

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 28th July, 1998

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

LIVE COVERAGE OF PROCEEDINGS BY KBC

Mr. Kirwa: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, in consideration of the immense interest and appreciation expressed by wananchi in broadcasting of proceedings of the House by the Kenya Broadcasting Corporation in "Today in Parliament" radio programme and the live radio and television coverage of State Openings and Budget Speeches; and, noting that this service has now come of age, needing a review to enhance and enrich display and contents; this House resolves that the Speaker's Committee studies the modalities of introducing live and sound vision broadcasting of the House and make recommendations for implementing of the broadcasting programmes.

ORAL ANSWERS TO QUESTIONS

Question No.399

ISSUANCE OF PLOTS BY KAKUZI COMPANY

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

(a) whether he is aware of the dispute between members of Gaichanjiru Self Help Group and Kakuzi Company Limited;

(b) if the answer to "a" above is in the affirmative, what the Ministry is doing in order to make the Company honour the agreement they signed in 1986 when they were exchanging their land; and,

(c) if he could help solve the problem of public utilities such as schools, churches and commercial plots, which relate to some of the land issues by Kakuzi.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I beg to ask the indulgence of the House because, apparently, I do not have the written answer although I thought I was prepared with it.

Mr. Speaker: Would you want to bring it tomorrow morning?

The Assistant Minister, Office of the President (Mr. Sunkuli): Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well. Mr. Kamande, you will have your Question answered tomorrow morning. Is that okay with you?

Mr. Kamande: Tomorrow morning is okay, Mr. Speaker, Sir.

Question No.108

ENFORCEMENT OF TRAFFIC LAWS

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

(a) how many lives have been lost through road accidents between 1980 and 1997; and,

(b) if he could strictly enforce the traffic laws by ensuring that *matatus* and buses are not

overloaded.

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

(a) A total of 37,383 lives were lost through road accidents between January 1980 and 31st December, 1997.

(b) Traffic policemen are under instructions to ensure strict compliance with all traffic laws by all motorists, including *matatu* and bus operators.

Between 1st January 1998 and 30th May, 1998, a total of 49,991 cases of loading of Public Service Vehicles (PSV) have been detected and appropriate actions taken according to the law.

Mr. N. Nyagah: Mr. Speaker, Sir, you will agree with me that hardly a day passes without reading reports in the Press, about various accidents that have taken place. I think it is high time that the Government took stern action to stop this. The road blocks that we see on the roads have now become a source of corruption. What firm action has the Government taken to ensure that the daily rate of accidents is reduced? This is because, at the moment, it is still very high.

Mr. Sunkuli: Mr. Speaker, Sir, this is a Question of great importance to this country. This is because, road accidents perhaps rank as one of the biggest killers in this country. The laws are in place. At least we have the Traffic Act. The road blocks and checks are in place. But, the hon. Member will agree with me that it is a problem that this nation needs to address; that the whole mentality of overloading and over-speeding, which are the causes of these accidents, need to be addressed not just by the Government, but also by all of us. This is because, the accidents involve all of us. I think that the day the drivers in this country will put it into their heads that the lives of their fellow citizens are more important than making money, this country will be able to go a long way. But for the time being, no matter how many laws we have, unless we change this mentality, road accidents will continue to take their toll.

Dr. Leakey: Mr. Speaker, Sir, I wonder whether the Assistant Minister would agree that road blocks are more often than not, the cause of accidents. People get so frustrated at being held up at road blocks when nothing is done to check what they are doing. Would it not be better for the Assistant Minister to order that some money be spent on mobile, if necessary, motorcycles? When you drive from Parliament in any direction in this country, you will see 15 to 20 violations of the Traffic Act within the first 15 minutes. Mobile traffic police patrols could deal with this problem but we do not seem to have any. Would the Assistant Minister consider putting some mobile traffic police officers on the roads to ticket people on the spot?

Mr. Sunkuli: Mr. Speaker, Sir, it is certainly a good idea to look into, including the possibility of having traffic cameras on the roads in order to be able to curb offending drivers. But, the road blocks, too, have played their roles. These measures on the road do need to be reinforced.

Mr. Kapten: Mr. Speaker, Sir, I believe that those roadblocks make drivers impatient, because the police delay all the vehicles at the roadblocks. What steps is the Assistant Minister intending to take to reduce the number of roadblocks on our roads?

Mr. Sunkuli: Mr. Speaker, Sir, the hon. Member for Kwanza is tackling the wrong problem. I think the right problem to tackle is road accidents, because we have a very high rate of road accidents in this country. We need to look at roadblocks as a way of checking some of the traffic offences committed by motorists.

Mr. N. Nyagah: Mr. Speaker, Sir, one of the problems that we experience is the attitudes of the drivers. If one books for a driving test, in many of the driving schools, he has to bribe to get a licence. What action is the Government going to take to ensure that anybody who books for a driving licence, in any of the driving schools, is scrutinised properly so that there is no corruption between the driving school and the police, the examiners?

Mr. Sunkuli: Mr. Speaker, Sir, that is a very difficult situation, indeed, because there are very, very many driving schools; but tests are conducted. It is the hope of the Government that those examiners who conduct the tests do conduct them fairly.

Mr. Speaker: Next Question, Mr. Sifuna.

Question No.373

OPERATION OF CASINOS BY BC&LB CHAIRMAN

Mr. Sifuna asked the Minister for Home Affairs, National Heritage, Culture and Social Services:-

(a) if he is aware that the Chairman of Betting Control and Licensing Board (BC&LB) is also the Chairman and Director of Crown, Savoy and Las Vegas, all in Nairobi;

(b) if the answer to "a" above is in the affirmative, whether he is satisfied with the tax revenue returns from those casinos when the Chairman of BC&LB has vested interest in those companies; and,

(c) why he was allowed and given licences to operate casinos when he is in charge of the body which controls and checks all casinos in the country.

The Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Nassir): Mr. Speaker, Sir, I have already discussed with hon. Sifuna and agreed to defer that Question until next week to give me more time to get a more satisfactory answer.

Mr. Sifuna: Mr. Speaker, Sir, arising from what the Minister has said, he did confirm that he has no proper answer. He also requested me to give him more time to bring a satisfactory answer, because the documents in my possession are quite different from what he has. So, I have agreed.

Mr. Speaker: The Question is deferred. Next Question, Mr. Kiraitu Murungi.

(Question deferred)

Question No.165

UPGRADING OF KANYAKINE NYAYO WARDS

Mr. Murungi asked the Minister for Health:-

(a) when the Ministry will fulfil its promise to upgrade Kanyakine Nyayo Wards to a sub-district hospital; and,

(b) how much money has been allocated to the hospital during this Financial Year, 1998/99.

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

(a) The facility is currently operating as a health centre.

(b) My Ministry has allocated about K£10,000 to the facility during this Financial Year compared to K£30,000 last Financial Year. This figure was reduced by the Ministry of Finance. In addition, Kanyakine Health Centre has so many other facilities which are incomplete. For example, they had intended to put up a hospital block with 72 beds on Harambee basis, but it has not been completed. If the community will work together with the Government, we will look into the ways of upgrading it. I had even talked to the hon. Member sometimes and we agreed that during the recess in August, I will visit that facility for more consideration.

Mr. Murungi: Mr. Speaker, Sir, the people of South Imenti have raised Kshs6 million through Harambee contribution to put up that hospital. The predecessor of this Minister, hon. Angatia, assured me that the hospital would be upgraded to a sub-district hospital immediately a mortuary was constructed, and for that reason, the Government agreed to allocate some money for the construction of the mortuary and completion of the doctor's house. Is the Minister in order to contradict his predecessor by asking the people of South Imenti to contribute more money when we have already contributed Kshs6 million?

Mr. Speaker, Sir, that notwithstanding, I really appreciate that the Minister has agreed to visit that facility. Can he confirm to this House that, as a matter of fact, he is coming to visit that facility this August, so, that he can confirm that it is only the mortuary that we do not have?

Mr. Kalweo: Mr. Speaker, Sir, I have not contradicted myself. So, I will do what I have said.

Mr. Murungi: Thank you, Mr. Speaker, Sir. Can he further confirm that immediately that mortuary is put up, because that was the only obstacle, the hospital is going to be upgraded into a sub-district hospital? That is what the Ministry had told us before he became a Minister in this Ministry.

Mr. Kalweo: Mr. Speaker, Sir, I think the hon. Member wants to be heard by his people. We had agreed that we must visit that facility to access the matter on the ground. So, everything else rests at that point.

Mr. Speaker: Next Question, Dr. Shem Ochuodho.

Question No.503

IMPROVEMENT OF HEALTH SERVICES IN RANGWE

Mr. Speaker: Is Dr. Ochuodho not here? We will revisit that Question at the end. Next Question, Mr. Katuku.

Question No.511

REPAIR OF BRIDGES IN MWALA

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

- (a) if he is aware that Wethanga and Kasuna bridges in Vyulya Location, Mwala Constituency, were washed away in December last year;
- (b) if he is further aware that coffee farmers in the area are unable to deliver coffee to that factory, thus incurring heavy losses; and,
- (c) if the answers to "a" and "b" above are in the affirmative, what plans he has to repair those bridges.

Mr. Speaker: Is anyone here from the Ministry of Public Works and Housing? We will come back to the Question later. Next Question.

Question No.520

PAYMENT OF COMPENSATION TO MR. ABDI

Mr. Speaker: Question No.520 by Mr. Shidiye has been deferred until Thursday, this week. Next Question, Mr. George Anyona.

(Question deferred)
Question No.282

SALE OF KISII FARMERS UNION ASSETS

Mr. Speaker: Is Mr. Anyona not here? We will come back to it later. Next Question for the second round, Dr. Ochuodho.

Question No.503

IMPROVEMENT OF HEALTH SERVICES IN RANGWE

Mr. Kajwang' on behalf of **Dr. Ochuodho** asked the Minister for Health:-

- (a) if he is aware that Homa-Bay District Hospital, which caters for five districts, but receives the same allocation as the other district hospitals, is ill-equipped and in a pathetic state;
- (b) if he is further aware that cases of cholera, malaria and AIDS are rampant in Rangwe Constituency, and that existing health facilities are inadequate; and,
- (c) if the answers to "a" and "b" above are in the affirmative, whether he could inform the House what urgent measures he intends to take to improve health services in that area.

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

(a) I am aware that Homa-Bay District Hospital acts as a referral centre for the four district hospitals. However, it is not ill-equipped and in a pathetic state.

(b) It is true that cases of cholera, malaria and AIDS are still rampant in the area. My Ministry has put up proper machinery to control those diseases.

(c) My Ministry has sought and obtained support from the African Development Bank (ADB) to carry out a study to assess the rehabilitation and equipment needs of Government hospitals in preparation for the proposed major rehabilitation.

Mr. Kajwang': Mr. Speaker, Sir, Homa-Bay District Hospital caters for Homa-Bay, Karachuonyo, Suba and Migori Districts, while the population in those districts is higher than the facilities available at Homa-Bay District Hospital. The Minister has not indicated how much money he is seeking to rehabilitate hospital facilities in those five districts, and which hospitals he has targeted for rehabilitation. Could he indicate to us how much money he is raising and for which district hospital?

Mr. Kalweo: Mr. Speaker, Sir, as I had earlier said, the ADB has accepted to give a grant of US\$2,007,219 to carry out the proposed study, because we cannot just start the rehabilitation without first carrying out the study. We are carrying out studies to enable us expand that hospital. At the same time, we encourage other

districts to come up with their health facilities. Again, I promise that I will be touring those areas to carry out my own assessment.

Dr. Kituyi: Mr. Speaker, Sir, the original Question is about the equipment and the state of the district hospital because right now it cannot be used as a referral hospital. The Minister is telling us that the ADB is giving him about Kshs140 million to carry out a feasibility study. What kind of research needs have you identified which will give a priority for you to spend Kshs140 million studying the environment instead of actually rehabilitating the hospital as already identified by the locals?

Mr. Kalweo: Mr. Speaker, Sir, the money will not be spent on Homa Bay District Hospital alone but on other new district hospitals. So, the money will also be used to put up other entire new district hospitals.

Mr. Achola: Mr. Speaker, Sir, could the Minister explain why Kuria District got the same amount of allocation as the Homa-Bay District, that is K£100,000, in the Vote that we just passed last week realising the fact that Homa-Bay District is catering for five districts. Could he further explain the rationale used in giving them the same allocations? Also, is the Minister aware that in Homa-Bay District Hospital, patients are fed on papaw leaves instead of cabbages?

Mr. Kalweo: Mr. Speaker, Sir, I am not aware of the latter part of the Question. However, South Nyanza which has been split into five districts, Homa-Bay District Hospital has continued to cater for the other districts that have come up. So, we must look into this issue afresh. However, that cannot be done all of a sudden. So, these things will be accomplished on a gradual basis.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to have answered part "a" of the Question without letting the House know exactly what type of equipment is at the moment available at Homa-Bay District Hospital knowing fully well that as a multi-district hospital, Homa-District Hospital does not even have an intensive care unit?

Mr. Kalweo: Mr. Speaker, Sir, I was not advised about the kind of equipment which are in the hospital. Otherwise, the other facilities like beds and others things are there. I am not certain of what is there and what is not there.

Question No.511

REPAIR OF BRIDGES IN MWALA

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

(a) whether he is aware that Wethanga and Kasuna bridges in Vyulya Location, Mwala Constituency, were washed away in December last year;

(b) whether he is further aware that coffee farmers in the area are unable to deliver coffee to this factory, thus incurring heavy losses; and,

(c) if the answers to "a" and "b" are in the affirmative, what plans he has to repair these bridges.

The Minister for Public Works and Housing (Mr. Kones): Mr. Speaker, Sir, I apologise for coming late, but I beg to reply.

(a) I am aware that Wethanga and Kasuna bridges in Vyulya Location of Mwala Constituency were washed away in December last year.

(b) I am further aware that coffee farmers who are using the two bridges have difficulties in delivering their coffee and they may have incurred losses because the crossing of these two bridges is difficult.

(c) The Ministry had plans to reconstruct Wethanga bridge During the last Financial Year, some materials worth Kshs989,895 were procured for the repairs of the bridges. However, work could not proceed beyond the excavation of the ground due to rains. During this Financial Year, an additional Kshs2 million will be made available for the project. The construction will resume during the month of September 1998.

Mr. Speaker, Sir, Kasuna bridge is a non-classified road and all non-classified roads are not under the responsibility of the Ministry. However, if the county council seeks special advice, the Ministry can assist.

Mr. Katuku: Mr. Speaker, Sir, it has become very evident that the issue surrounding this Wethanga bridge in Vyulya Location is very interesting. One, as the Minister says in his answer that materials worth Kshs989,895 are on the site. However, the fact of the matter is that it is only about two lorries of ballast that was delivered and it cannot be worth that much for whatsoever. Moreso, these materials were taken to the site during the campaign period and immediately KANU lost the seat, the workforce was withdrawn. This is the truth and the KANU candidate went round saying that he was the one who was constructing this bridge. He is now asking: "How can the new Member of Parliament construct the bridge?" Actually, the man who was contesting was not even the former Member of Parliament, it was the former special branch boss, Mr. Kivuvani. So, this money was

withdrawn because KANU lost. Could the Minister---

Mr. Speaker: Order, hon. Katuku. You must put your question.

Mr. Katuku: Mr. Speaker, Sir, I was almost putting the question and I am going to do it. Can the Minister assure this House that this work is going to start without the conditions because it may be that I may not support the Vote here and then they withdraw the money allocated therein as they did when they lost the seat in the 1997 general elections?

Mr. Kones: Mr. Speaker, Sir, I would like to assure the hon. Member that Mwala Constituency is part of this country and it is the responsibility of the Government to carry out the development projects in that constituency whether or not it is an Opposition zone. So, the question of materials or what being with withdrawn just because the KANU candidate lost does not arise. I would like to confirm to the hon. Member that this work will start in September whether the hon. Member is in KANU or not.

Mr. Kikuyu: Mr. Speaker, Sir, could the Minister assure this House that what he is giving are not answers which his Ministry has been giving in this House by saying that work will be done when money is available or this work will be done as they did with Kimusua bridge and Machakos Girls bridge and up to now nothing has been done? Can he assure us that this bridge will be completed this year together with the others which he has promised in this House?

Mr. Kones: Mr. Speaker, Sir, if the hon. Member had followed my answer, what I said was that money has been made available now amounting to Kshs2 million and work will start in September. So, it is not a question of saying that the bridges will be built when money becomes available. We are saying that money is now available.

Mr. Katuku: Mr. Speaker, Sir, I am not sure whether it will start, but I hope that it will. However, my question is: The Minister is telling us that there are materials on the site worth almost Kshs1 million and yet when I was there it was only two lorries of ballast which were there. Can the Minister be serious on this issue? If what he is saying is true that he has been allocated Kshs2 million, then will the bridge be constructed using this money? Could the Minister further confirm that whatever is on the site is not worth almost Kshs1 million as he is alleging?

Mr. Kones: Mr. Speaker, Sir, I said that materials worth Kshs989,000 are on the site, but probably the hon. Member has been able to see ballast stones, wires or rather reinforcement sticks and things like that, but he may not have been able to see cement, nails or some other items that could be washed away by the rains. So, probably if he took a bit of time, he could have found these materials. In any case, if somebody is trying to cheat that these materials are there, it will eventually be discovered that he was cheating.

Mr. Speaker: Mr. Anyona's Question, for the second time!

Question No.282

SALE OF KISII FARMERS UNION ASSETS

Mr. Anyona: Mr. Speaker, Sir, I apologise for coming late. Due to the gravity and sensitivity of this issue, and also in view of the answer which is considered unsatisfactory, the Minister and I have had consultations and we have agreed to request you to defer the Question to facilitate further consultations.

Mr. Speaker: Okay, that Question will be deferred.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

MEASURES TO PROTECT MBO-I-KAMITI ASSETS

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

Given that Mbo-I-Kamiti Farmers Company Limited has thousands of shareholders, most of whom were former coffee pickers and that the company has had a long history of financial mismanagement by the Directors and the Provincial Administration:-

(i) Could the Minister state why the shareholders are being stopped from holding a meeting to receive the Report of the Probe Committee appointed to investigate misappropriation of the company's assets by the directors?

(ii) What is the Minister doing to protect the interests of these poor shareholders who stand to lose their entire investment if the company collapses and its farms and assets sold?

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

The shareholders have not been able to hold a meeting because the Probe Committee had not finalised their findings. Once the Report of the Probe Committee has been read to the shareholders, the Government, in consultation with the shareholders will take appropriate action in implementing the findings.

Mr. Muite: Mr. Speaker, Sir, it cannot be true that the Probe Committee has not completed its work. It is the Probe Committee which has been pressing to have the opportunity to present their findings. Indeed, it is the directors who do not wish the Report of the Probe Committee to be read and to that end, they have taken to bribing the OCPD, the OCS and the Chief-- With due respect to the Chair, I should not use the word stupid. But the directors have stupidly been writing in their petty cash vouchers the bribes they are giving to these people in order to stop the meeting from taking place. Can the Assistant Minister give us a date when this meeting can take place? The Probe Committee was set up when the President attended the meeting. The Assistant Minister should give us a date and allow the shareholders to have a meeting. These are the documents to show the bribery which the directors are engaged in, in order to stop the meeting from taking place.

(Mr. Muite laid the documents on the Table)

Mr. Sunkuli: Mr. Speaker, Sir, whereas I intend to answer the Question, with respect to these documents that have been tabled by hon. Muite, I want to inform the House that nowhere is it indicated that this is a bribe or that this is supposed to be paid to any Government official. One of the documents says: "Please pay the Board of Directors in respect of Registrar of Titles, Commissioner of Lands, entertainment." That is the closest that seems to be touching on a Government official. The rest are their own receipts. I do not know of anybody who does an illegal job and records it down.

Mr. Muite: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to start misleading this House? He has not taken time to read through these documents. They are all there! The OCPD, the OCS and the Chief are mentioned. Should he not take time to go through these documents so that he does not mislead this House?

Mr. Sunkuli: Mr. Speaker, Sir, if these documents were prepared by people who are critics of the Government like hon. Muite, then I really do not need to take time to look at them. But I want to inform hon. Muite that the problem in this particular situation is as follows: There are five members of this Probe Committee who have withdrawn from the Committee and the rest have not signed what ought to be the report to be read at the next meeting. The Provincial Commissioner is looking for the remaining nine members in order for them to sign the Report. As soon as they have appended their signatures to the report, the shareholders will be called and the meeting will, therefore, take place.

Mr. Keriri: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order--- You saw him throw that document across the Table. Is he in order to dismiss a document by an hon. Member of this House by alleging that the Member is a critic of the Government? Is that enough reason for the Assistant Minister to refuse to answer a Question by an hon. Member of Parliament?

Mr. Sunkuli: Mr. Speaker, Sir, the hon. Member might be new in this House. He does not realise that I have not refused to answer the Question. I have just said that the copies of this alleged documents are of no value.

Mr. Karume: Mr. Speaker, Sir, these farms are in my constituency and I know that the Probe Committee has completed its job. Some of them have informed me to that effect. The Members of the Probe Committee are eleven and it will take only one hour for the DC or the DO to get hold of them and ask them to sign the Report which the Assistant Minister is talking about. Can he tell this House how long it will take for the shareholders to be allowed to convene a meeting?

Mr. Sunkuli: Mr. Speaker, Sir, the hon. Member who is a very respectable old man would assist, perhaps, in urging the nine members of the Probe Committee to go to the Provincial Commissioner and sign the Report. But I will undertake also to inform the Provincial Commissioner to hasten the process and make sure that this document is signed as soon as possible so that the Report can be read to the shareholders.

Mr. Kikuyu: On a point of order, Mr. Speaker, Sir. I am at a loss. I cannot follow what is going on. We have been told that there was a Probe Committee which was probing the activities of the company and hon. Muite says that Probe Committee completed its work. How could it have completed its work if the Report is not signed? The Assistant Minister also agrees that the Report is with the Provincial Commissioner. How did it

arrive there if it had not been signed by the Probe Committee to certify that, that was their Report?

Mr. Sunkuli: Mr. Speaker, Sir, I do not think that there is a contradiction. The only matter which is pending is the signatures to be appended on the Report.

Mr. Michuki: Mr. Speaker, Sir, taking into account that Mbo-I-Kamiti is a limited liability company and, therefore, it comes under the Registrar of Companies and the Attorney-General, could the Assistant Minister tell us how the Office of the President got involved with a company which is purely private, to the extent that every DC who comes to Kiambu has gone out a millionaire after taking so much money from the company? How did the Office of the President get involved with a private company?

Mr. Sunkuli: Mr. Speaker, Sir, hon. Michuki ought to acquaint himself with the circumstances that pertained in Mbo-I-Kamiti before the Probe Committee was set up. A Probe Committee was set up to take into account the interests of the public with respect to this company. If he asked hon. Muite quietly, I am sure he would understand this because it was a long story.

Mr. Michuki: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House, when he is fully aware that the Registrar of Companies also represents public interests? How could it be that the portfolio was given to the Attorney-General if he cannot protect shareholders in a private company? How did the Office of the President come in?

Mr. Sunkuli: Mr. Speaker, Sir, the shareholders did complain to the Office of the President. The Office of the President, therefore, set up the probe committee.

ASSUMPTION OF IDB LOAN BY GOVERNMENT

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

On the assumption by the Government of a loan of Kshs736,959,824 from the Industrial Development Bank (IDB) as per Sessional Paper No.1 of 1998:-

(a) To whom will the loans given by the IDB to borrowers amounting to the foregoing sum be repaid?

(b) Why has the Minister not stated in the Paper the extent to which the proposed swap complies with Loans Act?

(c) Taking into account the assumption of the debt by the Government, how much will the National debt be thereafter and could the Minister provide to the House a list of borrowers of the above sum?

The Assistant Minister for Finance (Mr. Keah): Mr. Speaker, Sir, I beg to reply. Although, Mr. Michuki has been given a very lengthy answer, I am going to be very brief indeed.

(a) The loans given by the IDB to borrowers amounting to Kshs736,959,824 will be repaid to the following external lenders:- the Exim Bank of India, African Development Bank, World Bank and some Swiss Banks in various currencies. The debt is repayable over the next five years. The Government has a balance to settle with the IDB amounting to Kshs112,162,859. In assuming the IDB external loans amounting to Kshs736,959,824 the Government is not extending any additional funds whatsoever or grants or benefits to IDB as to warrant any claim on the proceeds from the local borrowers' repayment. The Government is merely swapping the debt with the IDB.

(b) The proposed swap complies with the External Loans and Credit Act, Cap 422 of the Laws of Kenya. This Act empowers the Government, through the Minister for Finance, to borrow or obtain credit for approved Government expenditure up to the authorised limit of Kshs320 million.

(c) Taking into account the assumption of the debt by the Government, the external national debt will be Kshs312 billion at current rates. I have a whole long list of borrowers numbering 60 all together relating to the balances outstanding as at 27th July, 1998. I wish to table this list because it is very long.

(Mr. Keah laid the document on the Table)

Mr. Michuki: Mr. Speaker, Sir, the Guarantee Scheme was brought into effect in 1991 according to the Sessional Paper. When was it discovered that the Government could not honour the guarantee that it had extended to IDB?

Mr. Keah: Mr. Speaker, Sir, in view of the foreign exchange rates fluctuation and the fact that the IDB loans given to the borrowers were at a fixed time, the Government has all along been aware that there would be this risk factor.

Dr. Kituyi: Mr. Speaker, Sir, at these times of economic crisis we are going through now, it is normally

expected of Government that, if it has to absorb any risk of a loan transfer, it will seek the mandate of Parliament through adoption of a Sessional Paper and not by just giving a notice to Parliament. A Motion on the Paper should have been moved here by the Government for adoption by this House. Why did the Ministry of Finance find it convenient to give notice by laying the Sessional Paper on the Table instead of bringing it here as a Motion for adoption by the House?

Mr. Keah: Mr. Speaker, Sir, as far as I am aware what we have done is the normal procedure. The risk was taken by the Government at a time when the exchange fluctuation rates were not stable. In order to encourage local investors the Government, as a matter of fact of policy, decided to assist the local investors by assuming the exchange rates. This was done many years ago. It was done in 1991. It is not a thing we are doing now. We are now regularising, or crystallising, the acceptance of that risk because it is a reality. It is a practical matter. We are taking the magnitude of the foreign exchange into our books because we guaranteed it.

Mr. Michuki: Mr. Speaker, Sir, this is a very interesting issue if one wants to understand how governments make policies and why they make them. This fund was started to assist a very important development institution back in 1991. A large sum of money was involved, but most of it has been repaid. Now, what we are seeing here is only the element of the guarantee. The guarantee paper states: "A Gazette Notice cancelling the guarantee was issued in 1994." So, this scheme lasted only for three years. Could he tell us why the Government was so short-sighted as to have committed itself to a policy which it changed in three years? It was as if, originally, that policy had not been well considered? Why was it not well considered?

Mr. Keah: Mr. Speaker, Sir, that happened precisely because of good management. When you have realised that you have taken a risk that is growing bigger and bigger---

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

Mr. Speaker: Order, Mr. Michuki! Do you not want to hear his side of the story? He has not finished a sentence and you are up on a point of order! What is your point of order?

Mr. Michuki: My point of order Mr. Speaker, Sir, is meant to enhance what he has said. Is it in order that he should just, in a hidden manner, try to apologise? Could he not come out and apologise to this House more clearly and openly?

Mr. Speaker: If you had let him finish the sentence maybe you would have known whether he was apologising or not. Mr. Keah, do you want to say anything further?

Mr. Keah: No, Mr. Speaker, Sir.

KENYAN HAND BALL TEAM TO ZANZIBAR

Mr. O.K. Mwangi: Mr. Speaker, Sir, I beg to ask the Minister for Home Affairs, National Heritage, Culture and Social Services the following Question by Private Notice.

(a) Is the Minister aware that the Hand Ball Team from Murang'a Teachers College Primary School has qualified up to the national level and has been invited to represent Kenya in the forthcoming East and Central Africa Junior Hand Ball Championships to be held in Zanzibar from 9th to 16th August, 1998?

(b) Is he further aware that the Team might fail to travel to Zanzibar due to lack of funds?

(c) If the answer to "a" and "b" above are in the affirmative, how much money is required and what urgent steps is the Minister taking to ensure that the Team represents the country in Zanzibar?

The Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Nassir): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the Hand Ball Team from Murang'a Teachers College Primary School has fought its way to the national level and that it has been invited to represent Kenya in the forthcoming East and Central Africa Junior Hand Ball Championships to be held in Zanzibar from 9th to 16th August, 1997.

(b) I am aware that the Team might fail to travel to Zanzibar due to lack of funds. No request has been made to the Ministry through the laid down procedures for any assistance.

(c) The Ministry has not received any financial request from the said team through the Kenya Amateur Hand Ball Association and the Kenya National Sports Council and, therefore, the Minister could not know how much money is required by the team to travel to Zanzibar.

Mr. O.K. Mwangi: Mr. Speaker, Sir, it is ridiculous that the Minister is telling this House that his Ministry does not do anything until requests are made. He has said that he is aware that this team is going to represent the country outside Kenya. He has also told this House that he is not aware that they have no funds or how much money they require; he is just waiting to get a request for the financial support. What then, does the Ministry do in respect of teams that are actually active to represent and give the country a good name abroad?

What is the purpose of the Ministry if it is not going to find out---

Mr. Speaker: Mr. Mwangi, you have repeated yourself three times.

Mr. Nassir: My Ministry is like any other Ministry and our Government is like any other Government. If you run away from the Government, how do you expect it to work with you? You should inform the Ministry on whatever you do. This is the Government of Kenya and not a Government of particular people. So, you should not sit down and expect our help if you did not ask for it. We are only hearing about this from the media and no request has been made to us. The Government has got its own budget to follow, and if you do not send your requests in time, we will not be in a position to assist you.

Mr. Ndwiga: Mr. Speaker, Sir, this is most ridiculous! The Minister has admitted to this House that he is aware that this team has qualified to national level and he is further aware that the team has been invited to represent this country in Zanzibar. It is the responsibility of this Minister and his Ministry to make sure that when our athletes and other sporting teams are invited outside, they are facilitated by the Government to get there. Is the Minister tell this House that he does not understand some of these things at all? Can he confirm that he is going to try to facilitate this team to travel to Zanzibar?

Mr. Speaker: Mr. Ndwiga, that is not an appropriate question. I disallow it. Hon. Kaindi, who is next to you?

Mr. Waithaka: I am not Kaindi. I am hon. Mwangi Waithaka, the Member for Kinangop, if you do not know me. You would have called my name if you knew it.

Mr. Katuku: I am closer to Kaindi ---

Mr. Speaker: Order! Order, the two of you! Since both of you do not want to take the opportunity given by the Chair, I may just be inclined to give the chance to more polite Members.

Mr. Waithaka: Thank you very much, Mr. Speaker, Sir. Could the Minister tell this House which department, under his Ministry, is in charge of sports because he does not seem to know who is responsible when either a football team or an athlete qualifies to represent this country in international sports? Can he say who is responsible? Is it his Ministry or another body?

Mr. Nassir: Mr. Speaker, Sir, I would like to reply Questions but not to insults. I have said that any team that collects funds without our knowledge and goes wherever it wants without informing us, that is up to it. How would we know that the Hand Ball team from the Murang'a Teachers College Primary School has not collected funds and it needs funds from the Ministry?

DISMISSAL OF BUSIA COUNTY COUNCIL WORKERS

Mr. Wanjala: Mr. Speaker, Sir, I beg to ask the Minister for Local Authorities the following Question by Private Notice.

(a) Is the Minister aware that nine members of staff from Busia County Council, who were transferred to Port Victoria Town Council, have been dismissed from employment?

(b) If the answer to "a" above is in the affirmative, could the Minister order their re-instatement?

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

(a) I am not aware.

(b) Arising from the answer given in part "a", part "b" is not relevant.

Mr. Wanjala: Mr. Speaker, Sir, I am very surprised that the Assistant Minister is not aware of this problem. As you are aware, Port Victoria Town Council was upgraded in 1997, from Busia County Council. Now, they are supposed to share assets and liabilities of which 33 staff members were transferred from Busia County Council to Port Victoria Town Council. It was on 26th January, 1998, when the 33 staff members were transferred to Port Victoria Town Council. I am made to learn that the KANU chairman of Budalangi Division has been writing letters to the Permanent Secretary, Mr. Siele, to have all the staff retransferred to Busia County Council. Indeed, nine of them were transferred. I have with me the letters he has been writing to Mr. Siele accusing these staff members of corruption and so on, of which they have never been arrested. The KANU Chairman, Kisii---

Mr. Speaker: Mr. Wanjala, this is not debating time; it is Question Time!

Mr. Wanjala: Mr. Speaker, Sir, I was explaining the matter because the Minister is not aware of it.

Mr. Speaker: Order, Mr. Wanjala! You do not explain, you ask questions. It is for the Minister to explain, and it is a question of dismissal, not transfer.

Mr. Wanjala: Mr. Speaker, Sir, some more staff members are about to be sent away. Will the Assistant Minister tell this House whether those who were re-transferred and were refused by the Busia County - now they are not working - are going to resume work in Port Victoria Town Council and whether these 13 more who are to

be transferred again, are not going to stay in Port Victoria Town Council?

Mr. Sasura: Mr. Speaker, Sir, the upgrading of various councils has definitely brought some conflicts in as far as the sharing of assets and liabilities is concerned. The sharing of staff is just part of the assets and liabilities. However, I would like to assure the hon. Member that a committee has been set up which is going to be chaired by the Provincial Commissioner and the PLGO to oversee the distribution of assets and liabilities. All affected councils have been instructed to clear with the Ministry all personnel matters before any action is taken, that is, before the committee report is ready.

Mr. Sifuna: Arising from the Assistant Minister's reply, the hon. Member has shown that there are some letters which have been written dismissing those people from employment. Would the Assistant Minister ensure that those people who have been sacked are reinstated, pending further investigations?

Mr. Sasura: Mr. Speaker, Sir, I clearly said that the Ministry is not aware of this dismissal, but if there is any personal matter still pending, the Ministry has issued instructions that it should be settled. Any action by a council that is contrary to the instructions will not be binding and the Ministry will redress it.

MINISTERIAL STATEMENT

ARREST OF KRA OFFICIALS

The Minister for Finance (Mr. Nyachae): Mr. Speaker, Sir, this House is aware that revenue is the life blood of any Government. For this reason the, recent incident of arresting four senior officers from the Treasury and the Kenya Revenue Authority (KRA) pose a great danger to Government operations and consequently the entire economy. I say this because in future officers are likely not to take action for fear that they can be arrested, prosecuted and their integrity questioned for carrying out lawful instructions, including those given by the Cabinet, and which happen to be based on laws passed by this House. If these incidents are institutionalised no Government can operate. Let me assure this House and the nation that there has been no wrong doing.

Hon. Members: No! There has been!

The Minister for Finance (Mr. Nyachae): The officers concerned acted with the highest degree of integrity and in accordance with the law. But to allay any doubts, we need impartial investigations to be carried out into these allegations.

Hon. Members: No way!

(Loud consultations)

The Minister for Finance (Mr. Nyachae): It is for this reason that I find it necessary that the whole truth should be revealed to this House and the public. This incident and the allegations connected with it should, therefore, be investigated with speed in order to clear any doubts in the minds of Kenyans about the performance of the officers at the Treasury and the KRA. Furthermore, we need to send a clear message to all public servants that they cannot be victimised for implementing lawful decisions. In my view, we need to get to the bottom of these allegations. A way should also be found to complete these investigations within a month. It will be unfair to the officers who have been threatened with prosecution, and to the whole country, to keep such serious allegations in suspense.

Hon. Members: Go to court!

The Minister for Finance (Mr. Nyachae): Mr. Speaker, Sir, this is a serious matter which must be cleared without any delay, particularly when we take into account the fact that the officers whose names have been scandalised have a major role to play in reviving the economy of this country. Besides this, the international community is watching anxiously to know the truth about this matter.

Hon. Members: Resign, Mr. Nyachae!

The Minister for Finance (Mr. Nyachae): Mr. Speaker, Sir, as hon. Members will recall, the hon. Attorney-General terminated the cases, but he promised to carry out further investigations. Therefore, it will be necessary for any commission of inquiry, which will be formed, to liaise with the Attorney-General as it carries out the investigations.

(Loud consultations)

The inquiry should establish the kind of conspiracy the officers engaged in, with whom, where and when. In

addition it should establish whether charges filed against these officers---

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

Mr. Speaker: Order! Order, hon. Members! Hon. Members, you must realise that it is the right of this House, as representatives of the people, to receive any statement from the Government that Ministers want to give. If you are unhappy with what the Minister is saying, then I will allow one or two hon. Members to seek clarification. But I do not think that this House should refuse to hear what the Minister is saying. The basic thing about human beings is that they should always say: "Let me hear what you want to say." Proceed hon. Nyachae!

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

Mr. Speaker: Order! Order! Hon. Members, the Minister is giving a Ministerial Statement! Proceed Mr. Nyachae!

The Minister for Finance (Mr. Nyachae): Mr. Speaker, Sir, in addition, the inquiry should establish whether the charges filed against these officers fall within the provisions of the Prevention of Corruption Act, Cap 65. This is necessary in order to establish whether the Kenya Anti-corruption Authority (KACA) acted with sincerity, and within its legal mandate as conferred by the law enacted by this House.

Mr. Speaker, Sir, hon. Members will agree with me that corruption is like cancer. Unlike in the case of any other disease, if we use the wrong prescription, it will get worse. I must emphasise that this House has a responsibility to ensure that we deal with corruption correctly. However, in fighting corruption, we must never imagine that we can put aside the individual rights of every Kenyan. It is for this reason that we need an impartial commission of inquiry into the recent events, which have damaged the image of this country and that of the individual officers concerned.

Mr. Speaker, Sir, I now wish to lay before this House the Ministerial Press Statement I issued yesterday.

*(Mr. Nyachae laid the Ministerial
Press Statement on the Table)*

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

Mr. Speaker: Order! Order! In ordinary circumstances, a Ministerial Statement ought not to be followed by debate and it will not. What I intend to do, because of the nature of this matter, is to allow two or three Members to seek clarification on the Ministerial Statement and from there we will proceed. Mr. Mwenje can you seek your clarification?

Mr. Mwenje: Mr. Speaker, Sir, the day that "Justice" Nyachae and the Executive will be allowed to interfere with the Judiciary and misuse this House to defend the misdeeds of people who are known to have stolen, that is the day that this country will be plunged into darkness. What the Minister is saying here is what he was expected to say in Court and not in this House.

Mr. Speaker: What is your clarification?

Mr. Mwenje: My clarification is this; I do not know why this House is being used to curtail the judicial process. The matter was taken by the Kenya Anti Corruption Authority (KACA) to court. The officers of the KACA exhausted all the normal channels before taking this matter to Court. They have all the evidence that Kshs.230,000,000 has been stolen. Mr. Mwau can defend himself in the Courts. He was appointed by the President to go and do that particular job which he is doing very effectively. Who are these executives, Mr. Nyachae and Company, to come and attack Mr. Mwau and curtail what was supposed to be in Court? All the Kenyans and the donors are listening and waiting to know about this. Can the Minister now tell us why he has taken this action, because it will have a serious impact on the country?

Hon. Members: Shame! Shame!

The Minister for Finance (Mr. Nyachae): Thank you Mr. Speaker, Sir. The question regarding the role of the Attorney-General has nothing to do with the Treasury. If any hon. Member reads the legislation connected with the Anti-Corruption Act, he will notice that the law says that when the Director takes the matter to Court, the Attorney-General immediately takes over. The Attorney-General takes over and what he decides---

Hon. Members: Are you the Attorney-General?

Mr. Speaker: Order! Order! Hon. Members, it does not make sense if we cannot listen to one another. You are showing interest in one respect and disinterest in another respect by not listening. Can we allow him to say his bit in clarification? I suppose this is why you are showing interest. Can we be serious?

The Minister for Finance (Mr. Nyachae): What I am saying---

(Loud Consultations)

Mr. Wanjala: On a Point of Order, Mr. Speaker, Sir!

Mr. Speaker: Order! Order! Mr. Wanjala, I am addressing you directly. Will you please respect the House and respect yourself? Just be a little orderly; it will help you a lot.

The Minister for Finance (Mr. Nyachae): Mr. Speaker, Sir, what I was saying is that under the law, once this matter has been taken to Court, people from the Treasury and KRA have no say in it. It has been taken to Court and the Attorney-General is the one who is supposed to carry out the prosecution, under the law. I have not spoken with the Attorney-General or the Public Prosecutor but from what I have read, he has withheld the case and tabulated it for further investigation.

Hon. Members: Let them go to court!

Mr. Raila: Mr. Speaker, Sir, I have a lot of respect for the hon. Minister but I think the truth ought to be told. In this country, we all believe that every Kenyan is presumed to be innocent until proven guilty by a court of law. Therefore, I want to seek two clarifications from the Minister because of the controversy surrounding the illegal importation of sugar, rice and grains in the country. First, which in his opinion is superior; an Act of Parliament or a Legal Notice? Does the Minister have the power to change an Act of Parliament through a Legal Notice to reduce the penalty fee from 10 percent to 2.75 percent? Secondly, does the Minister believe that the work of the KACA is to prevent commission of any corrupt act? Does he think that authority is competent to prosecute in pursuit of its duty of preventing commission of corruption?

The Minister for Finance (Mr. Nyachae): Mr. Speaker, Sir, I do not know whether we have to debate the laws and regulations connected with this matter, when the House has actually commented right now that we should leave this matter to the Court. I was only making a Ministerial Statement. The regulations approved by this House are the ones that I follow and that is what I have been following.

Hon. Members: You are being misused! Shame on you!

Mr. Kapten: Mr. Speaker, Sir, the sugar-cane and wheat farmers in Western Kenya are crying because of the importation of sugar and wheat in the country. I am surprised that the Minister is making comments on this matter. He wants independent investigators. Who is more qualified in this country to investigate such a matter other than the Court? Secondly, was there any Legal Notice gazetted to exempt or lower duty on this sugar and wheat? If there was, we would like to know the Legal Notice Number. Lastly, if the KACA is doing its work, why is the Minister worried, because his people are innocent until proven guilty? Why can the Minister not leave the Court to do its work?

An hon. Member: Why is he "payukaring"?

The Minister for Finance (Mr. Nyachae): Mr. Speaker, Sir, if it is a question of the Gazette Notices on either increasing or lowering the suspended duty, they are there and they can be tabled. Now on the question of Mr. Mwau doing his work, nobody has interfered with his work.

Mr. Sambu: We have suffered with our maize! What are you talking about? Leave the Courts to do their work!

(Loud consultations)

The Minister for Finance (Mr. Nyachae): It is not a question of shouting. Shouting will not sort out this matter. Some of you who are shouting so loudly will eventually be ashamed because you are talking blindly. You do not understand what you are talking about and you can carry on shouting!

Mr. Speaker: Order! Order! I have given this matter 20 minutes. We will not turn a non-business into a business and debate it. I will now end that issue and call Mr. Wambua to raise his point of order.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I think we have the wrong person in the dock. This is an issue of the laws of Kenya. The Minister has insisted that Mr. Mwau has no business arresting these people. Who is better qualified to interpret these laws than the Attorney-General? How come we are debating this issue without the Attorney-General coming here to explain to us whether the Anti-Corruption Act was being applied correctly and whether the Minister was right to come in public---

Hon. Members: He should resign! Go home!

Mr. Speaker: Order, Hon. Members! Maybe I can help the House. There is already a Question by Private Notice approved by me, directed to the Attorney-General, seeking precisely what hon. Anyang'-Nyong'o is saying. I hope this Question comes on Thursday. It is asking the Attorney-General to explain to this House the reasons leading to the arrest of those officials and why the Attorney-General entered a *Nolle Prosequi*. Could the hon. Members be ready and wait until Thursday when the Question comes here, then you can ask the Attorney-General all those questions. I think that is the best I can tell the House. It is the best way forward.

Mr. Orengo: On a point of order, Mr. Speaker, Sir. I do not want to go back to the debate that has just taken place on the basis of the Ministerial Statement, but I am worried about the words that the Minister has used. Are you satisfied that those words were parliamentary?

Mr. Speaker: What did he say?

Mr. Orengo: He said that no amount of shouting or noises will change the position. It reminds me of what Mr. Kamere told us in this House; that Members of Parliament spend sleepless nights because of their debts. I would like to remind the Minister that we may be making the noises now, but in future, some of his acts will catch up with him. We know his record very well.

Mr. Speaker: Order! Can we come back to normalcy. Hon. Nyachae, hon. Members do not shout or make noise. They occasionally engage in---

An hon. Member: Loud consultations!

Mr. Speaker: Order! They occasionally get over-activated in their discussions. Proceed, hon. Wambua.

NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 20

DEMOLITION OF CURIO SHOPS AT KIGALI MARKET

Mr. Wambua: Mr. Speaker, Sir, I seek your audience to seek leave of the House to move a Motion of Adjournment under the provisions of Standing Order No. 20 Clause 2. This opportunity will allow me, as a matter of national importance, to raise the following:

- (a) The demolition of 336 curio shops at Kigali Market.
- (b) That, not only was property worth of millions of shillings destroyed, but also, the remains were burnt.
- (c) That, over 600 workers who eked their livelihood from the businesses lost their sources of their livelihood.
- (d) The Nairobi City Council acted out of the way, notwithstanding the existence of a court order, which restrained them until the case was heard and determined on 23rd September, 1998.

Mr. Speaker: Just before you stand, I have to find, as a matter of fact, whether or not, it is a matter that can come under Standing Order No. 20, and if I so do, I will ask whether the hon. Member has support. Although he has put it in a lengthy manner, I think, indeed, the matter of destruction of property, and disobedience of a court order, is in my view, a matter of national interest. If the hon. Member has the requisite support then, maybe, I will allow him time to do that.

(A number of Hon. Members stood in their places)

Order! You may sit down. The requisite number required is 15 hon. Members. The number of hon. Members who have stood in support is way far beyond 15. I will, therefore, allocate one hour today at 5.30 p.m., for hon. Wambua to move his Motion.

POINTS OF ORDER

REPLY TO QUESTION NO.318

Mr. Musila: Mr. Speaker, Sir, I stand on a point of order in relation to Question No.318, that was answered by the Minister of State, Office of the President, on the 25th of June, 1998. According to the HANSARD, the Minister did promise to give a detailed reply the following week. Today, it is four weeks since the promise was made and no reply has been forthcoming. I seek your guidance on this matter.

Thank you.

(Loud consultations)

Mr. Speaker: Order! Order, hon. Mwenje! Hon. Members must maintain order in the House. We are still in business and we shall continue to be in business until the House is adjourned. So, can we be orderly?

Hon. Kombo, have the Floor.

MINISTERIAL STATEMENT SOUGHT:
SHOOTING OF MR. ODHIAMBO

Mr. Kombo: Mr. Speaker, Sir, I stand to demand a Ministerial Statement on a matter, that I am sure, many hon. Members have heard or read about. It concerns a young man called James Hillary Ochola Odhiambo of United States International University (USIU) (Africa), popularly known as Jordan to his friends, who was killed last night in a hail of bullets at the Nyayo House Roundabout. Given that some of us, who have known this young boy since his childhood can confirm that he was driving a car belonging to his mother, a car he has been driving over the last six months to the USIU and further, given that there has never been an incident where a carjacker is alone in a vehicle - this is because Hillary was driving alone on the road--- The police pumped over 20 bullets into the car, with three of them going through his head. The police should only use violence if the subject resists arrest or disobeys orders, or if he is a threat to the life of a police officer. Could the Minister of State, Office of the President, in charge of Internal Security give a Ministerial Statement, explaining under what justification the police murdered James Hillary Ochola Odhiambo in cold blood?

(Applause)

Mr. Speaker: Very well. Hon. Ndambuki, there was an issue raised by hon. Musila. I think your office, through hon. Angwenyi, had promised hon. Musila that it will come to say something about his Question.

Do you want to say anything or you can reply some other time?

The Minister of State, Office of the President (Mr. Ndambuki): I will reply some other time.

Mr. Speaker: But we have only two days. So, you should reply either today or on Thursday. Which date do you pick, hon. Ndambuki?

The Minister of State, Office of the President (Mr. Ndambuki): When Parliament resumes.

Mr. Musila: On a point of order, Mr. Speaker, Sir. The Minister is not being serious. This Question was asked on 25th of June, 1998. According to the HANSARD, hon. Angwenyi said, "Mr. Speaker, Sir, I will be grateful to give a more detailed reply next week". But now, four weeks have elapsed since then. How can the Minister say: "When Parliament resumes?" How many weeks will that be?

The Minister of State, Office of the President (Mr. Ndambuki): Mr. Speaker, Sir, I was not aware of this matter, but I will look at it and if I am required to make a Ministerial Statement, I will do that on Thursday.

Mr. Speaker: Very well. I will accord you time to look at it, and I will give you the time you have stated.

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. I have just come from the demonstrations. The entire student population of the USIU have blocked some roads and there is no movement in the City. They are demonstrating and threatening to invade a police station.

I would like to request the Minister to make this a very urgent issue and act accordingly.

Mr. Speaker: That matter was raised by hon. Kombo. Next Order.

BILLS

Second Reading

THE KENYA COMMUNICATIONS BILL

*(The Minister for Transport and
Communications on 9.7.98)*

(Resumption of Debate interrupted on 23.7.98)

Mr. Donde: Mr. Speaker, Sir, allow me to continue with my contribution to this Bill. I want to restate my position on the qualifications of the Chairman of the Kenya Communications Commission. Communication being a very important sector in this country, I would like this proposal to be taken into account; that the Chairman of

the Kenya Communications Commission should have some specific qualifications, as I had said earlier. It was stated that the Chairman of the Electoral Commission should have specific qualifications to enable him to carry on with his duties. The Vice-Chairman---

(Loud Consultations)

Mr. Wafula: On a point of order, Mr. Speaker, Sir. The consultation is so loud that we cannot hear the hon. Member's contribution.

Mr. Speaker: Very well. Order! Order! Proceed!

Mr. Donde: Mr. Speaker, Sir, it is important that the qualifications of the Chairman of the Kenya Communications Commission should be included in the Bill, as was done for the Chairman of the Electoral Commission and his Vice-Chairman. This is because this sector is very technical and if the President is just given a free-hand to appoint anybody, he might appoint somebody who is not properly qualified to lead this sector.

Mr. Speaker, Sir, I will now say something about the powers of the Commission. It is stated here that the Commission shall have all powers necessary for the performance of its duties or functions under this Act. There are no specific powers given to this Commission. The powers are not specified and, therefore, it will be very difficult for the Tribunal to carry out its work if it has no specific powers to guide it on the powers of the Commission. It is also important to note here that, if the Commission's powers are not specified, it will not be very easy for the competitors in the market to predict, in cases where they have a dispute between themselves and the Commission, whether they are doing the right or wrong thing.

Mr. Speaker, Sir, let me say something about the mobile telephones which are commonly used in this country. There were more than 30 Members of Parliament at Sidindi on Sunday. That is really what we can call a Parliamentary quorum. At that place, a lot of Members of Parliament had mobile telephones and none of them was able to operate them because they were in an area where they could not communicate with anybody outside that area. Therefore, I would urge that action be taken under the Bill so that those competitors who will be operating in those areas can be given some assistance to have effective mobile telephones, which can be used in case we are in such areas.

Mr. Speaker, Sir, I would like to say something about the effectiveness of the communications sector. At the moment, it is very difficult to get your case heard in the Judiciary. Sometimes when you have a dispute with a company, you take the matter to court and it drags on for a very long time. It becomes almost impossible for the business community to have an idea of how soon a dispute can be resolved in a court of law. Therefore, in appointing this Tribunal, it is also important that a time frame should be embodied in the Bill to show how long the Tribunal is expected to resolve disputes between the parties, so that those who are involved in this sector can be able to, at least, predict the time frame within which their disputes can be resolved by the Tribunal.

Mr. Speaker, Sir, I had mentioned something about the licensing of the actors in this sector. It is important that there should be a time frame within which somebody, if he applies for a licence, can be able to tell how long it is going to take. If he cannot get a reply within the specified time, he can raise the issue. So, I would like to suggest that the contributions made, for example, regarding the licensing, the composition of the Board and the question of infrastructure, should be considered for inclusion in the Communications Bill.

With those few remarks, thank you so much.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the Kenya Communications Bill 1998, is, perhaps, one of the most important Bills to be brought before this House during the Eighth Parliament. This House will recall that during the Seventh Parliament, a Bill was brought before the House to address the restructuring of the Telecommunication Centre in this nation, and it was withdrawn precisely because there were some very serious objections that this House raised with regard to that Bill.

Mr. Speaker, Sir, I must say that this Bill has tried to address itself to those issues that were raised in the Seventh Parliament, but there are still some very key issues that I would like to draw the Minister's attention to. I always want to discuss Bills in this House, first of all, from the point of departure of the Memorandum of Objects and Reasons and also because the Memorandum of Objects and Reasons really lays down the philosophy for the Bill. I would like to bring to the attention of the Minister the fact that a number of people who have commended that Bill, especially among the professionals in this area, have drawn our attention to the fact that some of the reasons given in the Memorandum of Objects and Reasons should have been incorporated in the body of the Bill, particularly in Section V that deals with the object and purpose of the Commission. We have drawn this to the attention of the Minister and his officials, and they have argued that since the Memorandum of Objects and Reasons is part and parcel of the law, then leaving these things in that section of the Bill will not necessarily make them less important than the objects stated in Section V of the Bill.

Nonetheless, I would like to raise and elaborate on one or two reasons for the existence of the Bill. One of them stated that the objects of the proposed liberalisation of the sector is to attract private investment in the provision of such services. This is as it should be. But it is important that in attracting private investment in the telecommunications sector, the Minister must make sure, or the law must make sure, that private investment does not come in and duplicate the same thing that the public sector was doing. In other words, if we are inviting private investments so that services can be more efficiently delivered, that is very good. But if we are inviting private investment so as to replicate problems of monopoly and duopoly in the sector, then we shall not be doing very well.

Mr. Speaker, Sir, I would like to submit to the Minister that I will be moving an amendment to this Bill, that will attempt to deal with the issue of monopoly and duopoly at the Committee Stage, because, one of the reasons why the Kenya Posts and Telecommunications Corporation has not performed well is because it has been a monopoly. As a monopoly, it has not been able to deliver services efficiently. For one, Kenya Posts and Telecommunications Corporation has been used as an employment bureau for individuals who are given jobs as a result of political pressure. That means that many people are sitting on the same desk---

Mr. Kamolleh: On a point Order, Mr. Speaker, Sir. In view of the fact that this Bill has now been debated adequately, I beg to move that the Mover be now called upon to reply.

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

The Minister for Transport and Communications (Mr. Ntimama): Thank you very much, Mr. Speaker, Sir. I beg to respond to the contributions that were made by hon. Members on both sides of the House. I am sorry that hon. Prof. Anyang'-Nyong'o did not get an opportunity to make his contributions, because we would like to wind up this debate, so that when the House adjourns, we will probably not have a problem of the Bill being killed.

Mr. Speaker, Sir, I would like to thank all hon. Members for the very good proposals and contributions that are very relevant and pertinent to this important Kenya Communications Bill. I would like to thank the Departmental Parliamentary Committee who sat for long hours, to scrutinise and deliberate on the Bill. Indeed, they made very important amendments to this Bill.

Mr. Speaker, Sir, it is important to note that hon. Members on both sides of the House said during their contributions that this is an important sector which we should have liberalised a very long time ago. There are two very important words these days that float all over the world; that is, liberalization and globalization.

Mr. Speaker, Sir, this liberalization process is universal. It has been deliberated on, in international forums and it has been found out that liberalization of public companies and parastatals is the only way forward, if we have to adopt a free market-oriented economy which actually, the whole world is supporting right now.

Mr. Speaker, Sir, in liberalizing the telecommunications sector, we are actually going to the same direction that the whole world is going. So, as many hon. Members have said, this Bill is definitely important in that, it will develop the economy of this country to the fullest. Wherever telecommunications has been liberalized, it has revamped the economy of those countries. I am sure it will revamp the economy of this country.

Mr. Speaker, Sir, it is important for us to know that this liberalization process, and the separation, means that we have to separate the regulatory process and the operators. The whole thing is that you have the regulator and the operator. In other words, you will have the referee and the player, and in no way the referee would become a player, or the player become a referee at the same time. This is the whole principle of liberalization and creating the regulator that is supposed to carry on the business of some of these public institutions, in this case, the telecommunications sector. I would like to say very clearly, that the process of splitting the functions - when you liberalize some public institutions - is universal, and has to be accepted as a process that has been tested all over the world.

Mr. Speaker, Sir, I would like to dwell very briefly on some of the contributions made by hon. Members. I would like to thank hon. Eng. Muriuki and hon. Dr. Ochuodho who are Members of the Departmental Parliamentary Committee, for taking part in scrutinising this Bill and making certain recommendations and amendments. Both of them are experts in the field of communication. Eng. Muriuki was asking for an assurance that when the split comes, none of the employees would be rendered jobless. We hope that during the separation, many private companies would have been established. Many operators will get into the field of communications, and by expanding the network and the services, we hope that more people will get employment opportunities. So, we think and hope, that people will not be rendered jobless at all.

Mr. Speaker, Sir, the other issue that Mr. Muriuki was worried about, or really concerned about, was whether we needed strategic investors. We desperately need investors in this country, so that they can inject

capital in the economy and bring in technology and expertise. Definitely, Telecoms Kenya Limited, which is now about to be registered as a private company under the Companies Act, will need to have a strong capital base.

Mr. Speaker, Sir, indeed, we need to be able to bring in strategic investors like many other countries. Most countries of the region, like Uganda, Tanzania and South Africa, have already identified strategic investors, and we hope to be able to put out the biddings ourselves, to attract strategic or private investors, as it were.

Mr. Speaker, Sir, it is very important to say that the world today requires that companies work together, merge and establish a strong, permanent partnership. Some of you will recall that in the news this week, British Telecoms and AT&T are merging. Those are the biggest telecommunications companies in the world, and they are now going to merge, so that they can provide services to the customers much more efficiently and, maybe, offer affordable services. It is true that some telecommunications companies in Ghana, Cote D'Ivoire are trying to forge a partnership with the Malaysian Telecoms. Some of those mergers are very important, indeed, because they have realised that they will serve the public better, attract technology and expertise, and this is what we need in this part of the world. Hon. Muriuki was a little bit worried about the tariffs and charges.

Mr. Speaker, Sir, before I close, I want to talk a little bit about hon. Kapten. He was very specific, and I thank him for his contribution. He is a very cool, intelligent lawyer. But one point he raised, and which I want to respond to, because I know my time is not enough--- He said he was worried that the telephones of the citizens were being tapped. It is true that Section 30 and 31 protects an individual and his right to privacy. But I want to assure hon. Kapten and hon. Members that, every legitimate Government reserves the right of listening to telephone conversations of its citizens, if it is suspicious that certain things are being compromised.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Speaker, Sir. I apologise to the hon. Minister for interrupting his speech, but is he in order to say that every Government has a right to listen to telephone conversations of its citizens, when in the Constitution, that section that deals with the Bill of Rights prohibits the Government from doing that? Can he state in which part of the Kenyan Constitution or laws that our Government is given the right to interfere with the basic and fundamental freedoms of the citizens?

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Speaker, Sir, my hon. friend is very well travelled, and I think he has gone to many countries of this world, but I do not know of any nation in this world that is barred from listening to certain conversations between people, if it is suspicious that they are compromising the security of the land, including the very democratic countries like the USA and Britain. Anyway, I had a lot to say, but because of the timing, I probably have to say thank you very much again, for all the contributions that have been made by Members, and we are going to take into consideration all that they have said.

With those few remarks, I beg to move.

(Question put and agreed to)

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

Second Reading

THE POSTAL CORPORATION BILL, 1998

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Speaker, Sir, I beg to move that the Postal Corporation Bill, 1998 be read a Second Time.

Mr. Speaker, Sir, this Bill is indicated in the Memoranda of Objects and Reasons of the Bill. It is consequential upon repeal of the Kenya Posts and Telecommunications Corporation Act, Cap. 411, Laws of Kenya, and the enactment of the Kenya Communications Act, 1998, which provides among other things, the licensing and the regulation of postal services.

Mr. Speaker, Sir, the Postal Corporation of Kenya will be established as a State corporation, to take over the assets and liabilities of the Kenya Posts and Telecommunications Corporation that relate to the provision of postal services. The transitional arrangement that has been provided for in the Third Schedule of the Kenya Communications Bill, 1998, would only take effect if there is established the Postal Corporation of Kenya. It is important to highlight this here, so that there is a clear understanding that Telekom Kenya will be incorporated under the Companies Act, since it is the Government's intention to privatise the company. The proposed Postal Corporation of Kenya shall be designated the public postal licensee seal, under the Kenya Communications Act. This means that, it will be expected to provide services throughout the country and, therefore, ensure that universal service is active. The Postal Corporation of Kenya will, however, be expected to operate commercially and not to be dependent on the Exchequer for financial support.

In this regard, I would like to report to the House that a business plan has been prepared, detailing the measures to be taken to ensure that the Postal Corporation of Kenya will not only compete effectively in the market, but will also be a profit-making corporation.

Mr. Speaker, Sir, I beg to move.

The Assistant Minister for Finance (Mr. Keah): Thank you, Mr. Speaker, Sir. I rise to second the Postal Corporation Bill, 1998, which the Minister for Transport and Communications has ably, moved.

Mr. Speaker, Sir, in seconding this Bill, I want to make a number of observations, which include the following:- Firstly, we are moving in the right direction in liberalising these services because, in doing so, I believe that, certainly, they will be better managed and efficiently run. I am saying so because although I did not get an opportunity to contribute to the Kenya Communications Bill, 1998, the two Bills, to an extent, have some correlations. This is because the Bill we are debating now will become effective upon the success of the Kenya Communications Bill. The point I did not have the opportunity to make is that telephone services and, indeed, postal services are, in my view, are too costly and inefficient. Therefore, the passage of this Bill, as we approved the other one in the Second Reading, will, certainly, ensure and enhance efficiency in the operations of the sector.

Mr. Speaker, Sir, I also wanted to observe in the other Bill the fact that things like mobile telephones are unaffordable in Kenya today. With the passage of the Kenya Communications Bill, 1998, and the passage of the Postal Corporation Bill, 1998, with imminent competition, we will be able to afford these mobile phones like our neighbours in Tanzania. Having gone through the Bill page by page, I have no qualms with the contents in the first page, but I would like to draw the attention of the Minister to Clause 6(e), which says:-

"Not more than three other persons, not being public officers, appointed by the Minister by virtue of their knowledge and experience in matters relating to communications, commerce, industry or finance."

My personal view is that perhaps we are being too restrictive and the Minister should have the ability to appoint a good businessman with proven business expertise and experience to the Board of the Corporation. This is the observation I have made and, perhaps, the Minister could consider ways and means of having this aspect introduced; for that matter, we may have a very good lawyer. Also, I would like to see some flexibility in here; a clause or some wording to the effect that we have a competent businessman or lawyer, or such other equivalent person, who can competently carry out the duties of a Board member of this Corporation.

Mr. Speaker, Sir, my second observation relates to the financial provisions. Pages 176, 177, 178 and 179 of this Bill relate to the financial provisions of the Corporation. I am happy to hear the Minister say that this will be run according to commercial principles. On page 178, Clause 20, Sub-Section (2), says:-

"The accounts of the Corporation, together with a statement of income and expenditure, during the year and a statement of assets and liabilities of the Corporation"

I am happy with that, but, then, how do we implement this? The Minister has a business plan, but suppose that business plan fails and the Corporation makes a loss, who will finance that loss?

The Minister for Transport and Communications (Mr. ole Ntimama): You!

The Assistant Minister for Finance (Mr. Keah): The Minister has said "You", meaning the Treasury, but this is precisely what I want to bring to the fore in my contribution. It is imperative that this Corporation does not make any losses. If they do make any losses, then the next place to go to for finances is the Treasury. This is taxpayers' money and, therefore, I will disagree with this option. Therefore, it is imperative that this Corporation makes adequate profits to ensure that they have funds in reserves to make up for the days when they make losses. They should never turn back to the Treasury for subvention payments. That is the point which has not been included in this Act. These Corporations should not be allowed to make losses. This is the problem which I can foresee here---

Mr. Speaker, Sir, I can see you are laughing because what I am saying is amusing, but I want to say that the Corporations should not be allowed to make losses, and that they must be managed by businessmen.

Sub-Clause (3) says:-

"The accounts of the Corporation shall be audited by the Auditor-General (Corporations) or by an auditor appointed by the Board, with the approval of the Auditor-General (Corporations)".

Mr. Speaker, Sir, we have this provision to date, but my experience today is that very few Corporations meet these deadlines, and this is my concern. I am happy that this clause is there, but I would like to caution the Minister to be very tough on its application because if he does not play it tough, then we will have laxity, which is, at the moment, the order of the day with many parastatals. As a result, we have accounts presented to this august House which are three to four years overdue. This state of affairs is not acceptable in a liberalised economy. Therefore, this element should be borne in mind. Sub- Section (10) on page 179 reads as follows:-

"The Minister shall lay the Audit Report before the National Assembly as soon as reasonably

practicable, after the Report is submitted to him under this Section".

Mr. Speaker, Sir, how soon is "soon"? What is "reasonable"? To me, "as soon as reasonably practicable" is not acceptable. We must have a time frame there so that the Minister may be pinned down to being accountable within a specific time. This is because we have three months for the accounts to be produced to the auditor and another three months for the auditor to audit the accounts presented to him. But then, in this Sub-Clause, we have times such as "reasonably soon" and "as soon as is reasonably practicable" for the Minister to submit the Report to the National Assembly. I think there ought to be a time factor for this to happen. I am suggesting very strongly that the Minister should find a way of having this time element entrenched in this Bill, so that we can pin him down. It is not because I do not trust the Minister, but rather, it is because I would like this Bill tightened up a little bit. Otherwise, this is a good Bill. Therefore, I would like to suggest that, since this is a regulatory body, fairness should be applied to any person who wishes to provide postal services, particularly in the rural areas. I like the element of sub-agents, agents *et cetera*, because it is really enhancing services. I want this maintained, and also, I thank the Minister for making sure that this element has not been taken away and is entrenched.

Mr. Speaker, Sir, I beg to second this Bill.

(Question proposed)

Prof. Anyang'-Nyong'o: Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to the Second Reading of this Bill. Again, like the Kenya Communications Bill, 1998, the Postal Corporation Bill, 1998, is very timely and important to this National Assembly. Unlike the Bill that we have completed discussing a few minutes ago, the Communications Bill; the Postal Corporation Bill, 1998, has substantial deficiencies, some of which hon. Keah has mentioned, and some of which I am going to draw to the attention of the Minister. Members might think that, because it is a thinner Bill than the previous one, it is less important, but it is an extremely important Bill. We recall, when the Kenya External Telecommunications Corporations (KENEXTEL) was folded overnight to be swallowed by the Kenya Posts and Telecommunications Corporation (KPTC), a lot of things were done wrong, which this country has had to pay for very dearly. Not only were the assets of the former KENEXTEL not properly disposed of, but even the liabilities were not properly invested in the new KPTC. At that point in time, it was even more complicated, because we were dealing with the East African Community being dissolved and member states either assuming assets, or taking over liabilities. It was a much more complicated process, but precisely because it was done in hurry and things were not done properly, we lost a lot.

Mr. Speaker, Sir, I would like at this time to say that, in restructuring the KPTC and coming up with the Postal Corporation, and separating the functions of postal services from the functions of telecommunications, we do it neatly and properly. First, the previous Bill stated that the new Communications Board will assume certain liabilities of the KPTC, but in the Bill setting up the Postal Corporation, there is real no mention of what is going to happen to those liabilities of the KPTC which relate specifically to the postal services. There is no reference in this Bill as to what is going to happen to the liabilities relating to postal services that the new Postal Corporation is going to assume. Unless that is stated properly, we are going to have a tug of war between the telecommunications entity being set up by the previous Bill, and the postal entity being set up by this Bill. Why do I say so?

The KPTC is one of the public companies in Kenya, which have very substantial assets and very substantial liabilities. We know that in the KPTC, the Kenya Railways Corporation (KR), and, perhaps, the Kenya Power and Lightning Power Company, in that aspect that is owned by the Government, we have about 67 per cent public assets being controlled by those parastatals. So, in dividing them, we have to be very careful on what the law says. I do recall, for example, when I was in the Public Investments Committee (PIC), that the KPTC had a lot of liabilities. As I speak now, there are pensioners from the KPTC who have taken the KPTC to task for misplacing and misusing their pension. The KPTC's Pensions Fund has a lot of controversies at the moment. I do not see in either Bill how that kind of problem is being dealt with, especially in this one; it is extremely vague. That also goes to the disposal and distribution of assets between the postal entity and the communications entity being created.

Secondly, I would like to point out to the Minister that this Bill has no section whatsoever setting out the purpose of the Postal Corporation being established. It has no purpose at all. The functions are assigned in Section V, but no purposes. Compared to the Communications Bill, that one had functions confused for purposes. In the previous Bill, the purposes are set out in the Memorandum of Objects and Reasons, but they are not incorporated in that section of the Bill that needs to deal with the purposes. In this Bill, the purpose is absent altogether. If you look at the "Memorandum of Objects and Reasons", there are no objects and reasons here. Here, I think I would like to blame the Attorney-General. You realise that although the section is headed Memorandum of Objects and

Reasons, there are no objects and reasons given. It is just stating what is going to be done, but there are no reasons. I will read:-

"This Bill is consequential upon the repeal of the Kenya Posts and Telecommunications Corporations' Act (Chapter 411 of the Laws of Kenya) and the enactment of the Kenya Communications Act, 1998, which provides for the licensing and regulation of postal services."

We are being told what has led to the establishment of the Bill.

"Under the Act, the proposed Postal Corporation of Kenya shall be designated the public postal licensee..."

That is catered for in Clause 50 of the Kenya Communications Bill, 1998,

"Accordingly, the Bill proposes the establishment of the Corporation and provides for its function as a public postal licensee, which shall include the provision of postal services, postal financial services and services incidental thereto or connected therewith."

That is all. The rest deals with whether the Bill is going to cost anybody any money and so on. I do not see any reason beyond stating that it is consequential upon the repeal of the KPTC Act.

I am also proposing, and I think we can do that at the Committee Stage, that after Section IV of the present Bill, which deals with the headquarters, we should introduce a new Section V which deals with the purpose for setting up the Postal Corporation, and the rest would then be amended accordingly. Why are we setting up the Postal Corporation? Section V here tells us what it is going to do. Why are we setting it up? Is it to introduce efficiency in the postal services so that Kenyans can get better postal services in the rural areas, or is it because we know that our postal services are archaic and we want to modernise them? Is it because the services currently catered for are limited? There are a lot of reasons that we can give for creating this Corporation, but they are not stated in the Bill. We should think about that and before we reach the Committee Stage, re-introduce an amendment which clearly states the purpose for which we are setting up a Postal Corporation.

Mr. Speaker, Sir, looking at the establishment of the Board of Directors, I think I support hon. Keah when he says that in appointing members of the Board, the Minister should only look at matters relating to communications, commerce, industry or finance. I think one of the reasons why the postal services should exist in the public domain, because we do not expect the private sector to take certain risks in providing postal services to the people of Kenya that a public corporation can take. For example, the private sector may think that putting up a post office at Kadimo near Lake Victoria is not profitable. However, the Government of Kenya may feel that it may be more costly per capita to put up a post office at Kadimo rather than in Athi River---

Dr. Omamo: On a point of information, Mr. Speaker, Sir. To make the debate flow properly, the name Kadimo has been dropped; the area is now called Yimbo.

[Mr. Speaker left the Chair]

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

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, well, hon. Dr. Odongo-Omamo was the Member of Parliament for Bondo and he knows the history and geography of that place, and I will agree. To put up a post office in Yimbo rather than in Athi River may not appeal to the private sector, but when it comes to a public sector concern, that is important because the people in Yimbo must also receive letters and, therefore, it is necessary to put up a post office there.

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

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, that kind of information may not be the kind of information that people who just have specialisation in communication, commerce, industry and finance may have access to, but a civil servant, for example, who has been a DC in various parts of Kenya and has retired, and has a good knowledge of the country may, perhaps, be an appropriate person to appoint to the Board, precisely because of the kind of information he might be able to bring to the Board in making decisions on such matters. Even an agricultural officer who has been posted to various parts of Kenya, or even a secondary school teacher who has been a headmaster in various parts of Kenya, could bring very good knowledge to the Board. So, I really think that in

appointing members to the Board, these categories given here may be rather limiting. I think we should be much more expansive, realising that the Corporation is a corporation for providing postal services, because one of the functions of such a corporation is to ensure that services are provided equitably, which may not always be profitable as such when we are looking at purely the profit motive in doing these things.

Mr. Deputy Speaker, Sir, thirdly, another issue that I wanted to raise is that my friend, hon. Mathias Keah, referred to the financial provisions in this Bill and mentioned that one of the things that the Corporation should ensure is that it functions profitably, and that it does not become a burden on the Exchequer as the present KPTC is concerned. Now, I do not see any adequate provision in this Bill related to the investment portfolio of the new Corporation. It is said in general that it may receive and use monies, and so on, but it does not provide a specific provision for the strict investment of supplementary funds or monies that this Corporation can come across. We know that all public corporations are subject to the State Corporations Act, and the State Corporations Act does enjoin public corporations to invest their monies profitably and thus provide for ways and means of investing these funds. But it would have been necessary, unless I have not read the Bill properly, to direct the Corporation, especially within its own laws, that it has to invest its funds according to the provisions of the State Corporations Act.

Mr. Deputy Speaker, Sir, the only other areas that are referred to are those sections that are to do with auditing the accounts of the Corporation without mentioning the Auditor-General (Corporations) specifically, but I think in terms of using supplementary funds of the Corporation, there should be very specific provisions in the Bill itself; otherwise, we will get to a situation, as we did in the Public Investments Committee, where boards make decisions to invest funds and then excuse themselves that according to their own parent Acts, they were never directed to do so according to those provisions. However, when you refer them to the State Corporations Act, quite often, members of the Board, and even chief executives, can often be ignorant and claim that they did know that, that existed in the State Corporations Act and, therefore, they are not aware that they should do so. It is very, very important to do so because one of the ways in which many State corporations in this country have misinvested their funds is because they have not been restricted by their own Act in setting up those corporations to do so in a certain area, or where they are, those Acts have been ignored rather perilously. So, I would like to draw the attention of the Minister to that.

Mr. Deputy Speaker, Sir, secondly, regarding the financial section, Section 19 (2) (b) states as follows:

"The annual estimates shall make provisions for all estimated expenditure of the Corporation for the financial year concerned and in particular shall provide for the payment of the pension, gratuities and other charges in respect of retirement benefits to the staff of the Corporation".

That is all that is said about pensions. Pensions are an extremely important aspect of a worker's life. I want to repeat to the Minister that the Kenya Posts and Telecommunications Corporation today is in a lot of problems with pensioners because it has misused, or misinvested, pensioners' funds. They took some of these funds to some of these banks which collapsed. They took some to banks which had political connections and they cannot account for it and it amounts to billions and billions of shillings. People who have retired from the post office do not have access to money that should be due to them.

Mr. Deputy Speaker, Sir, secondly the idea of having a pension scheme is that the employer and the employee contribute to the pension fund at an agreed rate, and that when the employee retires, he or she has immediate access to those funds. It is not something that the employee begins pleading with the former employer with as happens in this country. You will find that when an old man or woman retires and they go to Kibwezi, they have to take matatus almost every week to come to Nairobi and plead for their pension dues. This is wrong and illegal. There must be a proper establishment of pension funds and administration of pension funds which is worker-friendly. What we have in Kenya today is extremely disastrous, and secondly, when a law like this is being established, one of the things in which it should be very, very clear are the conditions in regard to the issue of pension.

Mr. Deputy Speaker, Sir, I do find this rather inadequate; Just to say that there shall be provisions for the payment of pensions, gratuities and other charges in respect of retirement benefits of the staff of the Corporation, without referring to any other law.

QUORUM

Mr. Kimetto: On a point of order, Mr. Deputy Speaker, Sir. There is no quorum in the House.

Mr. Deputy Speaker: It is true, we do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

Mr. Deputy Speaker: Order, hon. Members! We now have a quorum. Prof. Anyang'-Nyong'o, proceed!

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I was on the issue of pensions and I was saying that it should be better provided for in this Bill. We should not just leave it within the area of preparing annual estimates, that the Corporation will prepare annual estimates with respect to the payments of the pensions, gratuities and other charges in respect of retirement benefits to the staff of the Corporation without stating the institutional guidelines which will regulate this or the management of the pension funds by the Corporation because this is now a new law. We are no longer under KPTC, which assumed certain laws to govern its pension funds. If we do not refer to that law which is going to govern the pension funds here, we might find ourselves getting into the problems that we have now. I still do think that the present KPTC had pretty reasonable guidelines under the Retirement Benefits Act, for example, to deal with how to regulate the pensions of postal workers and yet they did a very poor job of it. In this Bill, it should be stated, just like it has been clearly stated in the State Corporations Act, how the Corporation will manage the pensions fund. I think it is a very important issue as far as workers are concerned.

Mr. Deputy Speaker, Sir, let me refer to the delivery of postal services. Section V of this Bill says:-

"The Corporation shall, in accordance with the provisions of Section 50 of the Kenya Communications Act, 1998, provide and operate 1, 2 and B."

If we look at the Kenya Communications Bill, Section 50 that is being referred to here--- And I beg the indulgence of the Chair to refer to it. It says:-

"The Minister shall designate the Postal Corporation of Kenya to be the public postal licensee and may, by Notice in the Kenya Gazette, assign to it any of the powers, duties and functions of the Commission under this Act---"

(Mr. Ntimama consulted loudly with Mr. Leshore)

Mr. Deputy Speaker: Order, hon. Ntimama and hon. Leshore. Could you consult in low tones please?

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I am addressing hon. Ntimama and he should be listening!

The Minister for Transport and Communications (Mr. Ntimama): But I have my Assistant Minister right here!

Prof. Anyang'-Nyong'o: Oh, you have your Assistant Minister there? I apologise for that. But still, you should not be talking in Parliament with the Chief Whip.

Anyway, I was saying that if you look at Section 50 of the Kenya Communications Bill, it says that:-

"The Minister shall designate the Postal Corporation of Kenya to be the public postal licensee and may, by Notice in the Kenya Gazette, assign to it any of the powers, duties and functions of the Commission under this Act, relating to postal articles being conveyed within the system of public postal licensee as he may deem fit."

Mr. Deputy Speaker, Sir, this to me raises a very important issue. That is why I have said that we should add a new section stating the purpose for establishing the Postal Corporation of Kenya. Through this Bill, we will have a Postal Corporation which will be charged with the responsibilities of undertaking postal services. We are now separating this function from the telecommunications sector. However, with respect to licensing other people who are going to be involved in postal services, this same Corporation is going to have the monopoly of licensing competitors. I think there is something problematic here because the Postal Corporation of Kenya may easily drag its feet in granting licences to other competitors. I agree that this Bill states that anybody who applies for a licence to run a telecommunications service can appeal within a certain period, but it does not refer to somebody who applies for a postal service licence and is denied by the Postal Corporation, which this particular section of the Act cedes responsibility to. I have a problem here because one of the reasons why we are separating the postal services and the Telecommunications is that we want competition. I would like to see competition also in postal services. I would not like to see that competition hindered by the Postal Corporation using its licensing powers to delay or deny or somehow antagonise other competitors in the field. The Bill states that the licensing of the postal services will be undertaken under Section 50, which says:-

"The Minister may give all those powers to the Postal Corporation, which can then exercise them on his behalf..."

Unless that issue is clarified, there is a possibility that the Postal Corporation may, especially in the initial

period, deny a lot of licences to people who are trying to come into the field of delivering letters, so as to limit competition in the area of postal services. I would like the Minister to look at Section 50 of the Bill very carefully and make sure that this power of licensing is clearly stated, and that the possible monopoly or duopoly that may be produced by the Postal Corporation manipulating, or somehow making the licensing process rather difficult for the others, is checked. That is very important because I am quite sure that the Postal Corporation would like, as much as possible, to have the larger chunk of the business - especially when it has been in the business for a long time - and to ensure that others who come in do not compete with it.

Secondly, in the area of telecommunications and postal services, there are possibilities that people coming into the market may want to go into partnership with the Postal Corporation. While the Communications Bill caters for strategic partners in investment in telecommunications, the Postal Corporation Bill does not cater at all for anybody wanting to come in as a partner to the Postal Corporation. Here, we still have a perfect case of a completely State-owned enterprise which does not have any window of opportunity of private investment into that Corporation. I am one of those people who are strong supporters of the public sector performing efficiently in the postal area, and I will support the setting up of the Postal Corporation to ensure that we have a public sector service in the delivery of letters and provision of such services.

Mr. Deputy Speaker, Sir, at the same time, I do realise that sooner or later a time will come when we will want to have private sector investment in our public sector. A time will come when we will envisage the KPTC shareholding being 51 per cent by the Government and 49 per cent by the private sector. I might have underrated the Bill and not fully appreciated the functions and powers of the Board, but I do believe that as it is, the Bill does not in any way give the Board the powers to have a wind of opportunity in inviting private investment into the Corporation. I think this is a major weakness, and I do hope that it can be amended to ensure that there is a wind of opportunity of private sector investment in this corporation.

Mr. Mbela: Mr. Deputy Speaker, Sir, thank you very much for giving me this opportunity to support the Bill. First of all, I would like to introduce myself as the Chairman for the Energy, Communication and Public Works Committee, a departmental committee of this House. I shall speak both in that capacity and as the hon. Member for Wundanyi.

Mr. Deputy Speaker, Sir, let me start by recording my appreciation of the Minister and his staff from the KPTC who have attended several sessions of the departmental committee of this House and went through various amendments to the Bill, which we have proposed in the report that I tabled. I would encourage hon. Members to have a look at the report we have tabled. There are ten clauses that we have proposed to be amended because we feel that doing this will bring improvement in the postal services and communications in general.

Mr. Deputy Speaker, Sir, we feel that reforms are very important. The Postal Corporation and the Kenya Communications Bills have both come because of the recommendations for reforms. We believe that reforms in this sector will improve not only the efficiency, but will also make life a lot cheaper for the consumers. Some of the amendments that we felt that we should propose include the need to have the Postmaster General appointed by the President. We felt that this was completely necessary. In my experience in this country I have found a lot of officers or heads of institutions who themselves became institutions that are not answerable to anybody. They are not even answerable to the Minister, and yet it is the Minister who will be asked to give an explanation to this House when several things go wrong.

We feel that the postal services are very vital, particularly in the rural areas. In fact, in rural areas, where you find post offices, they are the most beautiful structures. They provide very important postal services for the rural population, in particular when they receive money at the end of the month from their sons and daughters who may be working in towns. We should, therefore, try as much as possible not to reduce the efficiency of this service. We should also avoid making it any more expensive.

In the course of our discussions with the Minister and his team, we were informed that the postal services are subsidized by the telecommunications arm of communications sector to the tune of Kshs4 billion. The question is: What happens after the separation of telecommunications from postal services? Does it mean that the postal service will have to increase charges, failure to which they will have to sink? Does it mean that the Exchequer will be called upon to subsidise the service?

Mr. Deputy Speaker, Sir, it may be necessary to have the assurance of the Minister that although we are passing the two Bills, hopefully, he will convince the House to do so, the actual separation of the services will take a bit of time, to give postal service time to adjust their charges without making them unaffordable. I am aware that countries like Tanzania and Great Britain are running a postal service separate from telecommunications which is actually profitable. At the stage we have reached, I do not doubt that there could be need to restructure the postal services to make them more efficient. We can make them even a lot cheaper than they really are. If we insist that upon the enactment of these Bills, those two services will be separated immediately, then this House

should be prepared to vote Kshs4 billion to continue subsidizing postal services.

Mr. Deputy Speaker, Sir, there are certain parts of this country which would not be attractive at all to private investors as far as postal services are concerned. At present, we find companies like Securicor and other couriers being able to transport mail from Nairobi to Mombasa or from Nairobi to Kisumu and to other small towns. But some of the remote parts of this country will suffer most. I have in mind parts of the North Eastern Province and the northern parts of Eastern Province. For that reason, I would ask the Minister to look into those problem very cautiously and make sure that the services continue to be provided profitably. I hope that the Minister will remember to introduce the amendments that we have proposed in our report in time, or to attach them to the Order Paper as we come to the Third Readings of these two Bills.

Mr. Deputy Speaker, Sir, with those remarks, I beg to support.

Mr. Kathangu: Bw. Naibu Spika, nikizungumza juu ya huu Mswada, ningependa kusema kwamba kuna haja ya kubadili nia katika nyanja mbalimbali, ikiwemo tabia ya wafanyakazi. Ingawaje tutabadili mambo mbalimbali kuhusiana na mawasiliano na simu ni lazima tujue ya kwamba wale wataokuwa wakisimamia idara hiyo ni watu ambao wana busara ya kutosha na wanaopenda kazi yao. Uchumi wa nchi hii umeharibika kwa sababu watu wengi hawajali kazi zao.

Kuna mambo mengi ambayo yamefanyika katika nchi hii kwa sababu watu wengi wanafanya mambo ili wajinufaishe. Lakini katika majuma mawili yaliyopita Benki ya Dunia imekuwa ikidai ya kwamba kumekuwa na hongo kubwa katika benki hiyo, na hali benki hiyo, hiyo imependekeza tuwe na mabadiliko mbalimbali ya kiuchumi.

Bw. Naibu Spika, katika mipango ambayo inapangwa, tunaona kwamba kuna watu ambao wanapanga mabadiliko fulani, wakiwa na nia kwamba siku moja wataweza kupora mali katika Wizara mbali mbali. Mswada ambao tuko nao hapa, unatenganisha shirika hili. Haya ni mambo ambayo yanatakiwa kuangaliwa kikamilifu. Katika mawasiliano tutakuwa na vifaa vya simu na ni lazima tujue ni akina nani ambao wanahusika katika kusambaza simu na vifaa vyake katika nchi hii. Tunaona pia, wale watu ambao wana nia ya kubadilisha mambo haya tunayoyasema ndio wale wale ambao wanasema Miswada mbali mbali iletwe katika Bunge hili ndio Wabunge waweze kihalalisha nia zao. Ningependa kuuliza wale ambao watakuwa wakihusika katika mabadiliko haya, wawe ni watu ambao wanaweza kusimamia idara hizi mbili kwa njia ambayo inafaa. La sivyo, tutaendelea kupoteza pesa nyingi katika nchi hii. Tunaona kwamba kuna mambo ambayo yanatendeka na yanahusiana na waajiri ama waajiriwa. Katika Idara ya Posta na Simu, watu wengi walijajiriwa bila kufuata utaratibu wa uajiri na wameleta tatizo katika nchi hii.

Sababu moja inayosababisha kuanguka kwa Idara ya Posta na Simu ni kwamba fedha nyingi zinatumiwa kwa kulipa mishahara. Fedha nyingi pia zinatumiwa katika ujenzi, na Serikali haiielezi mambo haya. Kama jumba kuu la Posta ambalo liko katika Kenyatta Avenue limechukua karibu miaka 15 kujenga. Kwa nini limechukua muda huo wote, na hali Idara ya Posta na Simu ndiyo imekuwa na fedha nyingi sana katika Kenya? Wale ambao wametumia hizo fedha kwa njia mbaya wako katika Bunge hili na hakuna hata mmoja wetu ambaye anawashuku. Ikiwa tunataka nchi hii irekebishe Idara ya Posta na Simu, ni lazima tujue wanaohusika na njama za kupora mashirika kama haya. Bw. Naibu Spika, tunapongea mambo ya Idara ya Posta na Simu, ni lazima tukumbuke ya kwamba katika mikoa mbali mbali ambapo hakuna simu, utaona kwamba pia hakuna barabara, wala viwanja vya ndege. Kwa hivyo, simu inasaidia nchi kwa mawasiliano kwa sababu ya mahitaji mbalimbali. Mahitaji ya kwanza ni afya ya jamii. Ukienda Mkoa wa Kaskasini Mashariki, utapata kwamba barabara ambayo imewekwa lami ni kilometa 11 peke yake. Hii ni kusema kwamba ukitafta simu katika mkoa huo, hutapata, isipokuwa pengine kwa DC au PC. Siku hizi hata hizo simu zimekatwa kwa sababu hawana pesa za kulipa. Kwa hivyo, tunapofikiria kuweka simu katika nchi yetu ni lazima tuwe na uhakika kwamba kazi hiyo itafanyika kwa sababu, kama simu haitaweza kufika katika sehemu zote za nchi yetu, itakuwa kazi bure. Ndio maana watu wengi wanaitisha Serikali ya majimbo ndio waweze kusimamia mali yao na kujiwekea mitambo ya simu. Kama Serikali ingeweza kuweka watu mitambo ya simu na mambo mengine ambayo tunahitaji maishani, hao watu hawangukuwa wakipigania majimbo. Ni lazima tuangalie hayo mambo kwa makini.

Bw. Naibu Spika, mimi ni mmoja wa wale watu ambao wametafuta mtambo wa simu sana. Utaona kwamba, unaweza kuchukua muda mrefu sana kupata simu, hata hapa Nairobi ambapo tuna laini nyingi za simu. Kutafuta mtambo wa simu ni lazima umhonge fundi wa mitambo na yule karani ambaye ana ile fomu ambayo unahitajika kujaza. Mambo ya hongo ni lazima yaondolewe katika Idara ya Posta na Simu. Kama hatutaweza kupigana na ufisadi na hongo katika Shirika la Posta na Simu (KPTC), basi hata Serikali ikilifanya liwe huru, itakuwa ni kazi bure. Pia tunajua ya kwamba makampuni mengi ya kuuza simu na vifaa vingine vya posta yamefunguliwa humu nchini. KPTC imekuwa ikiwauzia wananchi stampu mbali mbali katika nchi hii, lakini ajabu ni kwamba utakuta mtu ametumiwa barua na inachukua karibu miezi miwili kabla hajaipata. Watu wengine pia wanatumiwa pesa kwa njia ya money order, lakini pesa hizo haziwafikii. Tena kuna tabia mbaya sana ya

wafanyakazi katika sorting department kufungua barua baada ya kuzipata. Wengine hufanya hivyo kufuatia maagizo ya maafisa wa idara ya upelelezi, ili waone kama kuna viongozi wengine wanaowasiliana na wengine kisiasa. Hii ni kusema kwamba hatuwezi kuliadini shirika hili. Shirika hili limekuwa likiyatumia magari yake kwa kubeba askari wa upelelezi wakati wanapowatafuta watu ambao wamevunja sheria. Itakuwa vigumu kwa shirika hilo kutengeneza pesa wakati magari yake yanapotumiwa na polisi na askari wa upelelezi. Hii haitawezekana!

Bw. Naibu Spika, utaona ya kwamba watu hao huyatumia magari hayo ingawa wao huwa hawajakubaliana na idara nyingine za Serikali kwamba watayalipia. Mimi naamini kwamba si lazima wahalifu ambao wako humu nchini watafutwe kwa kutumia magari ya KPTC au Shirika la Stima. Ni lazima tabia hii ikomeshwe kwa sababu tunazungumzia ufasidi.

Mr. Kitur: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to say that the police are using KPTC and KPLC vehicles? Does the hon. Member have evidence to that effect?

Mr. Deputy Speaker: Order! Order! That is not a point of order and you know it very well. If they did that, there is nothing wrong with it, because the police must perform their duty.

Continue, hon. Kathangu!

Mr. Kathangu: Bw. Naibu Spika, kweli ni lazima polisi wafanye kazi yao. Lakini mimi ninasema ya kwamba Idara ya Polisi haitakiwi itumie magari ya KPTC kwa sababu ina magari yake. Pia ningependa kumjulisha Mbunge ambaye amesimama kwa hoja ya nidhamu kwamba mimi ni mmoja wa wale ambao wamebebwa na magari ya KPTC kutoka kwangu hadi jela. Mimi sina ushahidi mwingine ila huo.

Tabia ambayo tunaizungumzia sasa hivi ni lazima ikomeshwe. Ikiwa tutatengeneza mawasiliano ya simu vile tunavyotaka, ni lazima tabia hizi zikome. Pia ni lazima tuwaamini wafanyakazi wanaoshugulikia barua. Ninafikiri kwamba inafaa Bw. Mwau awatume maafisa wake wa kukabiliana na ufasidi katika shirika hilo, ili ufasidi ambao unaendelea huko ukomeshwe. Ningependa kujua pesa ambazo shirika hili limetumia kujengea jumba lake kuu katika katika barabara ya Kenyatta Avenue. Hii ni kwa sababu jumba hilo limejengwa kwa miaka 15, na bado halijakamilishwa. Sijui kama pesa zimekwisha ama bado ziko. Swali langu ni hili: "Ujenzi wa jumba hili utakwisha lini?" Leo tunapozungumzia Mswada huu hakuna mtu ambaye anataka kuyaangalia majumba ya posta. Hakuna mtu anayetaka kuyaangalia mambo ya mashamba ya posta na simu ili kitu---

Mr. Deputy Speaker: Order! Order, hon. Members! As hon. Members recall, this afternoon after Question time, hon. Wambua did raise an issue that was considered to be of great importance and of national interest. Mr. Speaker did rule that at 5.30 p.m. he will allow the matter to be debated. It is now 5.30 p.m. and we shall proceed to that debate. Hon. Kathangu, you still have 20 minutes of your time which will be given to you tomorrow to complete your contribution to the Postal Corporations Bill, 1998.

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 20

DEMOLITION OF CURIO SHOPS AT KIGALI MARKET

The Minister for Agriculture (Mr. Mudavadi): Mr. Speaker, Sir, I beg to move that the House do now adjourn.

Mr. Deputy Speaker: Before hon. Wambua kicks off the debate, I do propose that the Mover be allotted a maximum of 15 minutes, and the Responder 15 minutes, and every other Member, five minutes. He did not anticipate that I was going to state that. He told me in confidence that they will take not more than ten minutes. The Standing Orders do, in fact, allow them 15 minutes, but they have confided in me that they will each take not more than 10 minutes so that more Members may get an opportunity to contribute.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. I rise to beg the indulgence of the Chair. I request that in this kind of Motion, the Chair favours every Member of Parliament because there is a tendency for those who speak on one Motion to speak on the next Motion, and the next---. Mr. Deputy Speaker, Sir, please give me---

Mr. Deputy Speaker: Order! Order! You are now doing my job and we have not even started the debate. You are supposed to catch the Speaker's eye, not to chew his ear.

Hon. Wambua, proceed.

Mr. Wambua: Mr. Deputy Speaker, Sir, I now beg to second this Motion. As we all know, from what has been displayed in all the mass media, the Kigali people are curio dealers. Were allowed by the Nairobi City Council (NCC) to occupy these plots even before---

Mr. Obwocha: Mr. Deputy Speaker, Sir, are you satisfied that hon. Wambua has moved the Motion

properly? In moving the Motion, he should read it and then proceed. He should not just start and say he is moving it.

Mr. Deputy Speaker: Hon. Obwocha, the Motion was moved by the Minister; that, this House do now adjourn. Mr. Wambua is technically seconding that Motion.

Proceed, hon. Wambua.

Mr. Wambua: Thank you, Mr. Deputy Speaker, Sir, for your protection on this matter. I wanted to put the point across. For your information, the Kigali market is a tourist industry and everyone in this country knows that the trade of curios brings a lot of foreign exchange to this country. It is the one which is promoting the tourism industry. The traders who have been evicted are 336 and they employ more than 600 workers. Of course, when these kiosks were demolished, these workers became jobless. The Government is telling us that there are no jobs in the country. It is wrong to demolish a curio industry like this one. The curio hawkers are not hawkers as such. They were occupying that plot because they had been allowed to do so by the NCC. I had even informed the Minister concerned before this that, the dispute arose because the council wanted to sell the plot to an individual, who is hiding behind the mosque.

We, the Kigali traders have the 10 per cent which the Mosque gave. The money given by the Mosque was never given to the Nairobi City Council (NCC). It was deposited in a profit earning interest account. It is still there even today. So, there is no question of whether the NCC has received the money and paid.

Mr. Deputy Speaker, Sir, I want to prove the Town Clerk wrong. She said that by the time the curio shops were demolished, they had not received the court order. I have a document signed on 24th July, 1998 at the Office of the Clerk at City Hall. They demolished the curio shops on 26th July, 1998 at night. They demolished the curio shops two days after receiving the court order. I hereby lay the document on the Table as an exhibit to prove the Town Clerk wrong.

(Mr. Wambua laid the document on the Table)

There is no need of reading the court order. Whoever would like to read the court order can come and take it.

Mr. Deputy Speaker, Sir, the Government has stated that the economy of this country is in a bad shape. Just imagine, if the Government can allow billions of shillings belonging to local African traders to be destroyed, what does that show? They could not even salvage any of their goods. Whatever remained was set on fire. I do not think this is justice in a country where Africans are the leaders. It is very unjust. To add to this, the NCC, and I hope the Minister will take note of this, had collected and issued licences for 1998 with an expiry date of December, this year. How can they issue licences to the traders and then destroy and burn the kiosks? This is looting because they have collected the licence money. This is a document which proves that the NCC collected the money and they still have it.

(Mr. Wambua laid the document on the Table)

Mr. Deputy Speaker, Sir, I would like to request the Government to sell the plots to us. Even if the plots are sold at Kshs200 million, we are prepared to buy them and we have the money. This is because we are the people on site and we should be allowed to buy those plots. We were told that there was an alternative site at Mwariro. We are not selling tomatoes or potatoes. There is no tourist who can go to Mwariro. The adequate place is where the kiosks were demolished. If there is an alternative site, let the Mosque people be given the site. This is because they are faithfuls and they can build their mosque anywhere. When we talk in terms of business, this is the only place where African traders deal with curios. The rest of the places are owned by Asians. Why should Africans be moved from the Central Business area, and sent to far away areas? This is not a business for the Wakamba only. Other people are involved. We have the Luhyas and Luos who make pots in their rural areas and come to sell them at Kigali. The Kisii soapstone people also come to sell their wares there. We have the Giriama and Turkana who come to this place. This is why it is known all over the country. It is known as the "blue market".

In 1996, and I can prove this through the Ministry of Commerce and Industry and KETA, curio dealers brought Kshs1 billion in foreign exchange to Kenya. I have a document to that effect. So, it is very serious that, people's property is destroyed and their children have nowhere to go. They have nothing to eat and we allow this.

I do not think the Government can allow this to continue. That is why we are saying that if this is the co-operation being sought by KANU Members of Parliament, it is not being done in the right manner. If we mean business, even the Minister for Local Authorities should have acted and said something when this was being done. But he kept quiet because, probably, he was aware of everything, and he knew what was going on. I am

sure he was aware. But why has he kept quiet when even Luos, leave alone the Wakambas, were also affected? I am very surprised when such an act is committed.

The curio dealers thought that they were protected. With due respect, the Head of State visited them and assured them that they will never be evicted. So, it is to my surprise that the Head of State gave a directive to the NCC not to sell those plots, or move the curio dealers, and, yet, the opposite was done. Does it mean that the NCC is more superior than the Head of State? It is to my surprise that hon. Kamotho, are not attending to the issue, and this is a matter of urgency. I wish he could support the dealers. I would like to tell hon. Kamotho that the world is watching him. What the Government will say will be watched very keenly.

(Mr. Kamotho interjected)

Mr. N. Nyagah: That is a great shame! We shall not be insulted!

Mr. Deputy Speaker: Order, hon. Nyagah! You know that the Standing Orders forbid another Member to stand up while another one is giving his speech, no matter how incensed he is.

Mr. Wambua: Mr. Deputy Speaker, Sir, the point that hon. Kamotho has raised is wrong. This is because the DP has been directed by the KANU Government to act that way. So, they should not blame the DP. It is the Mayor and the Town Clerk; the Town Clerk acted on the instructions from the Minister.

(Question proposed)

Mr. Mwenje: Mr. Deputy Speaker, Sir, thank you very much for giving me this opportunity. I stand before this House a very worried man. This is because I do not know where we are heading to. It appears that the law of the jungle is now replacing the true law that we have in this country. As the Mover of the Motion has clearly pointed out, where the President has given a directive, it is flouted and ignored. Where our own courts have issued an order, it is flouted. This House has been giving certain resolutions which have been flouted. The other day, we spoke about the Kenya Anti-Corruption Authority, which had arrested some people and taken them to court. But their work has been flouted. So, what do we expect in this country?

We are expecting that people use the law of the jungle because it is the only way that is remaining. What happened at Kigali Market is a very good example of the law of the jungle being practised by the Nairobi City Council; flouting all the regulations and orders that they have by going there at night. We know that thieves steal and do all the things they want at night. These people went to Kigali Market at night to destroy people's property. Even if these people were so bad, surely, would it not have been fair for them to be given a chance to remove their property? Would it not have been fair for them to be given a chance and even to bring all the askaris and tell them that "it is now time that you removed your property and not at any other time." Why do they go to that extent of destroying people's property? We are talking of how poor our country, is and here are some people who are earning their livelihood in the proper manner, yet, instead of even using all the means to remove them, you go and pull down their properties and then burn them. There is nothing that could be salvaged from that place. Nothing! We are from there now and we have addressed those people and given them our "pole." What do we do? This is clearly the City council! Let nobody refer to DP. That Council is composed of many councillors from different parties. And if somebody makes a mistake, let him carry his own cross. I do not care whether it is the Mayor who ordered the demolition; he will carry his own cross, not the DP's cross.

Mr. Deputy Speaker, Sir, we know who gave the order to do that. We know that it is the Town Clerk, and we will not beat about the bush; we will come to the truth. The Town Clerk flouted the court order and by now, she should be in for contempt of court. It is the Town Clerk, Mrs. Zipporah Wandera, who ordered that demolition, and I believe that she must have ordered those properties to be burnt down. Some of those people have been rendered completely poor. They will never recover in their lifetime. Is this the kind of Government that we are talking about? It is a shame for whoever ordered that, and yet is seen in the office now--- I hope that when the Minister comes here to reply, he will tell us whether that Town Clerk has been sacked or transferred by now. For whatever reason, she should not be in that office. If the Mayor is involved, I demand that action should be taken against him. Yes, this is people's property, and people have been arraigned in court for malicious damage of property. What more malicious damage to property do you want than what we saw in that Kigali Market? We are here to speak for our people. If this is the Government, and if that is the treatment we are going to give to our people, I will call upon all those who are responsible to resign if they cannot take action.

This is where the law of the jungle will be used by the people. Yes! The public will take to the streets. If no action is taken, the whole City will be on fire; we will mobilise our people and tell them to go to the whole country and take action. This is because we have no remedy. We have nobody to protect us; maybe, God alone.

We are losing hope and if you lose hope, then you have no alternative but to go to the streets and take action.

Mr. Deputy Speaker, Sir, we urge the Government to take action now against the Town Clerk and whoever is involved. All those who want to take that plot should never be allowed in their lifetime to take it.

The Assistant Minister, Office of the President (Mr. Gumo): Thank you, Mr. Deputy Speaker, Sir, for giving me a chance to contribute to this Motion. I support this Motion because this is something that surprised everybody, and the majority of those people who run business there are very poor, and this is the only means of livelihood they have. They have no other way. This matter has gone on for a long time. This is not the first time. If they were to go, then they could have gone a long time ago, but the council has been trying to make sure that they do not move out. But now, I can see some hon. Members blaming the Government. The majority of the councillors who are running that council are DP councillors. The KANU councillors are only 15 and if you have been following this matter, it is the Mayor and his deputy, who are DP councillors, who have been talking about this. This shows that if DP was governing this country, they would have done worse things than this one.

Mrs. Ngilu: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member on the Floor to say that because there are more DP councillors in Nairobi City Council, it is their work, yet we know that the person who gave the order for that demolition is the Town Clerk, and it has nothing to do with councillors? Is the Member of Parliament for Westlands really in order when he knows that he now---

Mr. Deputy Speaker: Order! Order! That point had already been made by hon. Wambua when he moved the Motion, and I hope the official responder from the Government will answer it fairly and squarely. Proceed.

The Assistant Minister, Office of the President (Mr. Gumo): Mr. Deputy Speaker, Sir, this is something that is really serious and we do not have to take a wrong turn about this because the Council is run by DP and I do not accept it when a Member from the Democratic Party blames the Government. We are also very bitter, particularly me. Two weeks ago, there was some arrangement for some of those people to moved to Mwariro Market but instead, one of the hon. Members, a DP Member, decided to settle people in that area. So, this is a completely DP affair and not a Government affair.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! Order! Hon. Gumo, this Motion was introduced here and the Speaker accepted it as a matter of grave national importance. So, let us debate it as such.

The Assistant Minister, Office of the State (Mr. Gumo): Mr. Deputy Speaker, Sir, destroying people's property is one thing that the Government cannot condone. Even the last council, which was being run by FORD(A), did worse things in this City. You can see what they would have done, if they had taken over this Government; it would have been worse. I am sure it would be worse. They go there pretending, instead of, at least, attacking the councillors who have done this thing--- I highly sympathise with them. It is very bad, and you should---

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! Order!

The Assistant Minister, Office of the President (Mr. Gumo): Mr. Deputy Speaker, Sir, if we are going to go on like this, this council, if any thing, should be dissolved. It is doing nothing! Roads are in a pathetic condition. Now the Government has taken over, and it is making the roads itself. The Government is the one which is constructing the roads. The council has failed completely. There is no water; pipes have burst; sewerage lines are broken, and nobody bothers. Toilets have been sold by these people and nothing is happening. What they know is to come here and heap the blame on the Government even where they are running matters themselves; they want the Government to be blamed.

Mr. Deputy Speaker, Sir, I support the Motion.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! This is a Motion where hon. Members have only five minutes to make their contributions. So, give them an opportunity to be heard.

Mr. Kamanda: Mr. Deputy Speaker, Sir, this is my constituency, and I have a bit of history of that particular place. It is because of the level of corruption in this country, that the officers in City Hall do not respect

the law of this land.

That particular land was to be sold to the highest bidder in 1993. The City Council gave the officers and the councillors time to look for the highest bidder and report back to the City Council. Somehow, the chief executive of the City Council, then, and who is still the Town Clerk, Mrs. Wandera, managed to get a bidder and never reported back to the City Council. She went ahead and sealed the deal alone as the Town Clerk. We have since been having a tug of war because of that problem.

Mr. Deputy Speaker, Sir, the Town Clerk got about 10 per cent of that money, which is Kshs13 million. This was the beginning of the problems of that particular plot. I would like to tell this House that the Head of State, His Excellency the President, went to that place and promised those people, that they would not be evicted from that plot. As I am speaking here, I have information, that on 16th of this month, the Mayor, the PC and the Town Clerk were summoned to State House by the President. The same President who gave an order that those people should be allowed to buy that plot, gave an order that those people should be removed. You can see the level of corruption in this country. If the Head of State---

The Minister for Education and Human Resource Development (Mr. Musyoka): On a point of order, Mr. Deputy Speaker, Sir. While I do not want to disrupt the hon. Member for Starehe, is it in order for him to use the name of the President as authority in this matter?

Mr. Deputy Speaker: Hon. Kamanda, you had better make statements of fact which you can substantiate by laying documents on the Table.

An hon. Member: There is cheering!

Mr. Deputy Speaker: That remains hearsay. If you have documents to lay on the Table to substantiate your claim, you can go ahead and do that.

Mr. Kamanda: Mr. Deputy Speaker, Sir, the City Mayor is from the Democratic Party of Kenya (DP), and I am the Chairman of the Democratic Party, Nairobi branch. The Mayor is answerable to me, and any time he talks to the President, he has to inform me. He told me clearly that he met the President, and the President gave the order.

Mr. Deputy Speaker: Order! Order! Hon. Kamanda, that is not good enough. Please, continue with your contribution on the Motion before the House.

Mr. Kamanda: Mr. Deputy Speaker, Sir, I would like to inform the House that after the assurance from the President that those people would be allowed to buy that plot they contributed more than Kshs15 million, which they have. I would like to ask the Minister to allow those people to buy that plot, because they are capable. I am going to organise people from my constituency, and we are going to help them to buy that land.

Mr. Deputy Speaker, Sir, the money is with a lawyer, who happens to be the Minister for Education and Human Resource Development, Mr. Musyoka. He can confirm whether he has that Ksh14 million or not.

The Minister for Education and Human Resource Development (Mr. Musyoka): Mr. Deputy Speaker, Sir, I still hold the view that in terms of Standing Order No.72, no Member, other than a Minister of this House, can use the name of the President as authority for anything. So, I think that should be expunged from the records of this House.

Mr. Deputy Speaker, Sir, let me first of all declare my interest, as the hon. Member for Starehe has requested. The truth of the matter is that I am a consultant to a law firm by the name, Musyoka and Wambua Advocates. By virtue of being in the Cabinet, I cannot practise law, but I get consulted here and there, which I think is perfectly in order. My senior partner is away in London writing his Masters degree examinations at the University of---

Mr. Orenge: On a point of order, Mr. Deputy Speaker, Sir. You have just heard the Minister say that his partner is away. So, he is not a consultant, but a partner in the firm. He cannot evade that because I know the truth.

Mr. Deputy Speaker: Order, Mr. Orenge! I think the Minister can be excused on the basis that English is not his mother tongue. So, these semantic problems---

(Loud consultations)

Order! You cannot argue with the Chair. Hon. Musyoka, is that your partner or not? You cannot have it both ways.

The Minister for Education and Human Resource Development (Mr. Musyoka): Thank you, Mr. Deputy Speaker, Sir. I will, of course, take that correction. I meant the managing partner, not my partner. What I said is authoritative; I am just but a consultant.

Mr. Deputy Speaker, Sir, I am in deep sympathy with the jua kali curio dealers. I would like to confirm to this House that I have been able to speak to Mr. Wambua, not related to hon. Wambua who is the managing partner in Musyoka and Wambua Advocates. He is holding some Kshs14 million on the account of this jua kali association. The problem seems to be that there are two factions in this association; one led by hon. Wambua, and another one led by a Mr. Mutie. The problem with it is that, this money is not held on the account of that Kigali Road property; it is held on account of another property on Mombasa road, measuring six acres. So, the allegation that the law firm is holding money for the jua kali curio dealers has to be corrected. I would like to make that clarification because, I think, the firm was unfairly handled on one CNN news bulletin. I think the CNN have reason to apologise to the law firm. The money that is held is on account of a plot on Mombasa Road and not the Kigali Road property.

Mr. Deputy Speaker, Sir, everything possible should be done to help these jua kali artisans. I know, as soon as the managing partner comes back, he will be willing to help them because, when they took each other to court over this issue of Kshs14 million, they were not able to complete the sale. Therefore, the sale has since been cancelled. The problem is, where do we pay the Kshs14 million?

Mr. Deputy Speaker, Sir, to make matters worse, on the evening of last Thursday, while Mr. Wambua was away in London, some people broke into the offices and stole files. So, I think the police are handling the matter. Though that is a different matter, I would like to confirm that whether the file was stolen or not, the Kshs14 million will be paid. But it will have to be paid to court.

Mr. Raila: Mr. Deputy Speaker, Sir, I also wish to begin by declaring my interest, which is that, a very large number of the people who trade at Kigali Market are residents of Lang'ata Constituency.

Mr. Deputy Speaker, Sir, what has happened is a tragedy. It is abhorrent, stinking and an affront to civilised behaviour. It is the worst form of violation of human rights. This is because, those poor traders at Kigali Market are Kenyans and they have a right to do business. There is no reason why a City Council that derives its authority from the residents of the City, can subject the same people to this kind of treatment. So, we would not want to see similar things happen again. We, as Members of Parliament from Nairobi, deal with that kind of affairs almost on a daily basis. Yesterday and this morning, so many of those people were camping in front of my office. We deal with such cases all the time.

Mr. Deputy Speaker, Sir, two years ago, we stopped the construction of what was then called the Market Plaza, where somebody had illegally acquired land around the City Market and dug the foundation. Up to now, the City Council has not even seen the need to go and refill that area.

Mr. Deputy Speaker, Sir, two months ago, the fish traders at the City Market were thrown out by the Administration Police sent by the Provincial Administration, on the grounds that fish was stinking and making the place untidy. They were told to go and sell their fish in Baringo. But the reason why we have this problem is because there is a three-tier authority within the City Council; the executive officers who are appointed by the Central Government, the elected councillors and the Provincial Administration. This is the cause of the problems in the management of affairs in the City. But let us also turn our search-light to the other side. I do not think that it is right for us on this side to apportion all the blame on the other side. Last night in the KTN news, it was shameful to see the Secretary General of the Democratic Party at the Kigali Market, and the Deputy Mayor, who is the Organising Secretary of the Democratic Party, justifying the demolition to KTN. This shows disorganisation within a political party. One wing of the party does not know what the other wing is doing. Why did those Members of Parliament not go to the City Hall? It is because the Mayor and his deputy are both members of the party. If it was the NDP, I would have gone to the City Hall and subjected my Mayor and his deputy to disciplinary action.

An hon. Member: Co-operation!

Mr. Raila: Mr. Deputy Speaker, Sir, it is not a question of co-operation; it is affecting both sides. But I think we must lay the blame where it belongs, because blaming the chief officers--- We have talked about Mrs. Zipporah Wandera and Mr. Kuria wa Gathoni so many times in this House. They are the sacred cows in the City Hall, who can be suspended for one year, and then brought back without any investigations being carried out. But at the same time, the political leadership of the council belongs to the elected leaders. Why have the councillors not passed a vote of no confidence on the Town Clerk and the Director of City Planning? Why do we come here and cry foul? If my Mayor was taken to State House and given instructions by the Head of State, I would come and say so. I would have issued a statement. Why are we saying it now, when we are already in a crisis?

(Applause)

Mr. Deputy Speaker, Sir, what happened must stand condemned and we condemn it because it is

uncivilised and we would like those people to be allowed to go back, and the property they have lost to be compensated. I would also like---

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

The Minister for Local Authorities (Prof. Ongeru): Mr. Deputy Speaker, Sir, I stand to respond to this Motion of adjournment that has been laid before this House by hon. Wambua, and I will request hon. Members to be patient and listen to the genesis of this story.

On 24th September, 1987, the High Court issued a decree for Kshs64,357,000 payable to Triangular Investments Company Limited in Nairobi, High Court Civil Suit No.776 of 1980, in which the Nairobi City Council breached a contract. The Nairobi City Council went to the Court of Appeal, to appeal against this order and the Court of Appeal upheld the previous decision by the lower court.

An hon. Member: Who is Triangular?

The Minister for Local Authorities (Prof. Ongeru): It is regardless--- I do not think I will be prompted to make side comments, and I pleaded that you bear with me.

Because of the situation, on 3rd November, 1993, and on 3rd December, 1993, the City Council, through its various committees, and I believe hon. Kamanda was there at that time, agreed that in order to redeem themselves from that awkward position, they should sell the plot, LR No.309/9070, Kigali-Tubman Road, for purposes of redeeming the debt. Consequently, advertisements were carried out in the newspapers on 3rd November and 3rd December, for any bidder to purchase the property. Indeed, there were bidders, the highest being Kshs90 million; the second highest being Kshs73 million and the lowest being Kshs40 million. The City Council was, indeed, prepared to settle the matter and I would like hon. Members to note that, at no stage did our brothers and sisters, the curio traders, bid for that plot. Then, for one full year, it was not possible, even for those who bid for Kshs90 million, to be able to commit themselves to the amount that they bid.

The curio traders who occupy the land were once again given the first opportunity, as per one of the letters the Town Clerk wrote to them on 25th March, 1994, to buy the property if they wished. They did not do so.

An hon. Member: They collected the money.

The Minister for Local Authorities (Prof. Ongeru): It is also noteworthy that, at the time when the property was advertised, they were not anywhere. So, the question of the Government not being sympathetic to the curio traders is not right because, even after the tendering process had been gone through, they were not able to purchase that item. But because they were---

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

Mr. Deputy Speaker: Hon. Ngilu, it had better be a point of order and not an argument.

Mrs. Ngilu: It is a point of order, Mr. Deputy Speaker, Sir. We have just learnt that the curio owners had already contributed Kshs50,000 each at that time and the money was deposited with Musyoka and Wambua Company Advocates. So, the Minister may not be aware of that. He is misleading the House.

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

The Minister for Local Authorities (Prof. Ongeru): Mr. Deputy Speaker, Sir, hon. Ngilu should listen attentively. I did say, and I want to repeat affirmatively, that the curio owners were not anywhere in the bid programme when it was publicly advertised. Even then, the Government, when they made presentations through their letters, gave them the opportunity. The time when the money was paid was much later and not 1994, and I want to proceed.

Mr. Deputy Speaker, Sir, when this matter was settled in 1995, the curio traders were told to vacate the plot by the court, but because they could not comply, they made several requests through their lawyers, Messrs Mulwa and Mulwa Advocates. At that time, they requested for an extension of time and also requested for an alternative site. We are talking of 1995, and we have copies of correspondence clearly indicating that they had no objection whatsoever to vacate the plot. The Nairobi City Council was again requested to extend the time for removal from 11th November, 1996, to 31st December, 1996, and, subsequently, to 31st January, 1997. So, for four consecutive periods, dating from 1994, when they were given the first offer, through 1995, 1996 to 31st January, 1997, they could not comply with that provision that was given to them. Following the City Council's pressure on the curio traders, as I told you, by then the other bidder had gone to court pressurising the City Council to pay the money, and demanding that either the City Council pays that money, or all the authorities are committed to civil jail.

Mr. Deputy Speaker, Sir, I want to state quite clearly that at that point, the advocate filed a second suit to restrain the Nairobi City Council from evicting them for the second time in 1997. The case number was HSCC.No.472 of 1997. At that time, they had agreed that if certain conditions were met, they were prepared to vacate that plot and move on to the second site. I have before me an order which was agreed upon by the curio

traders and the other people, to move on to the next site, and I would like to read it. It was civil suit No.390 of 1997---

Mr. Maitha: On a point of order, Mr. Deputy Speaker, Sir. Being the Shadow Minister for Local Authorities, we are here to debate a national issue. We know all those stories, because we read them in the Press. Could the Minister confirm whether the Government is involved in that matter, so, that we can discuss it rather than feeding us with those stories?

Mr. Deputy Speaker: Order! Order, hon. Maitha! If you want to make a speech as the Shadow Minister for Local Authorities, just rise and catch my eye. But, for the time being, let him give you the information on the basis of which you can challenge him.

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

Mr. Deputy Speaker: Hon. Angwenyi, that is a Member of the Front Bench. Proceed, Prof. Ogeri.

The Minister for Local Authorities (Prof. Ogeri): Mr. Deputy Speaker, Sir, the court ruled on civil case No.390 of 1997, the Nairobi curios for traders versus the Nairobi City Council, and an order was made in the court that the applicants/plaintiffs undertake to commence movement of their wares and kiosks from LR.No.209/9070 next to Kigali/Tubman Road to Mwariri Market along Racecourse Road.

Mr. Wambua: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead this House when we know that there is a current order which is in operation? Why is he talking about the previous orders while we know that the current order is in operation? That is the order that he should talk about.

The Minister for Local Authorities (Prof. Ogeri): Mr. Deputy Speaker, Sir, if hon. Wambua was kind enough, first and foremost, what he has tabled here is not a court order, and I will now request the Clerk to re-table it here since he has tabled a letter from the advocate of the curio people, which is not a court order.

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

Mr. Murungi: On a point of order, Mr. Deputy Speaker, Sir. On the 23rd of July, both the Nairobi City Council and the curio owners were in court, and they recorded a consent order and the City Council was represented by an advocate, a Mr. Mwangi. On 24th July, that lawyer, on behalf of the City Council, approved the consent order which was then forwarded to Mrs. Zipporah Wandera. Would the Minister be in order to come to this House and try to get away from a court order by consent between the City Council and the curio owners?

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

Mr. Deputy Speaker: Order! If that is the document that was laid on the Table by hon. Wambua, then it should be passed over to the Clerk, so that we can have it on record. Deliver it.

(Mr. Wambua delivered the document to the Clerk)

The Minister for Local Authorities (Prof. Ogeri): Mr. Deputy Speaker, hon. Murungi should know very well, since he is a lawyer, that I have here the civil matter I had in the chambers, which is the one that he is referring to, on 23rd July, 1998, before Justice Githinji. This order is not signed, and I beg to lay it on the Table of this honourable House.

(Prof. Ogeri laid the document on the Table)

Therefore, the City Council acted within the limits of the law. There is no way we can be able to follow something which has not been signed, and which has also been tabled here.

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. The letter is here and it clearly says: "Enclosed is a copy of the order", and I willingly pass it over to the Minister.

(Mr. Mwenje passed the letter to the Minister)

An hon. Member: And it is signed!

Mr. Mwenje: Yes, the one that I have here is signed.

The Minister for Local Authorities (Prof. Ogeri): Mr. Deputy Speaker, Sir, this letter is signed by advocates Rumba Kinuthia and Company Advocates. The one that I have laid here is from the High Court of Kenya, Nairobi, with regard to Civil Suit No.473.

Mr. Deputy Speaker: Order! Hon. Members, whether there was a court order or there was none, these documents will be scrutinised, and I am afraid if an hon. Member here has stood up and told a deliberate falsehood

to the House, he will be called upon to account for it. So, the Clerks will take these documents and verify them, awaiting my decision tomorrow.

The Minister for Local Authorities (Prof. Ongeru): Thank you, Mr. Deputy Speaker, Sir. I beg to lay the document on the Table from the High Court.

(Prof. Ongeru laid the document on the Table)

Therefore, the City Council, through the courts of this country or the laws which we have approved in this Parliament, made a substantive decision through various decrees. The question is: "do you disobey these court orders and move on to jungle law, which he is referring to, because that is jungle law that he is referring to and he wants to take action against the other people. We have, clearly, in our hands, court orders--"

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

Mr. Deputy Speaker: Order, hon. Murungi. Let him complete his time.

The Minister for Local Authorities (Prof. Ongeru): Mr. Deputy Speaker, Sir, I would like to submit that we sympathise with the curio owners. I have a lot of sympathies for them, and we will be able to re-locate them on two sites. One is situated along Mombasa road while the other one is at Mwariri Market. The two sites are ready to be fully developed for their use. But we, as the Government, cannot be asked to contravene the rules of procedure or the court rules for the sake of accommodating a political ideology. Therefore, I want to submit that, contrary to what has been stated on the Floor of this House, everything has been done in good order.

With those remarks, I beg to support the Motion, the way I have moved it.

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to try to imply that the wanton destruction of property that took place at the Kigali Market was justified under any circumstances?

Mr. Deputy Speaker: Order! Certainly, no court in Kenya will give an order for the destruction of the property of Kenyans. But I do not think the Minister implied that the order to destroy that property came from the court. I will now give this chance to Mrs. Mugo.

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

Mr. Deputy Speaker: Disallowed! Hon. Mugo, proceed!

Mrs. Mugo: Thank you, Mr. Deputy Speaker, Sir. This is a very serious matter which has made many Kenyans poor overnight. They have been turned into paupers! Some of these people come from Dagoretti Constituency and so, I have a direct personal interest in this issue. I will quote what one of the ladies told me yesterday morning with tears flowing down her face at the market: "In this country, there is no Government for poor people. There is only a Government looking after the rich people." What is coming from that side of the House right now confirms that fact. I thought we were all going to be united in approaching the problems affecting these people, and on how we are going to correct the big inhuman mistake which has been committed. I thought the Minister--

The Assistant Minister, Office of the President (Mr. Angwenyi): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member for Dagoretti in order to imply that hon. Members from this side of the House accept that barbaric act that has destroyed the livelihood of our people? We do not!

Mr. Deputy Speaker: Order, hon. Angwenyi! Whether you speak in tongues of men or of angels and you are out of order, you speak in vain! You are totally out of order.

Mrs. Mugo: Mr. Deputy Speaker, Sir, I would like to quote from the Holy Bible, St. John, Chapter 10, Verse one, which says:

" Verily, Verily I say unto you, he that entereth not by the door into the sheepfold, but climbeth up the other way, the same is a thief and a robber."

Mr. Haji: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Gracious Lady to come here with a Bible? We can also bring Koran here!

An hon. Member: You can come with your Koran!

Mr. Deputy Speaker: Order, hon. Members! I can well appreciate hon. Haji's concern because the land we are talking about also touches on the mosque.

He can also come with the Koran. If hon. Haji has quotations from the Koran on the destruction of property, I will allow him to read it tomorrow.

Mrs. Mugo: I am sure the Koran speaks about thieves and robbers in the same way. The people who were operating in that market--- The Question, Mr. Minister, is not whether they had been offered for---

ADJOURNMENT

Mr. Deputy Speaker: Order, hon. Members. It is now time for interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 29th July, at 9.00 a.m.

The House rose at 6.30 p.m.