la kutekeleza matakwa ya Wakenya, ni lazima Bw. Spika awe na mamlaka. Saa hii, vile wenzangu wamesema, Bunge halina mamlaka. Hii ni kwa sababu wakati unapoketi katika kiti kile vile mwenzangu mmoja alisema, ukifika pale juu ofisini unakuwa chini ya mamlaka ya mwingine. Katibu wa Bunge ndiye anayehukua mamlaka. Hata gari utakaotembea nalo ni sharti Bwana Katibu akuweke sahihi na pale mbele ya gari imeandikwa "Speaker of the National Assembly (SNA)". Lakini pesa ambazo ni za mafuta na kadhalika utapata huna mamlaka juu yake.

Bw. Naibu Spika wa Muda, Bunge hili ndilo inalotoza kodi ambayo tunatosha. Mapato ya Serikali yanatokana na Bunge hii. Bunge hii katika Finance Bill na Appropriation Bill, ndilo linalomua ni pesa ngapi zitatozwa kwa kodi ya ziada, VAT, Customs duty kodi ya forodha. Sasa, sisi tena tuende kwa Waziri wa Fedha na tumuombe kwamba zile pesa ambazo zinatoshwa Bunge ni hizi? Tume hii ya utumishi wa Bunge ambayo tunasema iuendwe sasa ni lazima iwe huru kwa kila njia yaani kwa mamlaka ya Bunge, kwa kuwaajiri wafanya kazi na kwa usimamizi wa Bunge hili.

Bw. Naibu Spika wa Muda, hatusemi mambo ambayo hayawezekani. Ni mambo ambayo yametimizwa

katika nchi zingine na yanaendelea vizuri na hii ndio ishara inaonyesha watu kwamba nchi yao ni huru na wanaongozwa na Bunge huru na sio Bunge ambalo Spika ama Mkuu wake anakwenda kupiga magoti kwa Mkuu wa Utumishi wa Umma. Sasa iko tofauti gani kati ya Katibu wa Bunge, PC na DC? Ni heri tuambiwe tofauti ambayo iko kati ya hawa watu watatu. Tunataka tume ya utumishi wa Bunge ambayo ni huru na ambayo Bw. Spika ndiye mwenyekiti halafu Wajumbe watachagua wanachama wengine. Na watakuwa na uhuru wa kusimamia bajeti ya Bunge hii. Wao ndio wataleta katika Bunge bila kupitia kwa Wizara ya Fedha. Sisi hatuhusiki na Wizara ya Hazina. Tunahusika na wao tu hapa kwa kuwapatishia kodi kwa kusema kodi ni ngapi lakini sio tuwaombe pesa kule halafu Katibu wa Kudumu na sijui ni kudumu nini --- Mwenyezi Mungu akiwaita watadumu nini? Katibu huyu wa Kudumu alitumbua eti pesa ambazo zitapewa Bunge ni kiasi fulani na sisi wenyewe katika Bunge hili ndio tunatoza kodi watu wetu. Ni ajabu kwamba sisi ndio tunatoa halafu tuende tupige magoti na kuomba. Ni bora tume hiyo iwekwe na Bw. Spika awe mwenyekiti vile nimesema pamoja na wenzangu. Wanachama pia watoke katika Wabunge. Katibu ni lazima awe chini ya tume hilo na sheria ama kanuni zote tutakazozitunga hapa itabidi Katibu awe chini ya tume hilo.

Bw. Naibu Spika wa Muda, ni ajabu kwamba pesa zetu hukatwa na kuingizwa katika Pension Fund, alafu Katibu wa Bunge anaenda benki kupewa riba ya asilimia tatu, lakini sisi Wabunge tukiomba mikopo kutoka Benki ya Taifa ili tununulie magari, tunalipishwa riba ya asilimia 32. Sisi hulipishwa kiasi kikubwa cha riba tunapoomba mikopo, na huku pesa zetu zinawekwa katika benki hizo kwa kiasi kidogo sana cha riba.

Mtu akichaguliwa Mbunge akiwa na umri wa miaka 30 alafu akamilishe vipindi viwili katika Bunge hili, atastaafu akiwa na umri wa miaka 40, lakini hatalipwa marupurupu yake ya uzeeni hadi atakapokuwa na umri miaka 50. Sheria hii iliwekwa wafanyikazi wa umma, ambao umri wao wa kustaafu ni miaka 55. Ni kwa nini Wabunge wahangaishwe na hali wao si wafanyikazi wa umma?

Kwa hivyo, tunasema ya kwamba, ni lazima Bunge hili lijisimamie, na liwe na mamalaka yake. Tunaambiwa kwamba hii ni nchi huru. Hivyo basi, Bunge ni la taifa, na si la Serikali. Ajabu ni kwamba Bunge hili liko chini ya Ofisi ya Rais. Ningependa kusema kwamba katika nchi nyingi, ikiwemo nchi jirani ya Tanzania, Bunge hujisimamia. Hivi majuzi, tulikuwa na Spika wa Bunge la Tanzania, ambaye alitueleza kwamba Bunge lao linajisimamia. Kwa hivyo, tunataka Serikali itekeleze matakwa haya. Tunasema ya kwamba jambo likipitishwa hapa, ni lazima litekelezwe. Hii ni Hoja ambayo imeletwa na Mubunge binafsi. Tunataka Hoja hii ikipitishwa Serikali ilete Mswada hapa ili jambo hili lifanywe kuwa sheria. Katika mwaka wa 1993, jambo hili lilipitishwa katika Bunge hili, lakini Serikali imelikalia. Hivi majuzi, Serikali ilitoa sakula ambamo Bunge limeonyeshwa kuwa chini ya usimamizi wa Ofisi ya Rais. Sisi hatutakubali kamwe jambo hili.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I stand to support this Motion. I would like to reiterate the points made by hon. Sambu, that Private Member's Motions tend to be passed in this House as a ritual. A Motion similar to this one was brought before this House, and was approved, but nothing was done. I would like to support hon. Sambu very, very strongly that once this Motion is passed the Attorney-General should bring a Bill to the House, establishing the Parliamentary Service Commission as, indeed, has been called for in this Motion. So, if within six months the Attorney-General will not have done that, we, as Members of Parliament, will seek a way of ensuring that such a Bill is introduced in this House.

Mr. Temporary Deputy Speaker, Sir, one of the reasons why we have Parliament as it is today, is that it was originally established as a Legislative Council. It was a House of the gentry, where white farmers, lawyers, businessmen, *et cetera*, after they had done their business in town, came in the afternoon to make laws for themselves and a few natives, and then went back to their clubs. Up on the hill was Nairobi Club; down here was the Donvan Maulle Theatre and Muthaiga Club. So, they did not need any facilities in this House that could service the needs of the hon. Members. If they wanted newspapers and magazines, they would go to their clubs.

However, since Independence, this House no longer had gentry of that type. It does not have Sir Fadinand Cavendish, Sir Michael Blundel, *et cetera*. We now have what I call "clubians", or people like ourselves - ordinary human beings, who do not have those big businesses. Even my friend, hon. Musalia Mudavadi here, if he were not a Minister, he would not have an office to retreat to after he leaves the House. So, we must realise that the sociological and political conditions that obtained when the Legislative Council was a House of the gentry are no longer there. The sociological and political conditions are now such that the people here need a proper institution which befits the functions they perform. Because we have left this responsibility to people who ran the colonial system, and are still running the system today, they do not understand that we need a different Parliament. We need a different Parliament, befitting our condition today. Taking into account the changes that have occurred, it is only a Parliamentary Service Commission that will put into place the kind of institution that we need today.

Mr. Temporary Deputy Speaker, Sir, if you do a comparative study of parliaments, you will realise that our Parliament is, really, the most deficient. What does our Parliament have? We have a tinny room there called "a library". That is not really a library. It is a small reading room. The so-called library does not have computers;

it does not have a proper reference system; nor does it have the quickest method of acquiring books, magazines and information. In this day and age of the internet, web sites, *et cetera*, you cannot call that small room a library. So, Parliament needs a proper library, to be properly so-called. If you want to buy a magazine or a newspaper, because somebody has just told you that there is an important article on Kenya, say, in the *News Week* or *The Time Magazine*, you will have to walk long distances to buy it. We need these facilities in the House, so that we can get magazines and other things easily. Why is it that we can buy beer and other things so easily within Parliament Buildings, and not a magazine? It is because in those old days people like Sir Michael Blundel would easily drive up to Nairobi Club, or to Donvan Moul Theatre, down here, and get those facilities.

Therefore, Mr. Temporary Deputy Speaker, Sir, we need a Parliament which could have the facilities befitting hon. Members. Why is it that this House never sits beyond 6.30 p.m? Why is that this House, until very recently, only sat in the afternoon from 2.30 p.m to 6.30 p.m? Can we not ask ourselves: "Is it God-given that we must just sit from 2.30 p.m to 6.30 p.m?" Again, this goes back to the old sociological conditions of the old Legislative Council. People like Sir. Michael Blundel did not want to be hanging around here after 6.30 p.m. Two-thirty in the afternoon to 6.30 p.m was enough time for them to make laws for themselves and a few natives. Now, the people we represent are the majority. They are not the few that were the concern of people like Sir Michael Blundel. Therefore, we need to create enough time to make laws that will serve the country's 28 million Kenyans. During the times of people like Sir Michael Blundel, there were only about eight million people in Kenya, and a quarter million settlers, Indians and others, whom the Members of the Legislative Council were concerned about.

Mr. Temporary Deputy Speaker, Sir, the sheer number of people that we need to serve today requires that we have a House that can sit for longer hours. If we are to sit here from 2.30 p.m to midnight, as it is the case in Great Britain and the United States of America, we will need other facilities that will serve this House. We need places where we can go and eat, take shower, and a place where you can do some exercises and become fresh again, so that you can think until midnight. So, we must think of these things. We might even need a tennis court, so that you can exercise yourself, come here back and think afresh. If we go on thinking of this House as was the Legislative Council so many years ago, we shall not be doing Kenyans good service.

Mr. Temporary Deputy Speaker, Sir, some Members have talked briefly about the remuneration of Members of Parliament. Doing a comparative study between this Parliament and Uganda which only started recently, it makes a very sad reading. Ugandan parliamentarians prefer to be parliamentarians rather than Ministers because a Uganda parliamentarian is paid Kshs150,000 per month so that he can seat there and make proper laws instead of thinking of going to run a matatu, a kiosk or to chase an ambulance. If we are going to have people in this House who have to worry where the next cent is going to come from; you are giving room for corruption. I would like us to be pounds-wise and penny-foolish not penny-wise and pounds-foolish. I would like us to realise that, if we are going to have good institutions which serve people honestly, we should create institutional mechanisms for promoting honesty. We should not create institutional mechanisms for promoting dishonesty and corruption. This is why we want a Parliamentary Service Commission (PSC) which will sit down with us and think thoroughly what kind of institution we need in modern Kenya, a kind of institution which will take this country into the next millennium, proud and standing shoulder high with other institutions in Africa and the rest of the world.

Mr. Temporary Deputy Speaker, Sir, if you go to the lobby of this House, it is a sad site; all kinds of nitwits are standing around with cards for Harambees all over the place. We do not know how they get in here, sometimes we do not even know whether those Harambees are genuine. One day, I met a young man here who told me that he was having a Harambee at Garden Square for a wife who had died a month ago. Just before I gave him the money, another young man came and said, "My friend, this young man's wife has been dying three times a year. This is not true, do not give the money." This reduces the dignity of this House. We really must have a House which has the kind of facilities or institutions within it that help this Parliament to do its work properly. We must understand that we have a constituency representative system where there are Members who come from as far away as Marsabit and Nyatike. They have to travel to Nairobi; they do not necessarily have homes in Nairobi. It is a shame to find that a Member of Parliament is sleeping in New Rwathia Hotel so that he can attend Parliament on a Wednesday morning. It is sad to also note that when the Member goes back to the New Rwathia Hotel he finds that his luggage has been stolen. He reports to the police and the police say, "Well, we hear that kind of thing every day. What do you want us to do?" The whole set-up is wrong and these things can only be corrected, if we had a Parliamentary Service Commission which would look at the sociological conditions under which we are operating today and create the kind of institution that will restore those conditions.

Mr. Temporary Deputy Speaker, Sir, these points are so important that we hope that the Government will sit down once for a while because usually when we talk here, they go. They do not even look back at their notes to find out what was discussed. They move to other things like when the Speaker says, "Next Order". The moment

the Minister leaves this House through that door, it is a next order. They are going to look for plots or to chase tenants. When they leave here, we want them to call for the HANSARD and read it, put down the points that Members made and establish a committee which will advise the Minister to bring a Bill to the House. We would like, for the first time, when we pass this Motion, that the Minister who is taking notes today, gets a copy of the HANSARD, reads it properly, establishes a committee and brings a Bill to this House so that action follows the passing of this Motion.

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

The Assistant Minister for Finance (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to enable me also contribute to this Motion which I do support. It is appalling to see particularly people who have been hon. Members walk in the streets as if they were never hon. Members. I am particularly disturbed by those who have at one time been hon. Members and after they have been voted out; their dignity falls below the poverty line. We have several cases of previous Members of Parliament who are today almost nothing. It is with regard to those people that I sympathise and believe that when we have a PSC, the welfare of not only current Members of Parliament, but those members who were MPs, at least, have some kind of standing in the society. The lack of such a commission at the moment has rendered those people to be virtually nothing.

Mr. Temporary Deputy Speaker, Sir, as I speak, I know that we have some kind of pension for hon. Members, but it is very restrictive. First of all, a Member is required to serve two terms as a Member of Parliament before he qualifies for pension. Secondly, one has to attain the age of 50 before he can draw anything out of that pension. But from the current trend where there are Members here who come to the House when they are well below 30 years, it is clear that they will have to go for 20 years before they can draw anything out of such a pension. I sincerely hope that the issue of pension for hon. Members can be brought to this House so that we can deliberate on it and, at least, have the age reduced or something to that effect done so that when hon. Members are no longer sitting MPs, they can take advantage of the little pension that there is. I do believe that the issue now under debate has come at the right time. Many Parliaments begun like we did and there is nothing to be ashamed about. This is the way many Parliaments, including the United Kingdom begun. It is only a few years ago that they had a Parliamentary Service Commission. So, we are not too late, but it is important that we are bringing this Motion to the House at this time so that we can be with the rest of the world.

I believe that a Parliamentary Service Commission will look into the welfare of this august House not only for hon. MPs, but for everybody who works within the National Assembly because it is those people who help us to make this Parliament what it is. What we contribute on the Floor of the House is articulated out there by the staff of the National Assembly. Observing what happens elsewhere in other Parliaments, there are officers who are involved in research work and they assist hon. Members in making effective presentation to the House. This is what we are lacking at the moment and I hope a Parliamentary Service Commission will go a long way in making sure that such provisions are made. Of course, I am aware of the financial constraints that we have in the country; they will have to be taken into account; but a beginning has to be made. Even if we are going to have these facilities provided gradually, a start has got to be made. It is in this regard that I would like to see, once we have passed this Motion, a Bill brought to this House that will immediately incorporate the thoughts that we are giving in here today for purposes of setting up a Parliamentary Service Commission. The timing is important. We do not want this to go on for years and years. I sincerely hope that the Attorney-General or his representative is here so that this Bill becomes of utmost urgency besides the Constitutional Review Bill. I think these two Bills are very paramount. They are imperative and we have got to have them immediately.

I did hear from some of my colleagues who talked about the possibility of having a Parliamentary Service Commission. There is no doubt that we will draw experience from other Parliaments. Mr. Temporary Deputy Speaker, Sir, in my humble contributions, I would imagine that the Speaker himself would certainly be the chairman and other members would be drawn from the backbench of both sides of the House. I think it is important, in my view, that the Cabinet should also be represented. There ought to be somebody from within the Cabinet. Of course, why not? Those are just my views, because an hon. colleague said the Assistant Ministers and Ministers should not be represented on that Commission. My view is that there is need to have representation from every cadre within our lot; inclusive of our Ministers, and assistant Ministers as well. They ought to be on the Commission in addition to the backbenchers. I also feel that when the time comes, in addition to this, we can also draw some good input from the Clerk. We should not here be dealing with individuals who are in the chair at this point in time. We could have excellent clerks who we can use due to their experience and their administrative know-how by incorporating them as members of the Commission. The Clerk, in my view, ought to be a member. But, we have not gone to that stage yet.

I am making my contributions on the way I think is right. I would even be revolutionary enough to go

further and suggest, that, possibly, we should draw one or two members of the public to that Commission. After all, those are the people who voted us to this House. If we are dealing with issues like governance, transparency and et cetera, we ought to have on that Commission members of the public who are the voters and can represent the other voters. If we are sincere with ourselves, I think a member of the public, who is not a Member of this House, but a voter, ought to be represented on that Commission. These are my humble views in support of this Motion because I believe it is a very, very important Motion. No doubt, we would need an advisory team from the Treasury in that Commission because we cannot work in isolation. Yes, we will be independent, but we still have to work from within the economy as a whole. So, it is important, that, when the Commission is eventually set up, we will see that the Treasury is of necessity because their functions need representation on the Commission.

Mr. Temporary Deputy Speaker, Sir, I can talk more, but those are my humble contributions. Let me permit others to make their contributions.

Mr. Raila: Thank you, Mr. Temporary Deputy Speaker, Sir. This Motion is long over-due, and the mere admission by the Government that a similar Motion was passed in 1993, and has not been implemented to date, is in itself a clear confirmation of the impotence of this Parliament. Several Motions are passed in this Parliament but are never implemented. We do not want this to happen with respect to this particular Motion. We are paying the price of the single party era because during that era, there was no need for clear separations of power since the party was supreme. But, as had been said already by most of the speakers before me, in any democratic system, there is need for clear separations of power between the Legislature, Executive and Judiciary. Over the years, we have passed so many amendments to our original Constitution, the aim of which has been to remove the powers from the periphery to the centre. We had one institution which has been emasculative over all other institutions of governance. This is not helping, and we would like to resurrect and create new institutions which would make our multi-party system work. The supremacy of Parliament is very important, and time will come, and I think it will be soon, when this Parliament will go even beyond this, and try to re-assert itself in order to be able to perform its very critical functions of acting as a check on the Executive excesses. For example, it will insist that certain important positions in Government must be vetted and approved by the Parliamentary Select Committee.

(Applause)

Mr. Temporary Deputy Speaker, Sir, many countries have done what we are talking about here. I have with me an Act of Parliament for the Tanzanian Parliament setting out the Parliamentary Service Commission. It goes beyond just the staff of Parliament, and talks about remuneration of hon. Members. Many other countries have similar Acts. Let me now say something about the facilities that we have in this House. Hon. Nyong'o has already talked about our library down here. If you go to the South African Parliament and look at the kind of libraries they have, what we have here is an archive. In South Africa, which actually has just been more or less free for the last three to four years, there are eleven official languages in its Parliament. You can speak in any of those 11 languages and there would be instantaneous interpretation or translation for everybody. They have been able to do this within only the last three years. The communication system within that Parliament is modern. Just have a look at the archaic systems which we have here where some times, hon. Members sitting behind on the Opposition side have problems hearing what other hon. Members from the other side are saying. We need to modernize this Parliament and make it a Parliament for the next century.

(Applause)

Mr. Temporary Deputy Speaker, Sir, if you go to the Swedish Parliament, the Reichstag? you will find that hon. Members even have their own apartments next to the main Chamber where from your apartment, you just go through a tunnel and walk into the Chambers. They have modern offices with Parliamentary assistants, which we do not have. It is important that we create an environment which will make this Parliament dynamic and respond to the needs of this country for now and the future. We, therefore, need the staff that would be subservient to this Parliament and would not be answerable to the Executive elsewhere. What we have right now is akin to what we have in our Local Authorities where you have got "expatriates", in the name of town clerks, engineers and so on working for those Authorities. We have here an "expatriate" Clerk; a clerk who is actually answerable to the executive. This is something that we must correct.

Mr. Temporary Deputy Speaker, Sir, I would like to say something about remuneration of our hon. Members. It is very important that hon. Members are properly remunerated not only commensurate to their work but also to the state of the economy so that they can concentrate on their work in Parliament, instead of running around to make ends meet. There was a very interesting incident recently where a young Kenyan, either out of

adventure or necessity, decided to try to milk an elephant. In the process, the elephant found the fingers not as nimble as those of the calf and the poor young man ended up being nearly killed by the elephant. I did receive an e-mail from Kenyan students in the US yesterday who had read this story of this young man and the question they asked was: What has happened to KCC? In other words, what is it that drove this young man to this kind of desperation? I am relating this story to make the following point: We should not drive our hon. Members to desperation to the extent that they would dare go and try to milk an elephant.

(Applause)

We should remunerate our Members of Parliament properly so that they can serve the people they represent with dignity. We would also like to see the staff of this House enjoying the kind of freedom that they need so that they are not harassed and intimidated by their bosses. If you look at the Tanzanian Parliamentary Service Commission Act, it makes the Speaker the Chairman of that Commission, the Deputy Speaker is the Vice-Chairman and there are five Members of Parliament who are members of that Commission, together with the Minister who is in charge of Parliamentary affairs. So, these are the people who are also in charge or responsible for disciplining the staff. They are also responsible for promoting the members of staff. If this is done, you can demand respect and service from the members of staff and you can discipline them if they do not provide it. At the moment, Members of this House have no control over all the staff of this House here, including even the waiters in our restaurant and the security system here. This is the reason why we have got strangers roaming the Chambers here. Hon. Members are harassed in the restaurant because there is no privacy. You walk in there and you have got people who are roaming around and you do not even know how they have come in there and they harass you, as hon. Anyang'-Nyong'o has said, with Harambee requests which are actually fake. So, it is important that we establish the supremacy of this House, and that we create an enabling environment that will make this Parliament perform its functions as required by the Constitution.

With those few remarks, I beg to support.

The Assistant Minister for Trade (Mr. Ndilinge): Ahsante sana Bw. Naibu Spika wa Muda, kwa kunipa nafasi ili niseme machache baada ya kukimya kwa muda mrefu.

Tangu Hoja ilioletwa na Mhe. Orenge ipite, ninaona upande huu umeamka. Kwa hivyo, ninakurudishia ahsante Bw. Orenge kwa kuleta Hoja hiyo. Imeongeza upendo kwa upande huu. Hoja hii ni lazima iungwe mkono na mtu anayejali maslahi yake, ya Wabunge na wananchi wa Kenya kwa jumla. Haijalishi kama imeletwa na mhe. Mbunge kutoka upande wa KANU au upande wa Upinzani, Bunge hili ni la Wabunge wote na jambo ambalo litasaidia wananchi linafaa kuangaliwa vyema. Kama tungekuwa na tume hiyo, ingeangalia maslahi ya Wabunge. Hivi sasa ni jambo la kushangaza kuona kwamba hatuna kituo cha matibabu ambacho kinaweza kuwahudumia Wabunge. Jambo la kuunda tume hiyo ni la maana sana. Tume hiyo ikiteuliwa tufahamu ya kwamba tunastahili kuwa na kituo cha matibabu. Pia, tukiwa na tume hiyo, haki za wananchi wetu ambao huteswa na Wahindi, zitaangaliwa. Kama Mhindi atakataa kumlipa mwananchi ujira wake, tume hiyo itaangalia mambo hayo. Kwa hivyo, Labour officers watakuwa wakiwapatia Wakenya pesa zao kwa sababu wanafahamu kwamba tume hiyo inaweza kuchukuwa hatua kali dhidi yao lakini wakijua kwamba hakuna tume ya kuchunguza haki za wafanyakazi, Wanakenya wataumia sana. Tuna hakika kwamba wengi wao wameumia sana mikononi mwa hawa Wahindi. Mara nyingi wakiwasilisha malalamishi yao kwa Labour Office, huo huwa ndio mwisho wao.

Kama wenzangu walivyosema, hasa Mhe. Sambu, tume hii ingekuwa na maana sana kama yale ambayo tumesema hapa yangetimizwa. Tungependa tuwe na mwelekeo kwamba Bunge hili linaheshimiwa. Kama vile wenzangu walivyosema, kuna mambo mengi sana ambayo tumenena hapa lakini hayatimizwi. Kwa hivyo, tungeomba kwamba kama kitu kimesemwa katika Bunge hili kitimizwe. Tukipitisha pesa hapa huwa tunatumaini kwamba zitatusaidia kule nyumbani. Mara nyingi pesa hizi zinapotelea katika wilaya. Tungependa tume hiyo iwe ikienda mashinani kuangalia mambo ya maendeleo. Tungependa tume hiyo ihakikishe kwamba barabara zetu zinatengenezwa kwa maana watu wengi huchukuwa pesa hizi na kuwacha barabara katika hali mbaya. Tungependa tume hiyo pia iangalie maslahi ya Wabunge. Tuna waheshimiwa Wabunge ambao walitumikia nchi hii kwa miaka mingi. Tuna mfano wa Paul Ngei. Tungependa masilahi ya mtu kama huyu ambaye alijitolea kupigania Uhuru wa nchi hii yaangaliwe. Kuna Ngei wengi, huo ni mfano tu.

Nikiongea juu ya pensheni ya Wabunge, inafaa tena tuangalie mambo haya. Ikiwa Mhe. Mbunge ameingia katika Bunge akiwa na miaka 20 au 30 halafu akose kufikisha umri wa miaka 50, hii ina maana kwamba anaweza kukosa pesa hizo. Ingefaa kama mtu amehudumia wananchi kwa miaka kumi na anataka pesa zake, apatiwe.

Bw. Naibu Spika wa Muda, kuna mambo mengi ambayo yametajwa kuhusu Bunge hili. Tungependa mishahara yetu ichunguzwe upya hata kama Serikali haikuwa tayari kuchunguza mishahara ya walimu. Mhe.

Prof. Anyang'-Nyong'o amependekeza maslahi ya waheshimiwa Wabunge yachunguzwe kwa makini sana kwa sababu hata baada ya kikao hiki, kwa mfano, wananchi zaidi ya kumi watakuwa tayari pale mlangoni kuwaomba waheshimiwa Wabunge pesa za Harambee, karo ya shule, malipo ya hospitali na kadhalika. Waheshimiwa Wabunge wameumia sana kwa muda mrefu na tungependa mishahara yetu ichunguzwe upya.

Bw. Naibu Spika wa Muda, kwa kuwa sina maoni mengine juu ya Hoja hii, ningependa uwe mwito kwa waheshimiwa Wabunge wote kuwa jambo lolote ambalo limewasilishwa katika Bunge hili na mhe. Mbunge, ambaye, pengine, hamkubaliani na msimamo wake, lakini ikiwa ni jambo ambalo lina maana kwako na kwa wananchi wote kwa jumla, tafadhali, tuliunge mkono.

Kwa hayo machache, Bw. Naibu Spika wa Muda, ninaunga mkono Hoja hii.

Mr. Nyauchi: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to air a few of my points on this very important Motion. To begin with, when I was in primary school, to be precise in Standard IV, I was taught that there are three arms of Government; that is to say, we have the Legislature, Executive and Judiciary. I was again taught this when I was in high school, and several years later, when I was in the university, I was taught the same things. I do not think this has changed. The issue of separation of powers is a very simple tenet of democracy; that is to say, by separating the powers, then you will have checks and balances. So, this is very important and so basic to democracy that I am so surprised --- In fact, before I came to Parliament, I knew all along that such a simple thing could not be overlooked by our people. When I came here and looked at where Parliament is, I was so surprised that we are under the Office of the President. The only unfortunate thing is that I do not know which Minister we are under, specifically. This is a big anomaly. Parliament cannot, and should not, be under anybody. If anything, it should be the reverse; that, Parliament should be in charge of some of those Ministries which are supposed to be in charge of Parliament.

Mr. Temporary Deputy Speaker, Sir, as a result of this lack of independence of the Legislature, several important things have happened. First of all, we have seen that the dignity of the House has been lowered. This has been said by hon. Members before me, like harassment of the hon. Members out at the lobbies. These are the kind of things which we wish to eradicate when this commission is established. Secondly, we would like to look at the personnel and qualifications of officers who work for Parliament. There should be proper remuneration and job security which will be looked at by the Parliamentary Service Commission. Thirdly, all the important things which are being said by my hon. colleagues have come about because of lack of proper and poor utilisation of funds. If we had our own Parliamentary Service Commission, we would have our own Vote and funds would be taken care of without much problem.

Mr. Temporary Deputy Speaker, Sir, I would wish to support this Motion and say that, in view of the importance of Parliament in any democracy; that is to say, in appropriating taxes and ensuring those taxes are properly used, it is important that Parliament be independent. And like hon. Oloo-Aringo said, this ought to happen immediately. In fact, it ought to happen now, not tomorrow. Independence of Parliament must be restored with immediate effect.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I wish to support this Motion.

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, the time allocated for this Motion is about to end and I now wish to call upon the Mover of the Motion to reply.

Mr. Oloo-Aringo: Thank you, Mr. Temporary Deputy Speaker, Sir. With your permission and indulgence, may I request that I give eight minutes of my time to hon. Murungi.

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, I thank hon. Oloo-Aringo for giving me some of his time to contribute to this Motion.

In the first place, I wish to state that I support the Motion because it is a very important Motion. We feel that there is somebody somewhere who is treating this House and the hon. Members like little children. This is the third time that the issue of the Parliamentary Service Commission is coming before this House. In fact, on the first two occasions, we unanimously, as a House, said that we want a Parliamentary Service Commission. Hon. Shikuku brought a Motion here in July, 1993, which I seconded, and it was unanimously passed by this House for the establishment of a Parliamentary Service Commission. During the IPPG reforms, both the Opposition and KANU Members unanimously agreed, as part of the minimal constitutional, legal and administrative reforms, to set up a Parliamentary Service Commission. This is the third time this matter has been brought before this House, and I can see it being supported unanimously by both sides of the House. The question is: Who is that person who does not want Parliament to have its own Parliamentary Service Commission? The Judiciary has the Judicial Service Commission. The Executive have the Public Service Commission and the Teachers Service Commission.

Why are we, the legislature, as the third arm of the State, being frustrated when we ask for a Parliamentary Service Commission? We can come to no other conclusion, other than that, there is somebody somewhere, or a powerful clique in this country who do not want a strong Parliament. This is the only reasonable conclusion that

we can come up with. Because of this, we, as the hon. Members, have to put down our foot on this and we have to insist that we should have a Parliamentary Service Commission; and it does not matter how long it will take, we are not going to kneel down, be cowed or shut up until this Parliamentary Service Commission is established.

Mr. Temporary Deputy Speaker, Sir, you will appreciate that the doctrine of separation of powers on which our country is based is one of the fundamental doctrines running the public affairs of this country. There is that old English saying that: "He who pays the piper calls the tune." So, the question is: As far as Parliament is concerned, who pays the piper? If you do an analysis, you will know that it is the Office of the President which pays the piper. The strings which are pulled or matters which generate a lot of debate in this House originate outside this House. So, we are now thinking, as part of the constitutional reform process, that we are going to re-establish the Senate which was abolished by the Executive in 1966. Once the Senate is established, we are going to have a large parliamentary staff. We want this Commission to be in place so that our staff can be paid by this Commission. They can be recruited, promoted and fired by this Commission, and we do not want some invisible individuals somewhere sending his instructions as to who is going to be appointed to Parliament. Our staff is not ordinary Civil Service staff; we work until 6.30 p.m. They are overworked, underpaid and, at this moment, they are terribly demoralised.

Mr. Temporary Deputy Speaker, Sir, we need a Parliamentary Service Commission which will ensure that our staff is paid well. When wananchi hear that we earn Kshs70,000 they say that we are rich. Of the Kshs70,000, Kshs30,000 goes to house allowance. Hon. Members of Parliament (MPs) need a medical scheme. It is very shameful that every time an hon. MP dies in this country, we, hon. MPs, have to be called to do a Harambee for the deceased. We conducted a Harambee for the former Speaker of the National Assembly, Mr. Fred Mati. We also did a Harambee for the late Prof. Sumbi and for Dr. Ombaka when he was sick. We also conducted a Harambee for Mr. Njenga Mungai. In this House, we have a Speaker's Committee headed by the Speaker of the National Assembly. The Minister for Finance is also a member of the Speaker's Committee. What are these gentlemen doing? Are they just sitting, reading newspapers and calling one meeting in a year? We want this Committee to think, otherwise, this Parliament should fire it. This is because it is doing nothing to promote the welfare of hon. MPs and members of staff. We cannot have a Committee with a big name that does nothing. We also need it to look into the scheme of service for MPs.

In Germany, there is a scheme of service for hon. MPs. Mr. Shikuku used to complain here all the time that he came to Parliament in 1963, but he earned the same salary as me and other hon. MPs who came to Parliament the other day. Given the low pension benefits that we are going to get, MPs who have served for 10 or 15 years should earn a little more than those who entered the House recently. We would like the seniority of hon. MPs to be recognised when we prepare the scheme of service for hon. MPs.

(Mr. Keah smiled)

Hon. Keah will be paid a little more than the new MPs.

Mr. Temporary Deputy Speaker, Sir, I would also like to touch on constituency allowance. As I am talking here now, wananchi all over the country are complaining that MPs have disappeared from their constituencies. This is true. Why have the MPs disappeared? We are paid only Kshs5,000 as constituency allowance. When one fuels his or her vehicle to the constituency, he or she has to use more money from his or her pocket to come back. The money the Government is giving us cannot enable us to go round our constituencies. So, we would like *wananchi* to know that the MPs have not disappeared from their constituencies. It is the Government which does not want the hon. MPs to be effective in their duties, and that is why we are paid Kshs5,000 as constituency allowance. We would like this allowance to be increased, so that we can visit our constituencies frequently.

Mr. Temporary Deputy Speaker, Sir, I would like to move a Motion in this House banning MPs from participating in Harambees. This is because Harambees are making MPs to be corrupt. Every weekend, we have to look for Asians to assist us with money, so that we can contribute in Harambees. When an hon. Member has contributed Kshs100,000 from himself and his friends, half of those friends are people who have tried to bribe him. So, we would like the Parliamentary Service Commission to ban MPs from participating in Harambees.

Mr. Temporary, Deputy Speaker, Sir, with those few remarks, I beg to support the Motion. Thank you.

Mr. Aloo-Aringo: Mr. Temporary Deputy Speaker, Sir, first of all, I want to thank all the hon. Members who have contributed to this Motion, and for the support that I have received from both sides of the House. But because I have limited time, I would like to say that the Speaker of this House must take full responsibility for the failure to implement the Motion which was passed here in 1993. He is the Head of this House. He should champion the cause of the National Assembly. There cannot be an excuse, because he is the one who has created a

question of a rogue Civil Service for this House. This is because, if he leads us in the struggle against domination by the Executive, we shall achieve our objective. The Speaker must take full responsibility for not implementing the resolution of the House which was passed in 1993. If he is going to be the Head of this National Assembly, he must champion for its cause. He must lead us in the struggle to reassert the supremacy of this House, which is critical to democracy. That is the truth of parliamentary democracy. I would like to warn that this Parliament will not allow this situation to continue. I would like to inform hon. MPs that we shall meet in the Old Chamber next Thursday in order to work on the Bill, which we shall bring to this House to implement this Motion, and establish a Parliamentary Service Commission.

With those few remarks, I beg to move the Motion.

(Question put and agreed to)

SUBDIVISION OF CITY OF NAIROBI

Mr. Mwenje: Mr. Speaker, Sir, I beg to move:-

THAT, taking into consideration that the population of the City of Nairobi has increased tremendously; aware that the Omamo Commission recommended the division of the City of Nairobi into boroughs, and also being aware that the constituency boundaries are also the administrative boundaries, this House recommends that the City of Nairobi be sub-divided into four districts with respective District Commissioners (DCs).

Although we have eight hon. MPs in the City of Nairobi, at least all MPs live in this City. Although they have their up-country homes, they also have houses in the City of Nairobi. We have homes here in Nairobi and we may also have houses up-country. I have moved this Motion because the City of Nairobi has continued getting a very raw deal with regard to its share of the national cake. Whenever we share the national cake with other districts, Nairobi City is taken as one district. It is considered to be one district and, therefore it gets a share of one district just like other up-country districts.

Mr. Temporary Deputy Speaker, Sir, it is not a new thing for Nairobi City to be divided into four districts headed by DCs. This is because once upon a time it had districts headed by DCs. But for some reasons this changed, and the City of Nairobi became one district, which is also called an extra Provincial District. So, we want to do away with this anomaly.

I would like to propose how the City of Nairobi should be divided into four districts. From history, it is known how Nairobi's constituencies were grouped into two divisions, which were run by one District Officer (DO). I would like to follow the same pattern, and group Embakasi and Makadara Divisions together to become one district; Kasarani and Starehe as one district; Dagoretti and Westlands as one district; the last two will be Kamukunji and Langata as one district. This is the proposal that I would like to make. There is a history on why they are adjoined like that. There has been some kind of relationships in those two areas as I have adjoined them. It had been working well apart from the fact that after the City grew bigger, it became very difficult to do administration. There are now divisions. Each one of those I have mentioned are also divisions. Each constituency is a division with a (DO).

I do not know why the Minister in-charge of Administration is not here. I thought he should have been here.

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am sure that the hon. Member knows that for purposes of Parliament, an Assistant Minister is a Minister.

Mr. Mwenje: Indeed, Mr. Temporary Deputy Speaker, Sir, I was once an Assistant Minister. So, I know that and, but I had not seen him where he was standing. I hope he is listening rather than talking to the Clerk. He should be listening to what I am saying.

So, what we are saying is that Nairobi should now be taken like any other place. Nairobi should be accorded the same status like any other province, where we should have districts. I would like to thank His Excellency the President because he had made the same proposals. It is by coincidence that I had also made the same proposals here, and the President also announced somewhere else in one of his public rallies that this will be so. So, I believe this is only enforcing exactly what the Government and ourselves would like it to be.

There are very many reasons. Already, the Government has realised that it is important to do so. At the moment, we have two DOs in every division. As we are talking now, Embakasi has two DOs. Kasarani has two DOs. Every constituency here in Nairobi has two DOs. This is because it is also the division. First of all, this is

misuse of public funds because there is no reason why we should have two DOs. I would like to call upon the Government to immediately act and remove two DOs in one division. This is because there is already a conflict of interest. They are not working properly. I do not know whether the Minister is aware that, that is what is happening now. In every division, we have two DOs who are operating. It has been very difficult to operate because the two DOs are of the same level. They have the same authority and so, they keep on colliding and misleading the public. They keep on colliding with the leaders. This is because one DO says this and the other DO says the other. I would like to appeal to the Minister to remove one DO immediately so that we can know whom to work with. One is called DO development and the other one DO administration. It appears as if every section will have a DO in future. Let us have the normal protocol, which we have been having in this country, where we have a PC, a DC, a DO, a chief and assistant chiefs, so that the normal operations can work properly.

The other issue is from the divisional level and the district level. In Nairobi, we have been having our DDC. The Nairobi DDC is toothless and therefore useless. It does not get any funds. It does not do anything apart from meeting and making some recommendations which will never work since there are no funds allocated. I do not know what we are taken as. Sometimes, we are called extra districts and extra province. I do not know what we are extra from. We want to be taken as a province with four districts, with four district commissioners whom we can operate with. Even when the RDF was working well, we never used to get it. We were told that we are not in the rural areas and, yet, we have rural sections within the city. We never used to get that money. When we sit there, we just discuss that we want this and that to be done, yet, we never have it done because we do not have the funds.

We leave almost everything to Nairobi City Council which today is not effective. We have been complaining here daily. There are only two roads which are under the Government; Outering Road and Uhuru Highway. All the other roads are supposed to be maintained by the council. For that reason we do not get anything from the national cake. We are expected to finance our roads from the little funds that are paid to the council. They are also squandered. They are not there. That is why you see today the roads in Nairobi are in a mess. There is no time that they will ever improve. We will continue shouting, talking and pressurising the Government but nothing will happen. We want districts so that we also have some of our roads under the Ministry of Public Works, so that at least we can have them done. You can see that it is only these two roads; Uhuru highway and Outering Road which are well maintained. We want Outering Road to be made a dual carriage road. It is not possible now because there are no funds. We now want these districts so that we know that we are able to deal with the Government.

The administration in this country is very interesting. Even where there is no constitutional provisions for particular people you find them working and they are very effective. You will find here in the city a chief will appoint a village committee. This is something which is not anywhere within the administration line. It is not anywhere within the Constitution yet you find some chiefs are able to appoint some village leaders to form the village committee. The work of these committees is to simply take some plots and give them to some of these squatters, collect the funds and take the money to the chief. We have told the Government severally that this is happening. Yesterday I witnessed a case where some of those village leaders were fighting with the villagers because they want to implement some illegal orders which are not there. They fought and eventually all of them ended up in a court of law. We must avoid these anomalies. The Government should be able to tell the chiefs under what Acts they are operating. I am aware that in fact the DCs and DOs act *ultra vires* sometimes. You cannot even know under what Act they are operating. I am glad that you used to be one of the PCs. You all know that there is no proper Act that they operate under. It is high time the Government came up with a clear order so that we know exactly what they are operating on. It is time the Government told the chiefs that these people they appoint in the villages are not covered anywhere by our Constitution. They have no powers to do that. They cannot continue harassing wananchi. It is not proper.

It is unfortunate because sometimes I wonder whether law and order in this country has broken down. The other day I was reading about the High Court sitting on a Saturday. It could be normal, but it sat on a Saturday which is very unusual. It gives an order to the police, but they refuse to execute it. So, you wonder whether law and order has broken down in this country? Do we go to the roads to look for order? Do we call for mass movements and demonstrate on the roads so that order is restored? Sometimes I become very worried because if the court can break its own rules and the police refuse to execute the orders who is who? I was wondering; suppose the order given by the Judges was that: "Do not hang a man in Kamiti" and the police decided to disobey that order, what would have happened to that man? He would have been hanged despite an order from the High Court?

It may be an extreme example, but it is there, it could happen. This is very serious. We need to have law and order. We do not have it, that is why if we break the first rule, then everybody else will also break the first

rule like it happened in Karura, where somebody broke the rule and went to give land which is not supposed to be given and then others went to stop that exercise with all the force they could afford. Yes, that is what we are inviting, if we do not follow the rules. And that is why I am saying, we need to have some kind of order. We need to have Nairobi taken like any other district. It has reached a stage where members of the public are now putting up police stations. Over the weekend, I had an harambee for a police station with the Commissioner of Police. Yes, we need those police stations there. This is supposed to be a government job. That is why we pay taxes, we are trying to assist. We have APs who have now been getting divisional headquarters and chief's offices just to serve individuals. When a DO feels that he is going to demolish a particular area, he just puts the APs in a Land Rover, with G3 guns and tells them to demolish what he wants to be demolished. Administration Police officers are not for that purpose, they are police officer and they operate under an Act. They are being misused by the DOs and the chiefs. I want to appeal to the Minister to tell the Chiefs, DOs and the DCs what the APs are there for. They are not supposed to carry out some illegal orders which are given by DOs who sit somewhere and think that they are kings of those divisions. That is why we advocate that elected leaders should be guiding the people on the ground. This business of a DO and a chief thinking that they have become chiefs on the ground, demolishing people's property is wrong. There is a court of law where such things should be taken to. If they have built on the wrong land, they should be taken to court, but not for a DO to come and use guns and demolish people's property like I saw the other day in Westlands and many other places. That is not their job. It appears they are not receiving proper guidance and information on what they are on the ground to do.

Mr. Temporary Deputy Speaker, Sir, we have some DOs who need to be checked and the Office of the President has got to be more effective on this affair. They have got to educate the DOs and the chiefs on the jobs they should be doing and never misuse these APs as they have been misused before. When you hear of a robbery near there, the APs will not go there. But when they are told to go and demolish a particular structure because they know that they will be bribed by the owners, they run there, but when they are told of insecurity, when they hear of robbery with violence, they will not get there. It is important that we get things done, done rightly.

Mr. Temporary Deputy Speaker, Sir, when we talk of Nairobi being divided into districts, sometimes I get worried whether even we, Members of Parliament are equal. They may say some are more equal than others, but the truth of the matter is that, districts are the basis of distribution of the national cake and also representation for our people. If you look at the last election, you will find some constituencies like Embakasi have many registered voters. It is in this book. I represent 114,000 registered voters. When you look at other constituencies, like Isiolo South, all the registered voters are 8,000. In Embakasi, they are 114,000 registered voters. What criteria is being used to subdivide these constituencies. It should be "Mundu khu mundu" - man to man. If I am representing 8,000, then another person should be representing 8,000. But there is no justification here, where I am bothered by 114,000 who will come for my services while another Member is only representing 8,000 registered voters.

It is time we changed this kind of situation so that we have equal representation. A man in Isiolo is equal to a man in Nairobi and a man in Central Province is equal to a man in Coast Province. A Maasai, represented by hon. Sunkuli, is equal to a man represented by me in Embakasi. So, why do we not subdivide our constituencies equally? What is the rationale being used? This is the reason why you find more resources being taken to those places because during allocation of funds we talk of constituencies, divisions and districts. Since Nairobi is considered as one district, we do not get equal resources like other parts of the country. This is unfair. It is time the Government and the Electoral Commission came up with a solution to this issue where each MP, DO and DC represented the same number of people in this country, because we are all equal. We should not embrace the ideology in a book called *The Animal Farm*, where some animals started changing the rule and some became more equal than others.

The Assistant Minister for Finance (Mr. Keah): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Mwenje in order to mislead this House and the country, by saying that we are all equal, when he knows very well that he is shorter than I am?

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I am not referring to the height. I am referring to our personality, individualism, representation and so on and so forth. If he is talking about height, I would not want to be distracted by that. Even fingers are not equal. I am saying that we all require the same representation and same kind of treatment. We all need to eat from the national cake equally. But when a small district somewhere is subdivided and given a DC, and yet Nairobi is taken as one district, then we end up getting a raw deal of the whole affair. That is the crux of the matter. The Ministry of Finance allocates funds to particular districts, yet Nairobi is assumed to be one district despite the size. That is why we feel that we need to have four districts in Nairobi, as I have put them here.

Mr. Temporary Deputy Speaker, Sir, I was informed this morning - I would want the Minister to put it clear in his reply - that from today or yesterday, Embakasi has been subdivided into two divisions. I do not know

how true that is, but I would like to hear it from the Minister. This means that they are already realising that situation. Fortunately, the buildings where the DC works from and the facilities are there. So, it does not involve any extra expenditure. We must be careful not to have small kings, because even the PCs sometimes act *ultra vires*. They should be guided and warned on how to operate.

With those few remarks, I beg to move, and ask hon. Waithaka to second the Motion.

Mr. Waithaka: Mr. Temporary Deputy Speaker, Sir, I rise to second this Motion as it is in the Order Paper, that this House recommends that the City of Nairobi be sub-divided into four districts. As has been well articulated by hon. Mwenje, I wish to say that the confusion which has been caused as a result of Nairobi being a Province and run by the Provincial Commissioner is a well known fact by all hon. Members of Parliament. We had a policy or a programme for the District Focus for Rural Development. This District Focus for Rural Development focused on development based at the district level. There was nothing like provincial focus for urban development. That is why the issue of development in Nairobi has not been well addressed. This confusion should be addressed by the districts, so that we can have District Development Committees. In other areas, we do not have Provincial Development Committees. That variance in the level of meetings causes a lot of problems. When there is a problem as to the policy to be followed, there is a likelihood that there will be a lot of problems.

I have an experience in a district like Nyandarua which, because of this confusion, a town like Nyahururu has been, since Independence, politically in Laikipia District and administratively, in Nyandarua District. When there are problems in Nyahururu, be they strikes, demonstrations or whatever they are, the OCS Nyahururu Police Station is not answerable to the OCPD who is in that division, because he is only answerable to the OCPD, Nanyuki. The DO, Nyahururu Municipality is not answerable to the DC, Nyandarua yet, the DC Nyandarua is in Nyahururu. Even sometimes, to make a decision is extremely difficult. This confusion has even caused Nyandarua to be a very rare district in this country where the DC is a squatter. The DC, Nyandarua squats in Laikipia District. He stays in Nyahururu Town, which is in Laikipia District and attends his ceremonies during the public days at Ol Kalau, about 38 kilometres away. These are some of the confusions we want to erase. Because of these confusions of not addressing ourselves to some of these issues like in Nairobi where we have a PC --- I have said time and again in this House, that sometimes, the role of a PC is superfluous because everything is supposed to be done at the district level. It is only in Nairobi where the PC seems to have a role, since he is the one who sits in the Provincial Development Committee. But in other provinces, they do not because everything is district-focused, as has been our policy.

So, in Seconding this Motion, I would like to say that Nairobi is a Province with more than a million people. That population being left to the PC alone, is rather a burden. They are trying to ease this burden by posting two DOs per division. But the only way we can ease this problem and the burden of the PC is to create four districts with DCs and the divisions, and thereafter, even the issue addressed by the Mover of Parliamentary representatives, can be addressed. This is because it is unfortunate that one constituency like Embakasi is represented by one Member of Parliament when the registered voters are very many, without even counting those people who reside in that constituency but register upcountry for the purposes of voting. So, it is a very populous place with only one MP and this issue has been ignored because Nairobi is looked at as one district when it comes to the issue of increasing the electoral seats as it happened during the last elections. These problems also face us as politicians. For instance, when there are party elections, we have to be involved, even if they were KANU, DP or any other party. When they are drawing delegates, if every district is bringing one hundred delegates, Nairobi will bring an equal number of delegates to a place like Isiolo. When we conduct elections, people feel that is not proper representation because of the population of Nairobi. So, even in party elections, the population of Nairobi does not require to be represented by an equal number of delegates like a district such as Nyandarua.

Mr. Temporary Deputy Speaker, Sir, as I have said, unless we are able to clear this anomaly, Nairobi is going to be a city which is not properly represented. Some people may suggest that the issue of creation of districts is an administrative issue because of the manner in which it has been handled in the past; that is, the Executive will go to a place and declare by a decree that, there will be a district called this and that but it is my well considered view that is not the correct legal position. This Parliament can resolve to create more districts in Nairobi because the criteria which have been used in the past to create districts have been a major bone of contention to many of us because it is not even understandable how and what formula is used to create districts. If you look at the creation of districts in Maragwa and Thika and you look at the population of those place vis-a-vis the population of places like Nyeri and Nyandarua which is the biggest district in Central Province which has never been affected by those creations by the Executive you will find usually it is more of political consideration and patronage that determines which area is to get an extra district. If the issue of creating new districts is to take administration closer to the people, the place which deserves more districts is Nairobi because this is where the people are and they have to move from all corners with the congestion, transport problems and potholes. They

have to move from all corners of Nairobi to the PC's office for service which can be rendered at the district level, if Nairobi is divided into districts as suggested by the mover.

Mr. Temporary Deputy Speaker, Sir, I am therefore seconding this suggestion of creating districts in Nairobi to take the services closer to the people as has been the policy. Nairobi has eight constituencies and they are also treated as the administrative boundaries for the eight Nairobi divisions and those eight Nairobi divisions have their chiefs and assistant chiefs who are

in Nairobi sometimes. The bone of contention or the problem in Nairobi is that, all the incidences which are reported are caused because there is no central control of those chiefs by the administrative arm of the Government because office of the DC is lacking. It is only the PC who in most cases is involved in most of the activities in the whole province and to be able to co-ordinate the activities at the grassroots is extremely difficult. So, we are calling upon the creation of these districts, so that the Assistant Chiefs, the Chiefs and the DOs can be controlled by the DC whereas the PC is co-ordinating other activities regarding the whole province.

But all this rests with the PC and it is becoming extremely difficult to do the same.

I therefore, beg to second.

(Question proposed)

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I would like to---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Musila): Hon. Sunkuli, you will continue with your presentation next Wednesday. Hon. Members, it is now time for the interruption of our business. The House is, therefore, adjourned until this afternoon at 2.30. p.m.

The House rose at 12.30 p.m.