

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 22nd November, 1995

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No. 982

ESCALATION OF TRIBAL CLASHES

Mr. Deputy Speaker: Mr. Shikuku is not here? We will leave this Question till the end.

Question No.871

COLLECTION OF SERVICES CHARGE

Mr Nthenge asked the Minister of Local Government:-

- (a) the amount of money that has been collected annually throughout the country in form of service charge since its introduction; and
- (b) why he has allowed the various local authorities to divert funds collected as service charge, other than for the uses originally intended as contained in the Services Charge Act; and
- (c) whether he could instruct all the local authorities to publish their annual accounts in order to show how much money is collected as service charge and its appropriation thereof.

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

(a) Local Services Charge Act was enacted on 11th August, 1988, and it came into operation through Legal Notice No. 525 of the Kenya Gazette of 25th, November, 1988. Since then, collections in 1989 to date is as follows:-

Kshs

Nairobi Province	1,588,200,760
Coast Province	532,527,333
Rift Valley Province	485,279,645
Eastern Province	296,124,506
Central Province	252,976,649
Nyanza Province	204,199,323
Western Province	163,512,462
North-Eastern Province	10,130,804
TOTAL	3,532,951,782

(b) Local authorities that use the Services Charge income on other activities rather than those intended and authorised are committing an offence.

(c) It is a legal requirement for local authorities to publish their annual accounts. However, due to lack of qualified staff, some councils have not been upto-date, therefore the Ministry is instituting a formula for all local authorities for budget formulation and accounts. Secondly, we have the Municipal Reform Programme - a project which is financed by the World Bank intended to train an up to-date Municipal Councils on how to be upto date on such matters.

Mr. Nthenge: Mr. Deputy Speaker, Sir, could the Assistant Minister tell the House what action, if any, he has taken against the councils that have diverted this money to other activities which it was not intended for?

Dr. Wameyo: Mr. Deputy Speaker, Sir, as of now, the matter is still under investigation and no action, so far, has been taken against any council.

Mr. Achieng-Oneko: Mr. Deputy Speaker, Sir, could the Assistant Minister tell the House, when these matters have been looked into and some people are accused of having diverted funds, he will take legal action against these people to correct the situation?

Mr. Wameyo: Certainly Mr. Deputy Speaker, Sir, when it is confirmed, action will be taken.

Prof. Mzee: Mr. Deputy Speaker, Sir, if most of the local authorities do not account for the money that they have received as the Assistant Minister has said; and we know that Mombasa Municipal Council has not produced audited accounts since 1981, what will the Assistant Minister do to force these local authorities to produce audited accounts?

Mr. Wameyo: Mr. Deputy Speaker, Sir, we are at the moment implementing the Municipal Reform Programme and when that has been fully implemented, we hope that the accounts of Mombasa Municipal Council will be put straight.

Question No. 771

CLEAN WATER FOR AWENDO

Mr. Mak'Onyango, on behalf of **Mr. Aluoch,** asked the Minister for Land Reclamation, Regional and Water Development:-

(a) whether he is aware that Awendo Trading Centre has a large population without a proper water supply; and

(b) If the answer to "a" above is in the affirmative, he could initiate the necessary measures to enable this centre to have a permanent supply of clean water?

The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Mokku): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Awendo Trading Centre does not have a conventional Water supply.

(b) My Ministry has carried out a feasibility study on the proposed Awendo Water Supply project and designs are at an advanced stage, estimating the project cost to be Kshs14,650,00. While my Ministry is looking for funding for this project, I would urge the hon. Member to mobilize his constituents into raising funds to offset the eventual project cost, and to also prioritize the project in his local DDC.

Mr. Mak'Onyango: According to this reply, which I do appreciate, indeed, the Assistant Minister says that "plans are under way." Could the Assistant Minister tell the House when exactly work on this project is likely to start?

Mr. Mokku: As soon as funds become available.

Mr. Mak'Onyango: Mr. Deputy Speaker, the Minister says that, "as soon as the funds become available". It is common practice that before you go up to draw up a comprehensive development plan such as this one in question, some funds should have been allocated somewhere. Can the Assistant Minister tell the House when these funds are going to be available?

Mr. Mokku: Mr. Deputy Speaker, Sir, land can be made available already waiting for funding. Therefore, I think I have told the hon. Member, that, we have no immediate funds now, but the Ministry is soliciting any donors to fund the project.

Mr. Mbeo: Mr. Deputy Speaker, Awendo Trading Centre is the centre of sugar in this country. The main activity that goes on there is well known to everybody, that is sugar cane production and sugar production. Now, just the other day, there was an outbreak of dysentery and related ailments in the area, simply because of bad water. It is very absurd to hear the Assistant Minister respond to this Question, that, the water project will only be done when funds become available. I would like to appeal to the Minister right now, and request him to treat this as a matter of urgency and have water properly treated for Awendo Trading Centre?

Mr. Achieng' Oneko: On a point of order, Mr. Deputy Speaker. Are we talking of Awendo Training Centre or Awendo Trading Centre?

Mr. Mokku: Mr. Deputy Speaker, it is Awendo Trading Centre. And also, the question by hon. Mbeo, is that, the Ministry takes this thing with a lot of seriousness and as soon as funds become available something will be done to the centre.

Dr. Otieno-Kopiyo: Mr. Deputy Speaker, Could the Minister tell the House which are the anticipated sources of funds for this particular project?

Mr. Mokku: Mr. Deputy Speaker, we have not identified one suitable fund, but one of this is the Government of Kenya.

PROVISION OF ELECTRICITY

Mr. Moiben asked the Minister for Energy, when Kobos, Chepchoina, Suam and matumbei dispensaries and the schools nearby will be supplied with electricity under the rural electrification programme.

The Minister of Energy (Mr. Mbela): Mr. Deputy Speaker, Sir, I beg to reply.

The Ministry will supply electricity to Kobos, Kapkoi, Chepchoina, Swuam and Matumbei dispensaries and the nearby schools, once they have been priority ranked by the Trans-Nzoia District Development Committee and sufficient funds have been secured.

Mr. Moiben: Mr. Deputy Speaker, Sir, can the Minister be kind enough and tell this House of a single project which the DDC has prioritised and which they have supplied with electricity?

Mr. Mbela: Mr. Deputy Speaker, I am not old enough in that Ministry, but I can only say that, whatever has been done and I have a list, must have been approved by the DDC. And I would like to say that, in Cheranganyi Division, a total of Kshs23.7 million has been spent compared to Moi Barracks, Soi, Matunda and Moi's Bridge, where Kshs4.5 million has been spent and Saboti Division Kshs5.5 million.

Mr. Kapten: Mr. Deputy Speaker, the Question relates to Kobos, Kapkoi, Chepchoina and all these areas are in Kwanza Division or Kwanza Constituency. The Minister is talking of Cheranganyi and none of these areas are in Cheranganyi. Can he answer the areas which have been supplied with electricity in Kwanza, as per the Question?

Mr. Mbela: Mr. Deputy Speaker, Sir, the Question does not specifically confine itself to Kwanza. It mainly mentions centres and from where I am it is difficult for me to start classifying. That is why we give the DDC the respect of being able to tell us what they want to be done. In fact, we already have been given clear instructions by the DDC and their priority No. 1 is Saboti Health Centre, Saboti Secondary School and Saboti Trading Centre. That is priority No 1. I can go on and give you the four priorities they have given us and that is where we are going to spend the money.

Mr. Moiben: Mr. Deputy Speaker, Sir, I think there is a problem. Actually, as my colleague says, this is in Trans-Nzoia District and what the Minister was saying is about Uasin Gishu. I asked whether the Minister can be kind enough to tell us of a single project in Kwanza which the DDC has prioritised and which the Ministry has accepted to release funds to? It is a very simple question.

Mr. Mbela: Mr. Deputy Speaker, Sir, the DDC has not specifically stated in which constituencies these four priorities are. But, if you like to know anything about the investigations we have done on this particular Question, I would like to say that, for us to be able to supply the power to the centres he is asking, we need to construct 64 kilometres of high-tension lines, have five distribution sub-stations and spend a total of Kshs42 million and get only 100 consumers.

Mr. Moiben: Mr. Deputy Speaker, Sir, these centres are around the KBC station. In fact, there is a KBC station with electricity, and it is within a distance of about 2 kilometres from town centre. Can the Ministry be kind enough and help us even in, one centre, with one dispensary, because people are in trouble?

Mr. Mbela: Mr. Deputy Speaker, Sir, the information I have is that a total of 64 kilometres of high-tension construction will have to be done, not just the two kilometres that he is talking about, for all the centres that are mentioned in this particular Question, and I am quite willing to give him the details.

Mr. Moiben: On a point of order, Mr. Deputy Speaker, Sir. From the KBC Kabamboi to Kapkoi Health Centre is hardly 2 kilometres, and I can prove that. From Kabamboi KBC station to Kobos is three kilometres.

Can the Minister be kind enough and give me a definite answer?

Mr. Mbela: Mr. Deputy Speaker, Sir, I do not want to challenge the hon. Member in whatever he is saying. Even if it is two kilometres, I will not authorise it to have it done unless the Trans-Nzoia DDC gives me that as their priority.

Question No. 863

PROVISION OF MOBILE CLINIC

Dr. Wako asked the Minister for Health:-

(a) If he is aware that Isiolo District needs a mobile clinic; and

(b) when the Ministry will provide a mobile clinic to this district.

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

(a) My Ministry is not aware that Isiolo District needs an extra mobile clinic.

(b) My Ministry has already provided two mobile health clinics in the districts that are capable of providing health services within the framework of Primary Health Care (PHC).

Dr. Wako: Mr. Deputy Speaker, Sir, it is very sad that the Assistant Minister says that Isiolo District does not need a Mobile Health Clinic, because, it is one of the remotest areas in this country where communication is a problem and people need to be served by the medical facilities which are nearer to them. Going to the second part of the Question, he has accepted there are two mobile health centres. Can the Minister tell us that these two mobile health centres, one is meant for the police, and the other is meant only for Makti Division? Can the Assistant Minister tell us specifically whether it is for the district or not?

Mr. Criticos: Mr. Deputy Speaker, Sir, first the request was for the additional extra mobile health clinic to make it a total of three which I said that it cannot be possible. Number two, the Questioner is asking how many mobile health clinics are there in the whole district. As a matter of fact, this is the only district in Kenya which has two mobile health clinics on its own.

Dr. Wako: Mr. Deputy Speaker, Sir, I think the Assistant Minister did not answer my Question. I want him to specifically tell us, whether the mobile health clinic is supposed to serve the whole district. Two, whether the mobile health clinic has served any place in that District for the last one year because it is just rotting in one place.

Mr. Criticos: Mr. Deputy Speaker, Sir, for the third time, I have said that these mobile health clinics are for the whole District.

Mr. Kofa: Mr. Deputy Speaker, Sir, these mobile health clinics are very sophisticated and as such a clinical officer or a nurse, cannot operate them because they need a qualified doctor. What is the Ministry doing about these mobile health clinics because they are lying idle at police stations?

Mr. Criticos: Mr. Deputy Speaker, Sir, with due respect to the hon. Member, I do not think he is the one to tell the Ministry what type of qualifications the people to handle these mobile health clinics. We know which kind of staff should be employed to handle these mobile health clinics.

Dr. Wako: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to tell us whether, since those mobile health clinics were provided, they have actually worked in the district, because as far as I am concerned as the Member for that area, we have complained in the District Development Committee (DDC), and also to the Ministry that those mobile health clinics have never been put into use and they are rotting as any other facility. Can the Assistant Minister take an undertaking to see to it that these mobile health clinics are working?

Mr. Criticos: Mr. Deputy Speaker, Sir, these mobile health clinics are working.

Mr. Deputy Speaker: Next Question No. 985!

Dr. Wako: Point of order Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: I have already called for the next Question.

An hon. Member: Sit down!

Question No. 985

POOR STATE OF ROADS

Mr. Gitau, on behalf of **Ms. Karua**, asked the Minister for Public Works and Housing:-

(a) whether he is aware of the poor state of roads in Gichugu, notwithstanding the revenue the Government earns from the constituency from tea, coffee and horticultural products; and

(b) whether he could consider urgent reconstruction of Matira Bridge in Karumandi Location in order to make it permanent.

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

(a) I am not aware that the roads in Gichugu Constituency are in a poor state because my Ministry has been carrying out regular routine and periodical maintenance of the classified road network in Kirinyaga over the years. For instant in 1994/95 Financial Year, my Ministry spent KShs.50,000 to grade a total of 170 kilometres in that District out of which 138 Kilometres were in Gichugu Constituency.

In addition under Rural Access Road Programme, in Kirinyaga a total of 7.5 kilometres along various roads were improved and gravelled, while a further 10 kilometres involving a number of roads were re-gravelled.

These works cost KShs.16,200,000, through Government of Kenya funding.

During the same period 1994/95, KShs.3,503,790 from the tea cess collection was provided by the District Cess Committee and utilised to gravel a total of 5.1 kilometres of roads involving four roads in Gichuru Constituency, besides undertaking other routine maintenance activities in the District.

This Finance Year, that is, 1995/96 my Ministry is planning to grade the 800 kilometres of road network in Kirinyaga District. At the moment a total of 113 kilometres have been graded of which 62 kilometres are in Gichuru Constituency. In the same year the Government will spend KShs. 7 million through Rural Access and Minor Road Programme to gravel a total of 14 kilometres involving various sections of roads within the district.

The Tea Cess Committee has this Financial Year provided KShs. 3.8 million to gravel some sections totalling 3 kilometres, but involving two roads.

(b) The priority bridges under Rural Access Road Programme are Kagio, and Thumaita on which available funds this year are committed. The Ministry is not in a position to start a new bridge project before the completion of the two ongoing ones due to lack of funds.

Mr. Gitau: Mr. Deputy Speaker, Sir, I ought to thank the Assistant Minister for the good intentions he has spelt out because none of those roads have been actually constructed and further he has not answered part (b) of the Question on Matira Bridge, which is a disgrace to the Government of Kenya.

Mr. Deputy Speaker, Sir, Gichugu shares alot with Gatundu Constituency where coffee and tea cess is not ploughed back to the contributors of that revenue. We are not surprised that some farmers now are intending to down their tools because the roads are totally neglected. The information the Assistant Minister has given this House is actually distorted truth. There is nothing like that. The roads in Gichugu are actually not roads, but water gullies.

Can the Assistant Minister tell us when these roads will be graded and the reconstructed of Matira Bridge undertaken? Also when will roads be graded, not only in Gichugu, but in all tea and coffee producing areas which incidentally happen to be in the Opposition Zones?

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, I said the Matira Bridge in Karumandi Location is actually a key bridge which is No. T3303 and was a priority number five. So, we cannot come to this bridge before we have finished these other priorities.

Mr. Deputy Speaker, Sir, my Ministry has done alot in this area and you will realise that between July and November this year several roads have been done in Gichugu. Those are G458 - Kibugu-Kiamutugu, which is 18 kilometres long and Kiamutugu-Nyamindi river which is 10 kilometres River Road long. We have also done Kirinyaga Technical Institute-Kiangonyi Road which is 12 kilometres long.

Mr. Gitau: Mr. Deputy Speaker, Sir, can the Assistant Minister stop reading the answer because he is mumbling or let him give me the answer to read for myself because I was not provided with it and on checking with the Sergeant-at-Arms there was no answer to the hon. Questioner. Could he stop mumbling and read properly?

Mr. Mwamzandi: It is not my responsibility to issue written replies to the hon. Members, it is the duty of the Clerk. The names I am reading out are Kikuyu names and one needs to pronounce them like a Kikuyu for a Kikuyu to understand. These are Kikuyu names and so you will understand when I read out some of these names and also--

Mr. Achieng-Oneko: On a point of order, Mr. Deputy Speaker, Sir. Is the work of circulating the answers the duty of the Clerk of the National Assembly or it is duty of the Ministries to send them so that the Clerk of the National Assembly can supply them to the hon. Questioners? I am asking this question because we are going to be on the Clerk if it is his responsibility to supply us with answers and yet he refuses to give them to us because we want to scrutinize these answers.

Mr. Deputy Speaker: I would rather hon. Members do not raise this question very often because I have had several occasions to explain the legal position on this matter. Hon. Members, our rules have got the option to ask for written replies to Questions or oral questions. The Questions which you ask on the Floor of this House are classified as oral Questions. As of right you are only entitled to an oral answer. However, as a matter of practice or courtesy the Ministries have extended you the courtesy of a written answer to the principle Question. When the Ministry furnishes us with them and gives the courtesy we expect the Clerk to pass on the answers to the hon. Questioners in advance. Now, in this particular case, I understand the hon. Assistant Minister, your Ministry did not furnish the Clerk's Office with a copy of a written answer. So, the problem is not with the Clerk's Department.

Mr. Murungi: Mr. Deputy Speaker, Sir, arising from the unsatisfactorily answer given by the Assistant Minister, I am a frequent visitor to Kirinyaga and I am aware that the state of the tea and coffee roads in

Kirinyaga are in a very embarrassing condition. The Assistant Minister says that there is lack of funds to grade these roads, but I do not think that the roads are not maintained because of lack of funds. The roads are not maintained because of lack of political commitments by the Government to make these roads because the tea and coffee roads in the country happen to be in the Opposition areas. Can the Assistant Minister explain why he says that there is a lack of funds when we know that just recently we bought a Presidential Jet at cost Kshs.2.75 billion and we are also building an International Airport at Eldoret for Kshs.4.7 billion and we also have some money Kshs.700 million for Keridechi Dam?

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, during my reply I said that the bridge in Question cannot be done because it is priority number 5. The purchase of the Presidential Jet and the International Airport at Eldoret have nothing to do with this Question.

Mr. Deputy Speaker: Next Question.

Question No.958

CONSTRUCTION OF KUJA-OTIGO BRIDGE

Dr. Oburu, on behalf of **Mr. Ojode**, asked the Minister for Public Works and Housing:-

- (a) whether he is aware that Kuja-Otigo Bridge connecting Kabuoch South Location with Ndhiwa Market collapsed due to poor workmanship,
- (b) which firm of contractors undertook this project and how much money was spent; and
- (c) if the answer to "a" above in the affirmative, what steps the Ministry is taking to construct a new bridge.

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

(a) I am aware that Kuja-Otigo Bridge that connects Kabuoch South Location with Ndhiwa Market collapsed in December, 1988, as a result of overloading by a motor vehicle registration No.KSY 467.

(b) The Bridge was constructed by my Ministry under the Rural Access Programme at a cost of Kshs.340,000.

(c) The Ministry has carried out site materials and foundation investigation to facilitate preparation of a design for a new bridge.

Dr. Oburu: Mr. Deputy Speaker, Sir, the answer given by the Assistant Minister is quite unsatisfactory because this bridge broke down in 1977 and it has taken more than seven years to be re-built. The only work which the Government has done to date is only to investigate site materials and the foundation. There is nothing being done and this bridge connects South Kabuoch Location which is very rich agriculturally. The collapse of this bridge came about because of the negligence of the engineers of this Ministry because for one single lorry to cause the breaking of bridge designed by engineers is ridiculous. Can the Assistant Minister tell us what measures they are taking to build this bridge in order to alleviate the suffering of these people who are actually now neglecting farming due to lack of access market in Ndhiwa which is only three kilometres if this bridge was constructed. These people have now to go round 15 kilometres or 20 kilometres to get access to markets for their produce.

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, it is true that due to the breakage of bridge, these people are using another alternative road, but this my Ministry is taking action and investigations on the bridge were carried out between January and March this year. We hope that after these investigations are completed, the construction of the bridge will commence so that people can have access to other areas.

Mr. Mathenge: Mr. Deputy Speaker, Sir, the Assistant Minister should feel a bit ashamed to say that this bridge collapsed 17 years ago and they have completed investigations on it. He has further stated that amount now required to reconstruct the bridge is only chicken feed of Kshs.340,000. Surely that is a job that could be done in a week if the Assistant Minister would pull up his socks and get his engineers in the field to reconstruct this bridge enable wananchi to move their produce with ease rather than wait because the area is an Opposition area. Why is he punishing those people? Action should be taken now because a sum of Kshs.340,000 can be spent on a bridge in two weeks! The Ministry should take action immediately.

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, I sympathize with sentiments expressed by the hon. Member. The intention now is not to build the same type of bridge. The intention is to carry out investigation and build a bridge that is long-lasting. Currently, we are now soliciting funds for the reconstruction of this bridge because we want to build a stronger bridge rather than the one we used to have there before.

Dr. Oburu: Mr. Deputy Speaker, Sir, the stage at which the Ministry has reached on this bridge shows that they have only done investigations and even designs are not ready. That means this bridge is still very far away even for funding next Financial Year. Can the Assistant Minister now specify and tell us exactly when he expects to complete these designs and when he expects the cost estimates for this bridge and when he expects to start looking for funds? He should not tell us he is looking for funds for an amount which he is not aware of. So, at this stage it appears he is not even looking for funds. Can he tell us when all this work is going to be completed because it has taken more than seven years just to draw a paper which does not need any money at all.

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, I think I said that the designs and works had already commenced and we hope this will be completed in January, 1996. It is after that that we are going to know the costing of the bridge and then solicit funds at that time and it will be immediately after this information is received.

Mr. Busolo: Mr. Deputy Speaker, Sir, I am surprised to hear from the Ministry that the bridge broke down due to weight of only one vehicle. I am asking the Ministry to tell us what action they are taking against the engineer who designed the bridge that cannot only stand one vehicle?

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, I do not have that information on the action that has been taken against the engineers. The engineers were our own staff in the Rural Access Road Programme and they had inspected the bridge.

Dr. Lwali-Oyondi: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Are you sure you are not trying to beat my rulings as that was the last supplementary question?

Dr. Lwali-Oyondi: Yes, it is---

The Deputy Speaker: It is going to be a point of order?

Dr. Lwali-Oyondi: Yes, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to stand here and tell us that it is not his duty to punish engineers who design bridges that cannot withstand the weight of one lorry?

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, I have never used the words the hon. Member is putting into my mouth. I did not say "it is not my duty". I said I do now know what action has been taken against the engineers up to now.

The Deputy Speaker (Dr. Godana): Next Question!

Question No. 850

FINALIZATION OF COURT CASE

An Hon. Member: Mr. Raila is out of the country.

Mr. Deputy Speaker: I understand that Mr. Raila is out of the country and so the Question is deferred.

(Question deferred)

Mr. Deputy Speaker: I understand that hon. Shikuku is also out of the country, but I am informed that his brother, Dr. Lwali-Oyondi has authority to ask the Question on his behalf.

Dr. Lwali-Oyondi: Mr. Deputy Speaker, Sir, first, I beg to apologise for not standing up the first time and I wish to ask Question 982.

Question No. 982

ESCALATION OF TRIBAL CLASHES

Dr. Lwali-Oyondi, on behalf of **hon. Shikuku** asked the Minister of State, Office of the President:-

- (a) whether he could confirm or deny that after the Mai-Mahiu incident on 10th January, 1995, whereby eleven people were killed, some residents from Narok District erected *manyattas* on farms owned by those killed and are grazing their livestock on other people farms; and,
- (b) if the answer to "a" above is in the affirmative, what action he is taking to ensure that this incident does not escalate to another tribal clash where lives and property could be destroyed.

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

- (a) I deny.

(b) Arising from part "a" above this part of the Question does not arise.

An hon. Member: Very good!

Dr. Lwali-Oyondi: Mr. Deputy Speaker, Sir, I think this Assistant Minister is fond of denying what is true and giving the wrong impression about his office, which is a very important office; the Office of the President.

It is true the *manyattas* were erected because I was there myself and that is where I was arrested and kept in jail for almost one month. I had gone to see these people who had been speared, killed and even chased away from their shambas. I saw with my own eyes Maasais grazing cattle on those shambas and until now, in some other places like Mt. Elgon area where there were clashes, people have settled on shambas that were not theirs.

Could the Assistant Minister explain to this House whether he approves this illegal settlement on properties of other people by Maasais and other people who caused clashes?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, it is very clear and I am sure you can also see that the hon. Member has not even read the Question as he is just mixing up issues.

First of all, I am not aware of Maasais, who live in Mt. Elgon and who have settled on any land there. At any rate that is an irrelevant question.

With respect to this area, I have personally visited this particular part and I have found no *manyattas* having been erected there. The hon. Member should appreciate that the general area of Gilgil and Mai-Mahiu is a continuation of Maasai land and it is not impossible to find Maasais in that area. If the Maasais are grazing cows it is a different thing from them erecting *manyattas* and I am sure the hon. Member knows enough English to understand that.

Mr. Obure: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister aware that tribal clashes are on the verge or erupting again? For instance, last Tuesday there was a clash between Maasais and Kisiis where my own brother was shot at the back with an arrow. Is the Assistant Minister aware that there are tribal clashes currently in the country that they are on the verge of breaking out again for the reason that we are nearing elections?

The Minister for Local Government (Mr. ole Ntimama): On a point of order, Mr. Deputy Speaker, Sir. I think Dr. Lwali-Oyondi is misleading the House when he talks about Maasai settlement. There is the difference between settling and driving cattle and looking for pasture in the arid areas.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, the question raised by hon. Obure is a different question from this one because he is addressing a small incident that arose inside Trans Mara where his brother, among other people, entered Trans Mara for a purpose that was not understandable and got injured under circumstances that did not amount to a clash. There has no been clash between the Maasais and the Kisii in recent times.

Mr. Wamalwa: On a point of order, Mr. Deputy Speaker, Sir. This Assistant Minister is forming a habit of standing up and sounding so self righteous about matters that he may not even understand. What is there in this country to stop the hon. Obure's brother going to Trans Mara? He is portraying as if he was breaking the law by going into Trans Mara.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, it is not me who is looking holy; it is the hon. Wamalwa because he does not understand that hon. Obure's brother, among other members of the Kisii tribe entered Maasai land for the purposes of merely going there. There must have been a reason.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, do you hear the Leader of Opposition telling me "kwenda huko"? And he is supposedly the Leader of the Opposition

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

Mr. Sunkuli: Why do you not shut up yourself?

Mr. Deputy Speaker: Order! Order! Hon. Obure you have the Floor.

Mr. Obure: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for this Assistant Minister to mislead this House? Just a few minutes ago we have been discussing with him this matter and he agreed that police officers at Nyangusi was the cause of the problem by demanding a bribe of KShs.6,000 for mixing the cows and now he is telling me that by brother moved to Maasai land. Are you being honest? Are you not sure you are causing problems in this country?

Mr. Deputy Speaker: Order! Order!

Mr. Obure: Mr. Deputy Speaker, Sir, I want to say---

Mr. Deputy Speaker: Thou shall always respect the Chair.

Mr. Obure: Mr. Deputy Speaker, Sir, I want to say that the hon. Assistant Minister should advise his people not to attack my people. If the attack continues, I do not see how the two of us will continue sitting here in Parliament debating side by side

(Laughter)

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I am taking this personally because hon. Obure and the Chairman of his party are conspiring to raise up matters that have never taken place. Hon. Obure's brother may have gone to steal cows--- I do not know what he went to do in Maasai land and I am not to blame for that.

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

Mr. Deputy Speaker: Hon. Obure, are you sure it is a point of order? What is it?

Mr. Obure: Mr. Deputy Speaker, Sir, can the Assistant Minister substantiate that my brother, John Obure, who is now in hospital, is a thief and we cannot afford--- We have cows. Is he saying that I am a thief too?

Mr. Deputy Speaker: Mr. Sunkuli, what did you say?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, what I said can be read in the HANSARD.

Mr. Deputy Speaker: Yes, but I am afraid, I was consulting with hon. Nassir when you talked!

(Hon. Wamalwa murmured something)

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I cannot continue speaking when the hon. Member for Saboti is making provocative remarks while seated. Why does he not just stand up and say these things?

Mr. Deputy Speaker: Order! Thou shall hear the hon. Assistant Minister in silence. I order that now.

Mr. Sunkuli: Thank you, Mr. Deputy Speaker, Sir, for protecting me from these so called leaders.

I said that the hon. Member's brother may have gone to Trans Mara for an illegal purpose and that is why he was shot.

QUESTION BY PRIVATE NOTICE

PROCUREMENT OF DRUGS

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

Will the Minister give details of the procurement and supply of the following drugs and equipment funded by the World Bank.

(a) Tender No. HQ/POP/III/IV/93-94 for the supply of Hepatitis B vaccines?

(b) Tender No. HQ/POP/IV/94-95 for supply and delivery of MCH Family Planning Equipment?

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

(a) My Ministry was not satisfied with the process of procurement and delivery of hepatitis B vaccine. As such, upon delivery of the consignment all the documents pertaining to procurement were submitted to the Criminal Investigations Department (CID) for investigations. My Ministry is awaiting a report from the CID to enable it to make the appropriate decision on this matter pertaining to the process of procurement, accountability and the ultimate use.

(b) The tender for the supply of Maternal and Child Health MCH family planning equipment was adjudicated by the departmental tender board and recommendations for the award were made. However, the World Bank recommended that this tender be re-advertised and adjudication be done according to their revised procurement guidelines of January, 1995. My Ministry is making the necessary [**The Assistant Minister for Health**]

arrangements to re-advertise the tender and follow the new World Bank guidelines for the adjudication process.

Mr. Anyona: Mr. Deputy Speaker, Sir, I believe that the whole House, both this side and the other side, is very concerned about the health of our people. Therefore, they are very concerned about the process of procurement and supply of drugs and other medical equipment. If you look at the Public Gallery today you will find that it is full of our own school children who are very concerned about this problem.

Mr. Deputy Speaker: Mr. Anyona, what did you say?

Mr. Anyona: Mr. Deputy Speaker, I was saying that everybody, including our own children in the Public Gallery, are concerned about the question of health. Therefore, this is a very important Question which the Ministry is trying to fiddle about with. With your indulgence, before I ask this Assistant Minister a question, I would like to give the House a few pertinent facts about this Question which are not being addressed by the answer

we have just received. The first point is that the tender was awarded irregularly to Smith-Line Beachman International, who was the highest bidder at £2.2 million. The lowest bidder was Korea Drugs Corporation at \$2.7 million. When you translate these figures the difference is \$820,000 or Kshs50 million. This relates to hepatitis B vaccine. There was also an over ordering of one million vials when the normal requirement is 500,000 vials. There was poor storage at the airport and so half the drugs got destroyed and yet they are being stored at the Central Medical Stores in Industrial Area. It is true that there were police investigations, but this took place in April, 1995. Given those facts, who, in fact, made this order? Neither the Kenya Expanded Immunisation Programme (KEPI) nor the National Public Laboratories Services did make the order on behalf of the Ministry. So, the question is: Who did and in whose interests? If he can answer that I have documents here to prove all the facts that I have stated.

Mr. Criticos: Mr. Speaker, Sir, since the hon. Member is very conversant with this case he should also know who ordered them. But I do not think he would know how much vials we need. We may need 100,000, one million or two million vials of hepatitis. I do not think that he is aware of how many vials we need in the Ministry.

Mr. Anyona: Mr. Deputy Speaker, Sir, the Assistant Minister is saying that I cannot be in a position to say how much they need and only they in the Ministry know. Apparently, that should be the case and so he should have told us how much they need. I would now like to tell him that I have some documents here. If you allow me I will read out a few lines to back my question.

Mr. Deputy Speaker: Mr. Anyona, are you tabling any documents?

Mr. Anyona: Mr. Deputy Speaker, Sir, I will table the document, but before doing that I would like to refer to a few points in it. This is an internal memorandum from Dr. Kosgey, Chief Pharmacist, to the Permanent Secretary. It is dated 3.8.95. It says:-

SUPPLY OF HEPATITIS B VACCINE,
ONE MILLION VIALS

Apart from this large quantity not being brought to my attention before the order was placed the KEPI manager, Dr. C.K. Mailu, certifies that the procurement was not at the request of KEPI or the Division of Family Health. At the same time the Director, National Public Health Laboratories confirms that the vaccine, while being useful, is not in his routine procurement list. This massive procurement of a single item ties too much money at the expense other essential drugs, creates shortage problem and runs the risk of expiring before total use. It is my view that we instruct the officer in charge, CMSCU, to direct the supplier to withhold further shipment of the same until we are able to put things in order".

Mr. Deputy Speaker, Sir, one million vials are lying at the Industrial Area and as we are sitting here a cheque is being prepared for Kshs192 million to pay for these drugs which have not been used and they have been destroyed. And I have been told that the project in connection with them has been put on hold. So, which is which?

Mr. Criticos: Mr. Deputy Speaker, from what I have heard the hon. Member say, he did not state that this consignment has expired. Secondly, I made some notes on what the hon. Member was reading from this letter. What Dr. Kosgey was complaining about was where to store the drugs and not that they had expired. I want to know from hon. Anyona what his complaint is all about. Is it that the drugs had expired or is it that we had ordered too much by mistake, which I have already admitted?

Mr. Deputy Speaker: Hon. Anyona, I think it should be of great help to the House if you could table your documents now so that if the hon. Assistant Minister has to peruse them, he can do so.

*(Hon. Anyona laid the documents
on the Table)*

Mr. Salat: On a point of order, Mr. Deputy Speaker, Sir. We have been treated to some gimmicks here by hon. Anyona and hon. Criticos. Hon. Anyona tells us that the tender was awarded to the highest bidder which was \$2.7 million, whereas the lowest bidder was US\$2.2 million. The Assistant Minister neither confirms nor denies that. Instead, he tells us that police investigations are being carried out. On the other hand, hon. Anyona tells us that a cheque is being prepared to pay the supplier. So, we are really confused. Has the tender been awarded or has it been stopped? Are investigations continuing? What is really happening?

Mr. Criticos: Mr. Deputy Speaker, Sir, I am not aware of any cheque being issued, neither am I aware of any that is in the process of being issued. We do realise that there has been a problem and investigations are being carried out by the CID.

Mr. Anyona: Mr. Deputy Speaker, Sir, first of all, I would like to clarify this question of the highest and the lowest bidder. The highest is Smithkline Beechman International at S£2.2 million. The lowest is Korea Green Cross Corporation at US\$2.7 million. If you put those two under one common currency, the first one translates to US\$3.52 million, so the difference is about US\$820,000. Those are the correct figures. However, the documents I have laid on the Table constitute a letter from the World Bank and an internal memorandum. The letter from the World Bank is dated April 25th, this year. That is when the World Bank ordered that this tender be put on hold, and yet, since April, nothing has happened. We are now being told that investigations are going on. We are almost at the end of November. The World Bank ordered investigations in April. They had been given wrong information. They had been given a letter of no objection. The World Bank was misled by the Ministry. They gave a letter of no objection but later on, they became wiser and stopped the tender, and yet, nothing has happened. As I said, a voucher is being prepared just now for Kshs192 million. So, the Question I am asking is: What is this Ministry going to do to make sure that this country is not ripped off by officials in the Ministry? Can this Assistant Minister tell me what the role of Mr. Kiruti is? He is a Public Health Officer, and yet, he controls the entire budget of drugs procurement from donor agencies. Let him tell us that. What is he hiding? It is high time this Ministry staff were totally reshuffled.

Mr. Criticos: Mr. Deputy Speaker, Sir, I would not be in order if I did not sympathise with the hon. Member. We have problems in our Ministry. There is a problem with a Mr. Kiruti in our Ministry and we are taking action against him. There have been some problems with him which we are trying to verify and to correct.

However, without any proof, we cannot do anything in the Ministry. We have called in the CID people who have been investigating for the whole of last year. The anti-corruption squad has also been there, but it has not come up with any proof, and yet we are getting reports about Mr. Kiruti and other people. If we get a clean bill of health from the police department, we have to accept it. They have been there for over a year.

Mr. Deputy Speaker: Next Order, the Minister for Foreign Affairs.

MINISTERIAL STATEMENT

SECURITY OF DIPLOMATS AND DIPLOMATIC MISSIONS

The Minister for Foreign Affairs (Mr. Musyoka): Thank you, Mr. Deputy Speaker, Sir. I take the Floor in order to make a Ministerial Statement on the security of diplomats and diplomatic missions in Nairobi, as requested by the hon. Member for Langata. Indeed, hon. Dr. Hezron Manduku was able to give an undertaking that he would be able to make a Ministerial Statement yesterday. I hope the House will bear with us for coming in a few hours late.

Mr. Deputy Speaker, Sir, Kenya is a signatory to the 1961 Vienna Convention on diplomatic relations which stipulates the rights and duties or obligations of the host government. Under this convention, and also under international law, the Government of Kenya is obliged to ensure that diplomatic agents and their families enjoy diplomatic inviolability, immunity and protection. The second key principle of the convention is the inviolability of diplomatic premises. The Kenya Government cherishes and upholds these principles. This is the ideal situation which every host government wishes to maintain. The reality is, however, different. Incidents have occurred this year, affecting the diplomatic community in Nairobi, which have been regrettable. I have in mind the recent brutal attack on the person of the Indian High Commissioner and Mrs. Sreenivasan, the Pakistan Deputy High Commissioner and the attack on the Argentine Embassy. I wish to assure this House that the diplomatic community is not being singled out for attacks, as appears to be insinuated. In the endeavour to maintain and to uphold the Kenya Government's commitment to the letter and spirit of the Vienna Convention, an inter-ministerial committee on the security of diplomats chaired by my office was established in September, 1993. This committee deliberates on issues concerning the security of diplomats and other related issues. The diplomatic community is regularly advised on ways of improving their own personal security. This includes vetting local employees, a service provided by the Government free of charge. The diplomatic community is informed of all the security measures that have been taken by the Government in order to make their stay and execution of their duties possible in a pleasant and secure atmosphere.

Mr. Deputy Speaker, Sir, for obvious reasons, most of the security measures taken cannot be outlined in

this House. Suffice it to give assurance to the House that the Government is committed to guaranteeing safety of each and every one living in Kenya, Kenyans themselves included. I wish to refer the august Assembly to statements already made in this regard by none other than His Excellency the President himself.

I thank you, Sir.

COMPENSATION FOR PEOPLE IN KILIFI

The Assistant Minister for Tourism and Wildlife (Mr. Kisiero): Last week when I was answering a Question by hon. Nzai regarding compensation for some people who had been killed or injured in Kilifi, I promised to give the number of the cheque that was paid to the District Commissioner/Kilifi. The Number is CH16-003273 and it is dated 5th September, 1995 under cover of voucher No. 0946. Thank you.

An hon. Member: How much was it?

The Assistant Minister for Tourism and Wildlife (Mr. Kisiero): Mr. Deputy Speaker, Sir, the amount was Kshs 209,100.

Mr. Deputy Speaker: Next Order!

BILL

Second Reading

THE COUNCIL OF LEGAL EDUCATION BILL

(The Attorney-General on 15.11.95)

(Resumption of Debate interrupted on 21.11.95)

Mr. Deputy Speaker: Mr. Murungi was on the Floor.

Mr. Murungi: Mr. Deputy Speaker, Sir, let me take a few minutes to wind up my contribution on this important Bill.

When the House rose yesterday, I was touching on the need for the practical training of lawyers at the Kenya School of Law. Apart from training lawyers on the lawyers techniques and skills, I think it is important that the lawyers also be taught effective communication skills. Most of the lawyers both in Nairobi and upcountry today are computer illiterate. With the technological developments that are taking place in the business sector, many of the lawyers are likely to find themselves irrelevant unless they pick up computer skills. I would strongly urge the Attorney-General, when the curriculum for this school is established, to ensure that basic computer skills such as word processing et cetera are included. Also on this line of communication, it is important that the lawyers undergo a Kiswahili course. When I left the Kenya School of Law and went to private practice, I found myself seriously handicapped because most of the wananchi talked to me in Kiswahili and I was not fluent in it. I could not understand the instructions that were being given to me in the Kiswahili Language. Similarly, I could not effectively communicate with the clients I was serving. Out of that experience, I think it is important that we introduce a Kiswahili course for lawyers at the Kenya School of Law.

*(Hon. Nyachae and some few
hon. Members consulted loudly)*

Mr. Deputy Speaker, Sir, I think I am making an important contribution and I would be most obliged if you could advice hon. Nyachae and his group to listen to the contributions that we are making here.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, this question of Kiswahili has been ignored not only for lawyers, but also in other university courses where Kiswahili is very important. For example, we are training agricultural

officers, but we train them in English and ask them to go and advise farmers in Kiswahili. Many of these agricultural officers are not able to communicate to the farmers. The same thing happens to doctors. We train doctors in English. We do not give them a Kiswahili course and then they are not able even to explain to the patients who come to see them what diseases they are suffering from. So, I think the question of Kiswahili for professionals is very very important and should be incorporated in all professional training in this country.

There is also the question of interpretation in the courts. It is not strange to find a situation where the judge is a Kikuyu, the court clerk is a Kikuyu, the plaintiff is a Kikuyu and the defendant [Mr. Murungi] is a Kikuyu. The plaintiff speaks in Kikuyu then the court clerk who is a Kikuyu interprets what they have said to the judge who is a Kikuyu in English and then the judge speaks in English and then the clerk translates to them in Kikuyu. So this is a colonial legacy which we could eliminate if the judges, the court clerks and the magistrates all learn Kiswahili so that when a judge speaks in Kiswahili we do not need an interpreter. The client can understand straight-away what the judge is saying and we can save a lot of time.

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

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

Mr. Temporary Deputy Speaker, Sir, now that we are reviewing legal education, it is important that we again look into the legal profession because this is the last pocket of colonialism in this country and find out which things in the legal profession are not consonant with our culture and then we remove them at this stage because wearing wigs and robes in the heat of Mombasa does not make sense. We would recommend some tropical wear that is decent. Maybe an ordinary suit or even a Kaunda suit for lawyers and magistrates who have practised in law in Mombasa, would do. I have been tortured greatly in the High Court of Mombasa where I had to put on a suit, a tie and a black robe on top when representing clients in that court. I think we should not be too attached to traditions that have their origin in winter in Europe.

When I was at the Kenya School of Law and our principle was Tudor Jackson, we asked him whether we could be allowed to eat roast goat meat and he said, absolutely no because gentlemen do not eat goat meat. This is our country and if we feel that we want to eat goat meat it should be served to us. Nobody has a right of saying it is professional misconduct to eat goat meat. The lawyers should eat goat meat like everybody else. The school of law did not serve goat meat because it was not a gentleman's dish. So we hope in the new school of law that we are going to establish the students are going to be treated to roast goat meat. I am not sure whether they should be given ugali, but I think the whole question of food is important because before the lawyers can argue and think they must first eat. They must have a place to sleep in and something to drink. Even philosophers cannot philosophize on hungry stomachs. I was surprised the other day when the Vice-Chancellor of Kenyatta University, Prof. George Eshiwani said that the function of the university is to teach and do research and has nothing to do with food and accommodation. How can you research and teach if you have not eaten. Questions of the welfare of the students at the School of Law should be looked at and I would recommend that at the Kenya School of Law that we are going to establish we should not have the Pay-As-You-Eat system because all these riots you see in the universities are caused by this backward system. Let us provide good dormitories and give students uniform food and then we can charge it on the fees that they are going to pay. So getting a student to pay for his meal from his own pocket does not help because as you know young men have not been used to money management. When the system was introduced in the university when we were there, we finished our money for food within the first two weeks and we had to hang out with friends in town. At least let us assure that there is enough food for them to eat and that they have comfortable accommodation.

Mr Temporary Deputy Speaker, Sir, then, a question arises as who should teach at the new school of law that we are going to establish? The Attorney-General said in the House yesterday that the School of Law now has an establishment of 10, but out of the 10, we have only one person, the Principal of the Kenya School of Law, in place. We need to employ these other 10 lecturers. I will tell the Attorney-General why no people are employed at the School of Law, it is because of politics.

Mr Temporary Deputy Speaker, Sir, top lawyers, top professionals and law professors in this town, are not teaching at the University because they cannot be hired at the University due to political grounds. For you to teach law at the University, you must be "KANU damu", you should not be seen to be anti-Nyayo or anti-Government. Lawyers who have been there---

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a

point of order, Mr Temporary Deputy Speaker, Sir. Is it in order for the hon. Speaker to introduce irrelevant qualifications for professors and lecturers in the university? Is he in order to mislead this House and nation?

Mr. Murungi: Mr Temporary Deputy Speaker, Sir, only fools do not know that people who are opposed or seen to be opposed to the Government cannot teach at the university, starting with Ngugi wa Thiong'o, my own partner, Dr. Gibson Kamau Kuria, Dr. John Khaminwa, who is one of the highly qualified lawyers there can never get a job at the university. We have Pheroze Nowrejee, who was also teaching, but was thrown out of the university, Dr. Willy Mutunga, who is respected all over the world, cannot teach at our university. We have Kathurima Inoti, my other partner, who taught for a short while and his contract [**Mr. Murungi**] was terminated on political grounds. We have Prof. Shadrack Rutto, who had to go to teach in South Africa because our legal institutions cannot absorb him. So, if we want high quality law school, do not ask what political party does that Professor belong to; do not ask whether he is Nyayo or anti-Nyayo, but you should hire him strictly on the basis of his professional qualifications, professional integrity and whether he has sufficient intellectual capabilities. Whether he is a political activist or not should be an irrelevant consideration because Section 82 of the Kenya Constitution makes it very clear that:-

"Nobody should be discriminated against on grounds of political opinion."

All these lecturers, the list I have given, have been discriminated against on grounds of political opinion in the appointment to the Faculty of Law. So, in the new School of Law, let us not have this kind of discrimination because it is causing braindrain away from our law training institutions.

Mr Temporary Deputy Speaker, Sir, in winding up, I would like again to thank the Attorney-General for bringing this very important Bill to the House, and I would to support the Bill subject to two amendments which we have discussed with the Attorney-General and we have asked him to see whether he could amend them because these are the only trouble clauses in the Bill.

The first problem is with the control. Who controls the School? Who are the majority in this Council? As presently drafted, the majority are people appointed by the Attorney-General, for example, the Judges, Permanent Secretaries, civil servants and all that. Now, this is not an institution like the Cotton Board of Kenya or something like that. It is a place where we need professionals and this is a professional school that we are establishing. So, we would urge the Attorney-General to increase the number of lawyers, especially those in private practices and academic institutions, who are sitting in the Council. I think from 10, if we could have five top lawyers in this country, this institution would be a great institution.

Mr Temporary Deputy Speaker, Sir, the second issue is the controversial levy. As you know, the lawyers are the most hated professionals in the world. Even in Romans times, the lawyers were buried with their heads facing the ground, first, and with their legs up, so that they could not see St. Peter and go to Heaven. We find that the lawyers in this country are among the most oppressed section of the middle class. We have got obligatory taxes like Income Tax. We are already paying a trade levy, Law Society dues, VAT, Service Charge, library fees, not to mention the Harambees where the lawyers are normally called the "guests of honour" every week-end. More than 50 per cent of the lawyers earnings in this country go either to the taxman or other social functions. The lawyer and his family would only be spending one-third of his income.

There is a false image in the country that the lawyers are special, privileged and rich group. This image is false. The lawyers are struggling in Kenya like everybody else. Many of them are young, they are not even driving cars and they live in slums. It is highly oppressive to further oppress this already oppressed group through another tax called a "training levy." This training levy, even if it is introduced, we are going to file a case against the Attorney-General because it is discriminatory and it is unconstitutional, and it is oppressive. We have other professions in the country like the doctors who have not been asked to contribute to training of other doctors, or the police also who have not been asked to contribute to the training of other policemen at Kiganjo, the teachers have not been asked to pay a training levy to train other teachers. Why are we discriminating against the lawyers? These are questions, Mr. Attorney-General which you would be asked in court.

Mr Temporary Deputy Speaker, Sir, we are also questioning the logic of this tax ---

The Temporary Deputy Speaker (Mr. Wetangula): Mr Kiraitu, you are threatening the Attorney-General with legal action which amounts to intimidation.

Mr. Murungi: Mr Temporary Deputy Speaker, Sir, I am not intimidating the Attorney-General, I am just being transparent. If this Bill is passed by the House the way it is, we would definitely challenge this clause in court and I see the court striking it down. So, I would urge my colleagues on both sides of the House, including the Minister for Foreign Affairs, who is a lawyer, to urge the Attorney-General to remove this clause from the Bill. Otherwise, it is a very good Bill, and let us not spoil it with only one clause.

Mr Temporary Deputy Speaker, Sir, with these very few remarks, I beg to support the Bill. Thank you.

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, leo ni leo, asemaye kesho ni mwongo. Namshukuru Mkuu wa Sheria kwa kuuleta Mswada huu kwa sababu utawafanulia Wanakenya yale makosa yalioko. Tuna Chama cha Wanasheria nchini, majaji, mawakili ambao wengine ni wanasiasa, lakini mambo ambayo yanapita katika Kenya yetu, ni uonevu wa maskini, ingawa wengine wanajiita wanasiasa. Utamwona maskini akiingiliwa na dalali katika nyumba yake, ambaye anavunja na kuchukua vitu, na kuuza na hali hajui yule mtu amefanya dhambi gani. Siku hizi hutolewa sheria ya mtu kwenda kupelekewa dalali kabla hajaenda kortini, au kupata barua ya kushtakiwa na kile ambacho anadaiwa. Nashangaa kwa sababu kati ya wale wanafanya hivi ni mawakili, ambao wanaomba kura kutoka kwa wananchi, na wanawafanya hivyo. Kisirani cha madalali ni kwamba hutoa mali yote. Pia mdaiwa hutozwa pesa nyingi kuzidi deni yenyewe. Ikiwa anadaiwa shilingi elfu tano, akifika anaambiwa atoe laki mbili kwa sababu ya gharama za mawakili.

Jambo lingine linahusu kushikwa kwa wananchi barabarani. Wanadaiwa wanashikwa na bangi na kupelekwa kortini, na akifika kortini, jaji anamuuliza ikiwa amevuta bangi na anakana. Lakini jaji yule hana ushahidi wowote kama mtu huyo amevuta bangi, kwa sababu hakupelekwa kwa daktari kupimwa kama damu yake ina ishara yoyote ya bangi. Lakini kwa sababu maskini anaogopa, anatiwa ndani na kupigwa faini ya shilingi elfu tano au sita na hali hana dhambi. Hayo yanatendeka na tuna Chama cha Wanasheria nchini. Mimi nafikiria haya hayangetendeka ikiwa chama haki hakikugeuka na kuwa chama cha siasa. Kungekuwa na raha sana. Lakini leo chama hiki kimegeuka na kuingilia siasa na siyo chama cha Wanasheria. Kama si hivyo kingetazama mambo ya hawa maskini na taabu ambazo wanapata kortini. Mtu ambaye hajajulikana ikiwa amevuta bangi au havuti anashikwa na kutiwa ndani.

Bw. Naibu Spika wa Muda, kama hii ndio elimu watu wanapewa kusoma, ingekuwa raha sana. Lakini kwa sababu mawakili wanafundishwa na wanataka kwenda kufanya mazoezi kwa mawakili wenzake na huku ni mtoto mdogo wa miaka 25 au 22, na ambaye anataka kustarehe na anataka gari, hana fikira ya ukweli. Lazima mawakili wafundishwe jinsi ya kutetea haki za binadamu nchini Kenya. Lakini hata nikisikia wakili ni mwanasiasa hucheka nafsi yangu kwa sababu hao ndiyo wa kwanza wanaochukua pesa za watu. Mtu akipatwa na ajali barabarani, wakili sijui hujaji; atakuja nyumbani kwake na kukuahidi kwamba atamsimamia katika kesi hiyo. Lakini yule wakili anapoenda kuchukua pesa, anazitia mfukoni, halafu mwenye ajali hana la kufanya, na maskini amevunjika mguu au mkono. Lakini wakili anamwambia kwamba mambo yake yatakuwa mazuri mpaka mwaka ujao na ndipo atapata pesa zake. Hata mhe. Raila amewahi kuuliza hapa swali kuhusu mtu mmoja aliyepata ajali na pesa zake zikachukuliwa na wakili. Unyonyaji katika nchi hii umeenea sana. Ikiwa Chama cha Wanasheria kingekuwa na mwakilishi katika kila korti, kutizama ikiwa haki inatendeka au la. Lakini ukipelekwa kortini, unaambiwa wewe ni mvuta bangi, umekunywa tembo na hali hukupimwa na hakuna ushahidi.

Ofisa wa polisi anaweza kukutia bangi mfukoni na kukupeleka kortini. Lakini kwa sababu anayeshikwa ni maskini hana wakili na jaji hashughuliki na ushahidi, hawezi kujisaidia. Lazima watu wetu wasomeshwe. Lazima mawakili wasomeshwe na wawe na imani ya kweli. Wakati kulikuwa na mawakili wengi Wahiindi mambo hayakuwa namna hii. Wao ni kutosa pesa tu.

Ikiwa masomo hayatakuwako, lazima waende wakasomeshwe wajue hekima ya kuwa wakili. Lakini ikiwa unamkuta wakili vichorochoroni mabaani akiwa amelewa, hadhi yao itashuka. Ndipo asubuhi utamwona katika korti ameshikwa mashati na anadaiwa. Kuna taabu sana. Mawakili hawa hodari wanawaambia wateja waliowakulia pesa kwamba hayo ni makosa ya Serikali yako ya KANU. Haya makosa yako yote yameletwa na Serikali yako ya KANU. Hamwambii mimi ndiye nilikula pesa zako na sikusaidii. Kwa hivyo, kama kuna sheria hasa ya kufundisha, lazima iwe inaangalia namna ya kuangalia haki ya mwananchi maskini. Sheria itumiwe, na mtu atie sahihi katika ilani ya kudhuhuria kortini, halafu ikiwa hatafika, ndiyo mali yake yauzwe. Lakini siyo yauzwe hivi hivi. Na ikiwa hakuna ushahidi wa polisi uliophelekwa kortini, kama mshtakiwa amevuta bangi, basi jaji mwenyewe pia anatakiwa kumwambia hana ushahidi. Lazima amuulize ikiwa alikwenda kumpima mshtakiwa hospitalini na kuhakikisha kweli damu yake ina ishara ya bangi. Lakini yamekuwa ni mambo ya kusingiziana hivi hivi na watu kushikwa ovyo ovyo, na imekuwa ni biashara. Hawawezi kutafuta wale matajiri, na 'maprofesa' lakini badala yake, ni kwenda kutafuta maskini barabarani, bora tu ajue hana kazi. Atamshika, amwambie yeye ni mvuta bangi na amtie ndani. Ikiwa ni mtoto wa shule na anaogopa kupitwa na mtihani, atatoa shilingi 50 au 100 achiliwe.

Kama hakuna mabadiliko ya mambo kama haya, watu wengi watazingisizia kuwa ni Serikali inayoyafanya, na hali ni wale watu wa Upinzani. Hata polisi wanaofanya mambo haya pia ni wa Upinzani ili waharibu jina la Serikali. Kwa hivyo, jina la Serikali linaaribiwa kwa kuwashika watu ovyo ovyo barabarani. Haina haja. Kwa nini watu wanaovuta bangi ndio wanashikwa? Wale wanaouza mbona hawashikwi?

Kwa hivyo, ikiwa kuna Chama cha Wanasheria nchini, lazima kiangalia haki za binadamu. Lazima waende wakafundishwe zaidi, na tena watozwe pesa nyingi ili mtu akitaka kuwa wakili, ajue yeye ni mtu wa

kuaminika. Siyo Serikali kumsomesha ili badaaye aende kuwanyonya watu nchini.

Bw. Naibu Spika wa Muda, pole sana kwa sababu wewe ni wakili, lakini mimi nasema nyinyi hamna bei.

Ukiuliza wakili mmoja ni pesa ngapi utamlipa aenda kortini, atakutoza shilingi elfu tano. Wakili wa pili atakuitisha shilingi elfu hamsini. Wakili wa tatu ikiwa hana pesa wakati ule, atakuitisha shilingi elfu mbili. Kwa hivyo, vile unavyopenda pesa, ndivyo unakuwa na tamaa ya kupata pesa zaidi. Na ndipo wengine wanataka kuwa wanasiya. Ikiwa wewe mwenyewe ni mnyonyaji utakuwaje mwanasiya, na hali kazi yako ni kunyonya watu?

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Nassir, you are making a lot of unsubstantiated and wild remarks.

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Katika sehemu hii, nilikuwa nataka kusema kwa niaba ya wenzangu kwamba, mawakili wengine wanasema wanaonewa na kufanya mambo mengine. Lakini ikiwa hawa mawakili wakienda kukutana wanapigana, kwa nini wasiletewe askari wakati huo? Ni kwa nini wanapigana? Chama ni kimoja, wao ni mawakili, kuna 'maprofesa' na wakati mwingine wanapigana. Lazima wachunge tabia hii.

Dr. Lwali-Oyondi: Jambo la nidhamu, Bw. Naibu wa Spika wa Muda. Ninamheshimu huyu Mzee Mhe. Nasir ambaye anaongea, lakini, yeye anasema kwamba wanasheria ni wanyonyaji; Je, anaweza kuthibitisha dai hilo?

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu wa Spika wa Muda, katika afisi yangu nina kesi karibu 20. Mtu anakwenda ili asaidiwe kwa sababu ya mambo ya ajali. Wakili amekwenda kortini na pesa ameishachukua na hajamlipa. Nimemwandikia barua wakili nikimuliza ni kwa nini huyu hajalipwa na yeye anajibu "subiri mambo yako kortini". Anafanya kama mtoto mdogo. Subiri nikusomee kwa kiingereza. Hukumsikia mhe. Raila akiuliza swali hapa? Mnazide kuwatesa watu na sijui ni kwa nini watu wanawaogopa nyinyi. Mmechukua pesa za watu. Hatutaogopa, tutawaambia ukweli. Mwizi akiwa amevaa sharti bado yeye ni mwizi, akivaa tai na suti nzuri ni mwizi, akiendesha Mercedes Benz bado yeye ni mwizi. Mhe. Raila leo ameuliza swali hili:-

"Is the Attorney-General aware that Mrs. Hellen K. Idambira, the wife of the late Peter Idambira Endavo, who died as a result of a road accident, which took place on Mumias/Kakamega Road on 23rd March 1990 filed a case seeking compensation in a Kakamega Court through File No.220 of 1992?"

Tangu mwaka wa 1990 mjane hajalipwa. Na ukienda kuangalia wewe mwenyewe Daktari wa Mifugo, utaona hayo.

Bw. Naibu wa Spika wa Muda, ninataka kutia mkazo zaidi ili watu wapate haki zao. Haifai kujibu watu barabarani. Hawa wanataka sisi tuanguke mwaka wa 1997. Wanafanya makusudi kushika watu njiani. Hata Jaji hawezi kuuliza ni kwa nini huyu ameambiwa ni mvuta bangi na yeye hakupimwa na daktari! Mimi ninakumbuka wakati nilikuwa mdogo, tukishikwa namna hiyo tulipelekwa hospitali kwanza ili tukapimwa halafu twende kortini. Siku hizi hakuna jambo ili.

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Nassir, what clause of the Bill are you debating?

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Ninaunga mkono hoja hii, Bw. Naibu wa Spika wa Muda.

Mr. Busolo: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to make a few points regarding this Bill on Council of Legal Education. I would like first of all to make my points in three ways. First, I would like to say that I am making this contribution as a Member of Ford(K). For sometime, it has been suggested from some quarters that I am otherwise and this has affected my legislative functions and status in this House. I would like to inform all Members---

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Do we speak as Members of given parties or as Members of Parliament?

The Temporary Deputy Speaker (Mr. Wetangula): Every Member here is a Member of this august House, party affiliation notwithstanding.

Mr. Busolo: Mr. Temporary Deputy Speaker, Sir, I appreciate the point but it is important for me make my stand clear to hon. Members that I am a Member of Ford(K), I came to this to this House on the mandate of Ford(K) and I shall continue to prosecute my contributions from that party. Having said that, I would like to raise a few general points on this Bill before I turn to the specific clauses of the Bill.

Mr. Temporary Deputy Speaker, Sir, previous contributors have raised the question of ethics, the question of morality in training of legal personnel and the legal fraternity. They grounded the ethics and morality in

societal culture. I would like to differ with them by suggesting that morals are grounded in the political foundation of a community. Legal training is based on legal principles which arise from the political foundation of society. It is the political foundation that distributes on which value the law is based. This country require fundamental political principles and we are looking forward to the day when the Attorney-General will bring to this House a Bill that will seek the views of wananchi on the kind of laws that they deem necessary to defend themselves in the society. Laws cannot be permanent; they have to change and sometimes they change in accordance with societal development. It is in that regard that we request the Attorney-General to also bring in a Bill to this House that will deal with constitutional amendments or changes, that will bring to this House a Bill that will deal with protection of the fundamental human rights of the Kenyan people. It is out of that that the legal personnel can also acquire the necessary materials required for their functioning as lawyers.

Mr. Temporary Deputy Speaker, Sir, also it has been raised here that the siting of the present School of Law may not be a good place to train the legal fraternity. I would like to suggest that that site is just okay. What is required is to infuse in that site a few technological inputs like computers, like video cassettes, like audio-visuals which are necessary I think, to any lawyer trained in today's world. Training or education as a matter of fact is based on books and teachers. I want to feature on that. We know very well that books revolutionised education from the 15th century through to the 19th century. But from the 20th century, the computer is revolutionising education and training. It is out of this that the site of training of the legal personnel that exists at the current siting is just okay. We just need to put there computers and videos etc. A modern lawyer trained or who has spent time watching television, when he enters a classroom, he expects of a teacher, the competence and professionalism that he sees on a television commercial of 30 seconds. That kind of television commercial is full of professionalism and skills. When they go there, they expect their teachers to perform at the same level. It is in that kind of culture in which the current generation of lawyers is being brought that makes me suggest to the Attorney-General that his office should bring in these technological assets that lawyers will utilize.

Also, it is necessary for the Attorney-General to look into the associations for the staff of the School that will train the legal fraternity as well as the associations for the students undergoing pupillage. In this Bill, none of those associations for the training as well as for the students undergoing training is there. So, we require it in this Bill.

Mr. Temporary Deputy Speaker, Sir, turning to the specific elements of the Bill, particularly Clause 3(1), it details the establishment of the Council and those that should constitute that Council. We know that law is an elite profession. There is no doubt about that. But as a profession, it is also sociology, it also and an ecology. Law exists in a society, it exists also in an environment.

For that matter it is my considered opinion that other than the personnel that have been outlined in clause 3, it is important in today's world to have an anthropologist as a member of the Council of Legal Education. We need an anthropologist because this Council is going to be in charge of institutions of training of personnel not only from Kenya, but from other countries. It is only an anthropologist that can understand the diversity of this kind of people coming to train in the school. We also need an educationist.

We know very well that the professors who teach at the university except for those in the School of Education do not undergo training in education; that is training in learning methods and curricula development and such like things. So, it is important that an educationist is included on that Council to assist in curriculum organisation for drawing up of the curriculum to assist in the training of the trainers.

Mr. Temporary Deputy Speaker Sir, we also need environmentalists. The legal profession exists at a time when the world is crying out against the destruction of the environment and as they say "those who destroy the environment, destroy the human livelihood". So, we need an environmentalist on this Council who will assist the Council in the kind of system and biosphere that the legal fraternity is living in. I was just wondering why folks or lawyers from the Legal Aid Centre are not part of this Council. I thought that, as I have already said, law is a real profession and it exists to help those unable, those with limited means. It assists in accessing the majority of the people to justice. In that sense, the Legal Aid Centre, in my view, plays a very important role in assisting the poor and at least a member from that Legal Aid Centre should be a member of the Council to assist from the point of view of the poor.

Mr. Temporary Deputy Speaker Sir, in this gender sensitivity world, I thought that there should be an affirmative gender-sensitivity. I thought that there should be an affirmative action in terms of the kind of Bills the Attorney-General brings to this House. A Bill such as this I think should also include representatives from FIDA because that is the organisation that is there tuned specifically to women lawyers and in these times, they can assist with gender-sensitivity. We also know that women form the majority of this country anyway. We also know that they suffer a lot of consequences and due to their material disadvantage generally, they have less legal access to justice and as such FIDA plays a very important role. So, a member from FIDA would be a very important

personnel or human resource on such a Council.

Mr. Temporary Deputy Speaker Sir, I also thought that it is important to include a member from an organisation such as the Public Law Institute. The Public Law Institute has been helpful in defending the consumer interests and consumers in a community such as ours which is market-based capitalist economy. As such people who represent consumer lobbies and interests could also contribute a lot to this Council. Relate to that, out of this kind of personnel constituting the Council, it seems to me that the chairmanship far from being a nomination post, should be an elective post. Once constituted, I am suggesting that, that Council, at the first sitting, should elect their own chairman. In clause 3 (a) 1(a), it is stated that the Chief Justice shall be the chairman. It is my considered opinion that the Chief Justice as the Chief Judicial Administrative officer is too busy a person. Why can we not have this body elect its own Chairman at the first sitting?

Mr. Temporary Deputy Speaker Sir, Clause 4 says that the headquarters of the Council shall be in Nairobi. Let us not have the headquarters of everything in Nairobi. As a Member of Parliament for Webuye Constituency, I am putting it to the House that my constituency has very viable facilities and I request that the headquarters of this Council be established in Webuye.

In Clause 5 it is stated that Members of the Council shall hold office for four years. I would suggest that instead of four years we make it five. Why I say that is because in the first year a member is hardly able to know what takes place within the Council for he is learning what takes place. In the second year, they are about able to make suggestions to the Council on what to do. So it is virtually the third and fourth year that they will be fully functional as members and in the fifth year, it is possible that they maybe a "I do not care" attitude because it is possible that they may be out any way if they are not renominated to the Council. So, I suggest that instead of four years we make it five years.

Mr. Temporary Deputy Speaker Sir, I now come to Clause 6 on Objects and Functions of the Council. Here it talks about the prosecution of the objects and functions of the Council and there is the question of language. Hon. Kiraitu has alluded to Kiswahili being the subject of instruction in the training institution set up by the Council. I would like to back this by supplementing his position that almost all Bills that they are written in English. That is fine but we also need to consider the fact that these Bills are addressed to the common mwananchi whose literacy in English particularly of legal English is wanting. As such the question of language is important and should be considered. It should not be assumed that when we have a Bill people go there and speak English. No! they will speak English among themselves which is fine, but when they go out the question of Kiswahili becomes important. That very Clause 6 (2) (a) (i) says that the Council will organise and conduct courses of instruction for the application of legal knowledge, professional skills etc. I would like to suggest here that it is important to have courses in ethics. Questions have been raised on professional ethics, issues have been raised on the practice of these ethics; that it has been inadequate in some cases.

It is important that professional institutions of whatever kind and, in this case we have courses in professional ethics of dispensing justice are important. These kind of courses will assist lawyers in their practice of law not to be governed solely by materialistic goals. The case as it exists today, when you go to lawyers, they confront you with their own goals, the majority of mwananchi who require legal services maybe unable to raise all the sum necessary at one particular time. If there were courses in ethics they will assist. In other cases, some peasants particularly with land cases, go to deposit their money with lawyers who have undergone quite few training courses, but lacking professional ethics. Peasants particularly with land cases have been conned of lots of their money, and they have been left squatters, when they had raised little monies to buy some land to subsist on.

Mr. Temporary Deputy Speaker, trainees in these institutions should also, in my view, be made to undergo a second foreign language training. We as members of multi-ethnic societies, grew up with one or two languages besides our mother-tongue. These were Kiswahili and English, but I think it is important for lawyers in today's trans-national economy, to have a foreign language, either French, Arabic, or whatever, because they may do practices with expatriates or help clients who maybe visitors to this country from other countries, and if they were acquainted with the foreign language, it will assist them greatly.

Mr. Temporary Deputy Speaker, the training institutions should be able to provide courses that will infuse a sense of justice amongst lawyers. Lawyers who, for instance, could take up crush action truth on behalf of Kenyans, and here I am referring to cases, for instance, of African victims of the Second World War, many Kenyans fought in the First and Second World War. Their brethren elsewhere, got compensations. In this country people do not get any compensation. If there were any courses that could have trained lawyers in dispensing justice, some of them could embark on crush programmes so that our our people are compensated.

There is Clause 6 (2) (iv), the question of organising and conducting courses for officers of the Government. This point is very important. It is important in the sense that, if you look at the kind of reports this

House debates, for instance, the Public Investments Committee. That Committee is replete with cases of international contract tendering, having been reached at which have fleeced parastatals. And this, one wonders whether it has been with complicity of the draughtmen or those legal officers at the A-G's Chambers responsible for these various parastatals or what.

Mr. Temporary Deputy Speaker, Sir, I have specific cases, at least, the case of Nzoia Sugar Factory where the factory entered into a contract with a company from overseas, which contract has been detrimental to the viability and functioning of this factory to date. Now, if the legal officers of the Government concerned and, I believe these legal officers come from the Attorney-General's Chambers, if they had been organised and undergone a course in such institution, perhaps this kind of thing could have been blocked. So, it is a very important clause, and I believe that it is going to assist the Government to save a lot of monies, that otherwise has come out of bogus contracts.

I will only urge that there should also be a clause to train legislators from this House. This House, we sit here and back Bills, and some Bills become inoperational as soon as they are implemented. Here, I have an example of the recent Higher Education Loans Bill that was passed in this House, and before it is even implemented, we know the problems it is causing. This kind of thing is done with the complicity of House Members do not go through the Bills very well. If courses were conducted for Members of this House also in such an institution because we call ourselves legislators, it is important that we grasp the niceties or the importance of reading the Bills, understanding their consequences and such like things, and it is only seminars conducted in such training institutions that could assist legislators. So, I urge the Attorney-General to include, specifically, an element of House Members undergoing training during the orientation week a very rigorous training of legal draughtsmanship also so that they can understand the functions of being a legislator.

Mr. Temporary Deputy Speaker, Sir, there is a question of clause 6, organising and conducting continual legal education courses. This is also an important element because these days people do not undergo a formal education in everything. Sometimes, retraining is the key thing and it is important that the legal fraternity continues to be retrained to understand the development in law. An hon. Member alluded to the fact that some lawyers carry the Civil Procedure Codes of a few centuries back. That is not the kind of lawyer we want; we want a lawyer who can be retrained to understand the current development in the law profession. Also again, through that kind of retraining that lawyers should be blocked from giving wrong advice to clients, because we are aware of cases where lawyers, either by omission or commission, give wrong advice to clients who end up losing a lot of money, just because the lawyers just want to get the money from these people. If they are retrained to understand the law, perhaps, they would be humble and tell their clients that they are able to do one thing or they cannot do it.

Mr. Temporary Deputy Speaker, Sir, under Clause 6 (vii), there is the question of launching seminars and conference on legal matters and problems. This is also important. We are living in a society that is experiencing unprecedented changes. In this kind of society, judicial remoteness, judicial conservatism is not acceptable. This kind of situation can only be remedied, if seminars can be held to advise the judicial officers because being conservative in a dynamic society does not help one. We should move with the time and be as dynamic as the time. It will also help expose them to law that may have been passed, but which have certain problems and here I am referring to the law on narcotic, for instance. This law was passed by this House and in its practice, it is giving a lot of problems sometimes to those response to administer justice. So, it is important that seminars are held to review such kind of laws.

Mr. Temporary Deputy Speaker, Sir, there is also the question of the prohibition law, and it refers to law dealing with *chang'aa* and *busaa*. If you ask lawyers or administrators, what is wrong with *busaa*, for instance, which is an alcoholic drink, they cannot give you a concrete reason as to what is wrong with that brew. All they can tell you is that it is not good. But they do not compare it with other kinds of alcoholic beverages. So, it leaves mwananchi feeling that maybe the Government does not like their local brews, but they prefer the foreign brews. So, holding seminars and conferences on such kind of matter is important.

Mr. Temporary Deputy Speaker, Sir, this section is also important for law enforcement. Law enforcement requires accountability and discretion that has also been abused a great deal by judicial officers in this country. We are aware of simple cases that require bail but either due executive interferences or due to timidity on the part of the officers, the question of discretion in such cases where bail is necessary has always been a problem and it has led to injustice to the victims. So, in such cases seminars and conferences will be of great assistance to the judicial officers.

I turn to the powers of the Council. Clause 7 (f) deals with the Council in relation to the

[Mr. Busolo]

investment funds not currently required for the purposes in the manner provided in Section 17. I thought that here, it should be spelt out definitively what this Bill wants. The way it is, I think, to me, this is not very clear

and that is why I said that it should be prescribed or be definitively spelt out in my view.

I now turn to Clause 14 which has to do with regulations. Here it is argued that, "the council with the approval of the Minister may make regulations." I am very wary of Ministerial involvement in cases of this kind.

If you want to set up one thing or another, usually, there is a Clause somewhere saying that the Minister must accept or agree. Why? This is a professional council. Why can it not have the capacity, the ability and the powers to do things as it deems fit instead of having Ministerial interference? When we have Ministerial interferences in most of these cases, what we have instead is basically political interference and on a selective basis and not on the basis of justice at all.

In Clause 15, there is this famous question, which Members have discussed of the Legal Education Levy. It is my considered opinion that this seems to be the heart of this Bill. It has been argued already that, if you want the lawyers to pay for the legal education, then what about engineers, doctors, and such like people? This Clause is definitely discriminative. It seems to me that lawyers have already a very high tax rate and there is no need to tax them more. If any thing it seems to me again that this Clause may just be out to punish lawyers critical of the *status quo* and it might lead to their de-registration through the back door and I support those who have requested and urged the Attorney-General to remove this Clause from this well-intentioned Bill.

Mr. Temporary Deputy Speaker, Sir, Clause 16, deals with the establishment of the fund - the Legal Education Fund. I do not know why the Attorney-General, in bringing this Bill is protective of the legal fraternity.

I appreciate that he wants lawyers to be trained and that he is crying out in the wilderness that without funds there may not be enough lawyers. But it also seems that he is protecting his legal colleagues too much. I do not see why those who want to train for law, cannot pay school fees for training just like any other students are currently doing. I am very much aware of the transformations in the functions of the governments; that most governments in the world are withdrawing from things like education and that the welfarism has broken down. It is not possible to continue on the post- World War II structures of welfarism and as such, individuals are being asked to meet the cost of their own training whether in law or in medicine. But in this case, keeping true to the elitism of the legal fraternity they also want to be protected; that the mwanachi pays school fees for their training! It is my considered opinion here that---

QUORUM

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. arap Saina): On a point of order Mr. Temporary Deputy Speaker, Sir. May I draw the attention of the Chair to the fact that there is no Quorum in the House and this is a very important debate!

The Temporary Deputy Speaker (Mr. Ndotto): Yes, there is no Quorum. Ring the Bell?

(The Division Bell was rung)

Mr. Temporary Deputy Speaker, Sir, I was on clause 16, and I was saying that, this clause is protective of lawyers and, in my view, that should not be the case. Lawyers should be like anybody else, they should also meet the fees for their training.

I would like to end there by thanking you for granting me the opportunity to contribute to this Bill.

Mr. Biwott: Mr. Temporary Deputy Speaker, Sir, I am grateful for the opportunity to contribute to this Bill.

The Council of Legal Education is a very, very important body. It will affect the lives of this country through the administration of justice. In the beginning, the Kenya School of Law was founded by the former Attorney-General, Charles Njonjo, mainly for a crush programme because the Africans were nowhere in the legal profession. The legal profession, at that time, was dominated by Asians and Europeans. It was felt at that time, that, there was need for such an institution, to put through the Africans, so as to create a cadre of African lawyers who have, in fact, emerged and have become very, very useful in the administration of justice in this country.

Mr. Temporary Deputy Speaker, Sir, that period is no more. We are now dealing with a different situation. We are dealing with a situation where the country is mature and the country needs a legal system that ensures the administration and justice to the satisfaction of every individual. In fact, it is the very fabric of human existence, because every human being needs justice and in order to achieve that justice, there must be a body that administers the system. Therefore, I see the object or objective of this body as a body that is primarily run and manned by people of high integrity, people who have distinguished themselves in the legal profession, and people whose

contribution to the legal process of this country is indisputable.

Mr. Temporary Deputy Speaker, Sir, I have read the Bill, as presently drafted. It is quite perfective and, I think, it requires only a few amendments. First of all, it should be clearly understood that the objective should be to set the minimum standards of legal education so as to commensurate with the legal requirements of this country, and to set exams accordingly, to ensure that the exams, more or less, ensure that standard, and also to institute some disciplinary measures in order to ensure that those standards are kept.

In addition, Mr. Temporary Deputy Speaker, Sir, I have seen in the draft Bill, that the Bill provides for some other courses, seminars and so on and so forth, which are necessary for the constant review and administration of the law. I would like the Attorney-General to consider employment of lawyers in the Police Force, so that all the police prosecutors are, in fact, lawyers, because, we do have quite a number of lawyers who are not making enough money in the private practice, simply because, they are many. But those ones could be useful in the administration of law within the law enforcement bodies in this country. If those lawyers were redeployed, it would make the job of upgrading them and educating them through this Legal Council, very, very effective.

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

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

Mr. Temporary Deputy Speaker, Sir, I have seen in clause 3, the list of the people who will be involved in the administration of the Council. I have seen it consists of prominent lawyers who have already distinguished themselves in the kind of jobs they do, in the High Court and also in his own office, as well as the University. I will only have one comment here. One is that, the Law Society is over-represented. It has provided three instead of one, because, the Law Society is only a trade union, which is interested in its own survival and its own interests.

Therefore, they should present those interests in the Council through one person, instead of many, and in any case, I would like to appeal to the Attorney-General to introduce a Bill that will repeal the law that forces all lawyers to become members of the Law Society.

Mr. Temporary Deputy Speaker, Sir, there is no need for people to be forced to be members of the Law Society if they do not want to. Most of the lawyers who we hear of in the Law Society, talk quite often about the freedom of association. I believe that, this association should be voluntary so that people can be free to become members or not, and, to that extent, I think, one representative from the Law Society will be enough. Also, I have seen in clause 3 (f), that, he has only provided for one University representative from the head of the Faculty of Law. Here, we have more than one University teaching law. I think, it would be better if all the law teaching Universities here, if the heads of those law faculties were to belong to this body, because, their contribution will be relevant and will be more rewarding to those people who are actually teaching law at the University.

Mr. Temporary Deputy Speaker, Sir, I have also noticed that in this Bill, he is asking the lawyers to pay tax. I think it is unfair to ask the lawyers to pay tax to this body, because, why should the lawyers educate other people? It should be the responsibility of the general public, and the general public to pay, through donations, but the initial amount required to establish it could be provided by the Government. And, subsequently, through donations, the Government also could continue to support the Council of Legal Education, as it supports the Universities, because, the Council of Legal Education is an advanced body after the graduation from the university, because it will be dealing with the practical aspect of law, the legal procedures, ethics, accounts and so on.

Mr. Temporary Deputy Speaker, Sir, in the representation also which I mentioned earlier on, I think, there is need for the general public. There should be some people drawn from the general public, possibly from provinces, people of high integrity, people who are respected in the society and people who will be interested in the administration of justice, generally, for the good of all, because, that will tend to moderate the Council in its deliberations.

Other than that, I see also the need to provide for an appeal mechanism where anybody who is aggrieved by the decision of the Council should not wait for the person to go to court, but it should be dealt with expediently through an *ad hoc* or administrative body which could even appeal to the Attorney-General himself or to anybody else if the President is busy. This is a body that will be able to exercise some form of review to see that the work of the Council is actually done without bias and without any malice.

Apart from that, Mr. Temporary Deputy Speaker, Sir, I think we should support this Bill and ensure that

it is passed so that the Council for Legal Education body is set up. But it should be maned and run for the good of the country as a whole and for the good of justice for Kenyans now and in the future. To do that we should have people of high integrity whose job is only to promote excellency within the Council for Legal Education and to provide for as many things as possible in law that will help our society to prosper. It should, in fact, be able even to provide a service by way of production of law reports, so that the lawyers and magistrates and so on are constantly up-dated with the changes in law through the frequent amendments that come up from time to time and through repeals and introductions of new laws. Because without those fresher courses where magistrates, lawyers and so on are required to be informed in order to do the noble cause of administration of justice. Without constant review, we cannot really hope to up-date our laws to such an extent, so that the society can feel well secured, that they are given justice the way they deserve.

Mr. Temporary Deputy Speaker, Sir, with these few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Toweett, come and speak from the Front Bench.

Dr. Toweett: Thank you very much Mr. Temporary Deputy Speaker, Sir for giving me two benefiting conditions, one is to speak and the second one is to contribute when I am standing in the Front Bench.

I am disappointed in a way that some of us think in circles. We have been thinking in circles in the past and we are now thinking in circles. I want the Attorney-General to hear about the way his officers and other officers.

In most of our Government Ministries and Departments, some of our workers think in the same circles from morning till evening. One example is this; I do not see on Clause 3 the reason why the Chief Justice and a Judge appointed by him and another judge appointed by him should be in the Council. The Chief Justice and other Judges are same persons, they think in circles. What is the different between Chief Justice and a Judge appointed by him? They are the same persons. One person should be enough. I just want to see the logic of it. If the Chief Justice is there, the judges should not be there. What are they doing there? Are they going to say no to the Chief Justice or they are his hedge-men? I do not see why Judges appointed by the Chief Justice should be there. It would be better if a Judge to be selected or elected by other judges but not by the Chief Justice. Let the other Judges elect a man or a woman of their choice. But we should not have the Chief Justice, and another Judge.

Mr. Temporary Deputy Speaker, Sir, I agree that the Chief Justice should be there. All I am is that saying those three Judges are in one circle; the same thinking and voting in the same manner. A Judge elected by other Judges is enough. Let there be a Magistrate selected or elected by other Magistrates instead of the second Judge. This will make sense. Magistrates grow into Judges. They will be the next Judges. So, let us have a Magistrate to be in training committee. I will now go back to the provision of the Chief Justice himself being there. In most cases, not always, Judges are persons who have worked for a long time; they have acquired profound experience and they are about to retire in five or so years.

Mr. Temporary Deputy Speaker, Sir, for the last seven years, we have not had a Chief Justice in office for a continuous period of time. If we are going to have Chief Justices being Chairmen of this Council and every three years one retires and another one comes in, there will be no continuity in the management of this Council as far as chairmanship and leadership is concerned. So, I appeal to the Attorney-General to listen to me at least when it comes to who is to be the Chairman to the Council of Legal Education. We want somebody who, not necessarily old, is regarded in this country as a top lawyer who is reputable. If my old friend the late Argwings Kodhek was still alive he would qualify to become the Chairman because he was a brilliant lawyer and not a buggish type, but a lawyer who understands all the aspects of law and who can do a good job. We want somebody who has profound knowledge of law and society.

An hon. Member: Even late Seroney!

Dr. Toweett: There have been many brilliant Kenyan lawyers in the past, but not at the moment. I do not know of any until the Law Society of Kenya, tells me whether they have any. I do not know of any at the moment. We want a lawyer who is not interested in making money and forgetting his business. We want people who are devoted to law to head the Council of Legal Education. If you get people who are interested in making money to be Chairmen, they will just want to be wealthy. They will not be interested in the education of this country. You suggested that they should be people who are there full time to do the work. Learning is a process of change and things are changing.

We want somebody who will be thinking of how to make the Council make provisions that will enable us to change. There is nothing permanent in this world except change. Change is the only thing which is permanent. So, we require to go by changing living conditions.

Mr. Temporary Deputy Speaker, Sir, I have talked about Clause 3 (a) (b) and (c) and I will go to (d)

which is about the Attorney-General. Yes, it is accepted he should be there, (e) although the Attorney-General is not listening to what I am saying. He is listening to a brief talk by hon. Biwott.

The Attorney-General (Mr. Wako): I am listening, Mr. Temporary Deputy Speaker, Sir.

Dr. Toweett: Oh! he is listening! In part (e), Mr. Temporary Deputy Speaker, Sir, I would suggest and I want it noted, now and in the future, that one advocate elected by the Law Society of Kenya should be there because the Law Society of Kenya has actually made itself go so low down by taking sides and becoming political. I am not saying that the members of Law Society of Kenya, should not talk politics, but the Society should allow its members to talk politics as individuals not as representatives of Law Society of Kenya as such. I am not criticising politicians in the Law Society of Kenya, but the Law Society of Kenya is becoming a political organisation.

Mr. Falana: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have a purpose for interrupting the hon. Member. Most of the time when hon. Dr. Toweett is contributing in this House, we really strain our ears to catch what he has to say because he does not use the microphone. Most of the time he turns and speak without using the microphone. Could he be told to use the microphone so that he can be recorded and we also hear him.

The Temporary Deputy Speaker (Mr. Wetangula): Dr. Toweett, do you hear the complaint?

Dr. Toweett: I understand, Mr. Temporary Deputy Speaker, Sir, but---

The Temporary Deputy Speaker (Mr. Wetangula): Order! Dr. Toweett. You are also addressing the Attorney-General as if this is his Bill. The Bill belongs to this House and you must address the Chair.

Dr. Toweett: Mr. Temporary Deputy Speaker, Sir, I am sorry if I have done anything wrong, but I hope the Attorney-General has taken his points because he is the one who is going to make the amendments if you have got to make them. I am appealing to him to listen and make amendments. I have taken the note of the complaint and I hope it will not occur again.

I was saying that the Law Society of Kenya should have only one representative as has been suggested by hon. Biwott, I put down that point that one representative from the Law Society of Kenya is enough. There is no use again of duplicating or thinking in circles, as I have already said. Having three representatives from the Law Society of Kenya is like having the Chief Justice and two Judges. As has been said, Law Society of Kenya should be represented by one person not, nominated by the Law Society of Kenya, but elected by the Council of the Law Society of Kenya. Somebody should be elected in a secret ballot, but not nominated.

Let me now come to part (f) about the Head of the Faculty of Law at the University of Nairobi. This point has been touched upon by hon. Biwott. I agree with him that there is a problem here. Our universities have Departments of Laws and they have got Chairmen. So which one is going to be taken as the head of the institution. I think all of them should be there to participate in the activities of this Council.

Clause 3(g) talks about the head of any training institution established by the Council under section 6. 3(g) and clause 1(i) seem to contradict each other because under clause 1(i) says that one person associated with the teaching of law in Kenya appointed by the Attorney-General. Clause 3(g) talks about heads of any training institution. I do not understand the difference between those two? I think the Attorney-General should think about these two clauses and tell what they mean. Under Clause 3(g) I would like to say that the Kenya School of Law should fall under (g) because that is the training institution. The Kenya School of Law should fall under this category, and then Clause 3 will have to be considered by the Attorney-General.

I do not agree with the Attorney-General appointing a, b, c and d because it just the same thing as Chief Justice appointing Judge "A" and "B." Now, the Attorney-General is appointing people under Clause 3 (g). The Attorney-General and then under Clause 3 (i) appointing some other people. This one must stop. The appointment by one person of several people to be in the same body should stop. Our civil servants must realise that we are in the multi-party System and when I appoint a, b, c, and d, and then I go and say the Body will be there, that will not be encouraging multi-partism. These are just the same people; the same chain of the same persons. So, I suggest that the Attorney-General should be there himself or his representative. Therefore, the head of this institution should not be appointed by the Attorney-General.

Another Clause is 3 (1)(j), the Permanent Secretary to the Ministry for Education for the time being is responsible for Higher Education or his representative. There is another body in Kenya today; the Council for Higher Education whose Secretary is Prof. J.M. Mungai. If we have somebody else in charge of higher education which become superfluous to the council for higher education, I do not understand how we operate. Instead of saying that somebody or someone in charge of higher education in the Ministry of Education, why not say the Secretary to the Council for Higher Education which is there by an Act of the Parliament. There is that Body and we are not going to ignore it and then appoint somebody else in the Ministry of Education, where I used to be, to

be in charge of the higher education. There are people in the Ministry of Education who are in charge of the higher education, but not the Council for Higher Education. So I want the Attorney-General to think of that and include the Secretary to the Council for Higher Education which have been established and deals with all the matter of education in this country including higher education on legal studies. We are not going to have this Council for Legal Education to be above all the other Councils or Bodies of higher education in law. That one which is the Council for Higher Education is above this Council for Legal Education. That is the way I see it.

There is also an omission. I thought that there were lawyers in this country who are in business apart from lawyers who are practising law. There are lawyers who are in commerce, lawyers who are not practising law as such. I do not see why such lawyers cannot be considered and included in this Body to represent the businessmen. We want them there in this Council. I mean this Council for Legal Education is not going to be isolated from real life of the people. Qualified lawyers who are in the business should be considered to be there to represent those people who are thinking in circles number 1, 2, and 3. I think those are the things that I wanted to say.

The point here is that a body gets faith and support from the people if it is properly constituted. We have faith in a body that is well established, well formed and well founded, but if the body is weak we forget all about it.

The Council must have the people of high reputation; not of the ordinary reputation. We must have people who seems all the time to be interested in law and in legal studies and development, but not people who do practise law as part time job and very few lawyers here have got that sort of feeling of continuing learning law and wishing lawyers in this country to have proper status. I have been told that when lawyers fail to qualify as lawyers in their profession and they do not get money, they join politics hoping that there are more money in politics than in the legal practice. The most important thing is to create a good reliable and dependable body; a Body which we have faith in and trust that it will work.

I do not think that I need to go into details on things that have been said by previous speakers. If it will be viable in the future, we should do it for the present because other people may come and say "yes, it is good". But why force working lawyers to pay levies for people who are going to study law? Why punish them? It is not acceptable at the moment in as far as I am concerned.

Mr. Temporary Deputy Speaker, Sir, under the functions of this Council that we are creating, some of the functions are going to appear as if they are contravening the functions of some of the universities like holding seminars and giving out qualifications. Some departments of law in the universities of the world, award them postgraduate diplomas in law. I hope this body, the Council of Legal Education, is not going to interfere with the freedom of the universities which teach law by stopping them from giving them postgraduate degrees *et cetera*. This one should be looked into so that universities and the Council of Legal Education will work hand by hand in promoting education in this country.

Mr. Temporary Deputy Speaker, here there is something they call para legal which I do not understand. I tried to see the meaning of para-legal, it is not clear. It is referred to twice in the Bill.

The Temporary Deputy Speaker (Mr. Wetangula): Para-legal meaning relating to law.

Dr. Toweett: Mr. Temporary Deputy Speaker, Sir, does para-legal mean something above the law?

The Temporary Deputy Speaker (Mr. Wetangula): Not really!

Dr. Toweett: Not really.

The Temporary Deputy Speaker (Mr. Wetangula): Yes.

Dr. Toweett: Mr. Temporary Deputy Speaker, Sir, this phrase "para-legal" does not mean para-land?

(Laughter)

Here it is not clearly defined. It reads:

"This Council will issue some para-legal certificates" Whatever that means, it should not be something above the law because it is the law which should be above.

An. hon. Member: It is below!

Dr. Toweett: Para-legal is below at least in linguistics. Maybe, in law, it is below.

(Laughter)

Those are my very important points. I am surprised that some of our doctors here in veterinary sciences *et cetera* do not know that *para* means above.

With those few remarks, I beg to support.

Mr. Mak'Onyango: Thank you, Mr. Temporary Deputy Speaker, Sir, for according me a chance to also air my views on this Bill. My attention is first and foremost attracted to the Memorandum of Objects and Reasons of the Bill.

Under this, I see a sentence which reads:

"It is not possible to attract and retain the right calibre of academic staff owing to the terms and conditions of service which are not competitive."

This statement is very true and reflects virtually every aspect of our national life in that there is lack of appreciation as to proper remuneration for our people so that the various institutions can have the best in terms of people of high academic standing to run the various aspects of our national lives. Therefore, I am of the view just like the Attorney-General recognises this as a shortfall in some of our national operations. I would like this warning to be sounded to the Government so that the corrective measures are taken to ensure that the incomes and wages policy in this country are such as to ensure that the various aspects of our various institutions, will be able to get the best they can out of the market in terms of people with proper academic qualifications. This is necessary and I think with this recognition from non other than the Attorney-General himself, I hope that we are going to take cognisance of this and that the correct steps are going to be taken to remedy the situation.

Having said that, I want to come down to Section 3 of the Bill and here I would like to concur with the speaker who spoke immediately before because I am also very much concerned that such an important organisation that we are seeking to establish should be the subject or should be controlled by a very limited number of people. As provided for here, the Chief Justice, is being given what to me amounts more than his fare share of control in the body we are seeking to establish. Here I concur with the previous speaker that this particular Section should be reviewed and that either it is just going to be Chief Justice representing all the judges and he should have nothing to do with appointing another judge. Let us appoint one judge from the Court of Appeal and another judge from the High Court as a member of this Council. So, let us just have the Chief Justice and another one. Instead of having a judge from the Court of Appeal appointed to the Council and another High Court. I would suggest that maybe the Judge of the Industrial Court be brought in as a member because he already deals with very important aspects of our legal life in this country. I think in that regard, he will be bringing in additional experience that will help and strengthen the Council of Legal Education.

Mr. Temporary Deputy Speaker, Sir, besides what I have already said, I would also like to say that law is our way of life and being so I think we should, in this Council ensure that it is as representative as possible and in this regard, I would like to suggest that we have also a Church representation in the Council. Let us have somebody at least representing the Church in this Council.

You will agree with me that the Church also deals with the aspect of the law because the Ten Commandments amount to something of that sort. Therefore, it might be useful that we have some Church representation in the Council to help in strengthening the Council and broaden its base.

Mr. Temporary Deputy Speaker, Sir, I agree with this Bill to the extent that it seeks to harmonise the teaching of legal education in this country only in so far as that is concerned, but in so far as the Kenyan School of Law is concerned, I have a totally different feeling which I will be expressing later. I, therefore, would support this Bill to the extent that it seeks to harmonise the teaching of legal education in this country. We do need to harmonise the teaching of legal education in the country because as I have said, law is a way of life and there are so many different aspects of our national life which are not adequately addressed in terms of legal consideration. Therefore, if we can have a council in place that will be able to systematically review the teaching of legal education in the country, it will undertake the necessary research work. I would want to suggest that research be a very important aspect of the council's functions and that there be established a special research branch to feed the council systematically with the goings-on within the legal field in respect of the various aspects of our national life. In this way the Council will be able to systematically monitor what is going on in this field of our national life.

I now want to move on to the contentious Clause 15 of the Bill. Here I concur with those who have spoken before me that this particular clause is discriminatory in nature. But more fundamentally this clause will end up making the cost of legal service go up astronomically and in the process make it overly difficult for the ordinary Kenyan to benefit from legal services. As it is natural, there is no way the lawyers are going to absorb this cost and leave it there. Naturally, they are going to pass it on to the consumers of their services. In this way the whole thing will snowball into the pockets of ordinary Kenyans. So, I do fear, and very strongly so, that if this clause is allowed to pass the way it is we will make legal services extra costly for the ordinary Kenya. So, since this is a very fundamental service to the well being of Kenyans efforts should be made to keep legal services within the reach of practically every Kenyan. So, the idea should be that every Kenyan is able to afford legal services. If we allow clause 15 to pass the way it is this will make the situation worse than it is.

Mr. Temporary Deputy Speaker, Sir, I did say that I was only agreeing with this Bill to the extent that it seeks to harmonise legal education. But when it comes to the question of the Kenya School of Law my considered opinion is that it is time we abolished this school. There was a time when this school was relevant to the situation in this country. This is because at that time a great many of our law students studied outside Kenya. There was need for some kind of arrangement for them when they returned to Kenya to undergo the necessary acclimatization with the Kenyan legal environment. I have a feeling that this situation no longer applies because most of the law students are undertaking their legal studies here, with only a few cases of law graduates coming from outside the country. So, in that respect, I feel that the Kenya School, as it is now, amounts to duplication of teaching work. If many of our universities are going to be teaching law may be the right emphasis should be at that particular level. As has already been observed we have limited national resources. So, if we are spreading thin the little we have then we are not going to achieve the very best. So, in order to achieve the very best I think I would go for a situation where we concentrated on how best we would evolve the teaching of law at the university law level.

Much as that, indeed, should be the case it is also my considered opinion that it is time the Attorney-General considered doing something about teaching of law at secondary school level. As I have already observed, law is a way of life. It would help this country a great deal if the teaching of, at least, basic law was extended to secondary school level. This is because a good many of Kenyans conclude their education at that level. So, if they came out of school with some basic law I think that would help and guide them throughout their lives.

Mr. Temporary Deputy Speaker, Sir, I want to come back to clause 15. It would seem from this Bill that the only funding for the Kenya School of Law will come from the levy contained in this clause. My fear is that the 1000 or so lawyers we have in this country will be able to produce---

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Mak'Anyongo, they are not 1000, but 2500.

Mr. Mak'Anyongo: Even if they are 5000 I still have fears as to whether the levy to be generated from them alone will be enough to provide for legal education in the country. I do feel strongly that the Attorney-General needs to look for other ways of ensuring that there will be enough funds to run this school. If the levy to be generated under clause 15 of this Bill is all that we will have for the school we might run down teaching of legal education in the country. It seems that what we will generate from the source in this Bill will be very little.

I did also say that I had some concern in respect of clause 17. This clause states as follows:-

"The Council may invest any of its funds in securities in which for the time being trustees may by law invest trust fund or in any other security which the Treasury may from time to time approve for that purpose".

Much as this kind of a thing may be necessary to enable the council generate additional funds I think the experience that we have had in this country is such that one gets concerned about this particular provision. Look at what has happened at the National Social Security Fund (NSSF). It was essentially established to provide for the future of Kenyan workers, but it is increasingly getting concerned with interests other than those of the Kenyan worker. There is a danger that even here those charged with the running of the council, due to greed for the so-called 10 per cent, may end up spending quite a good deal of the council's money on security and in the process compromise the interests of the council. So, I would want to call upon the Attorney-General to look into this provision a little more seriously. He should see whether the experience we have had at the NSSF is anything to by and may be amend this particular clause.

Mr. Temporary Deputy Speaker, Sir, I also want to raise the question of the need to broaden the base of legal education. Some of my colleagues who have spoken before did raise the need for lawyers to, among others, have some knowledge about accounting. Yes, a great deal should be done to ensure that our lawyers study a great deal of such subjects as social ethics. I say social ethics because we have had many instances in this country when ordinary people have lost large sums of money just because the ethical standards of some legal practitioners have not been what is expected of them by many. So, it does seem as if broadening the base of what people learn in order to become lawyers or legal practitioners might help in that regard.

I also want to take this opportunity to make a passionate appeal to the Government side that, as I have said before, law being a way of life, the way the Government handles matters of law is of utmost importance in terms of confidence and ensuring that everything works out in a way that is both fair and just to everybody. We have had cases in which lawyers have been victimized simply because they defended certain cases in a way that was perceived to be against the stand of the Government. It is important that the Government shows the right example when it comes to applying the law or observing the rule of law.

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

The Assistant Minister for Commerce and Industry (Mr. Osogo): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make very brief remarks on the Bill, and I will begin with clause three. I will agree with you, Mr. Temporary Deputy Speaker, Sir, when you gave your speech, that the Chief Justice should also have an alternative. He is a very busy man and since this Council is going to meet four times a year, I think he should be given the opportunity to appoint an alternative to himself, a person of the status of a judge, who will alternate him as the chairman of the council. I do not agree with hon. Dr. Toweett on clause 3 (e) (i), where he says that he only wants one advocate, but he wants him elected by the council. I think "nominated" is the correct word there because, if we look at the interpretation given; the council of the society means the council of the society elected under section 13 of the Law Society of Kenya (LSK) Act. So, he is not coming directly from the LSK; he is coming from the Council, as the interpretation states. I think these advocates should be three because, you cannot tax lawyers under clause 15 and then say that they should be represented by only one advocate.

I also disagree with the hon. Member for Nakuru Town who said that the Bill should have contained "Attorney-General" throughout. He was referring to clause 14 and 15 of the Bill, which make reference to the "Minister". In clause 3 (f), (h) and (i), the Attorney-General has got specific duties to perform. He is appointing a senior council and a person of the teaching profession. He is not doing the duties of a Minister. When commenting on clause 3 (g), the hon. Member for Nakuru Town said that the principal should be included as the secretary of the Council. I think this section covers the principal because it says: "The head of any training institutions". Now, there might be many institutions but, at the moment, it is only one. So, I think the principal is covered there. On clauses 14 and 15 where "the Minister" is given, I would like to point out to the Attorney-General that this Minister who is given in this clauses is not defined in the interpretations. He cannot just say that a Minister will be responsible for making rules or for approving the chairman. It must be defined who this Minister is; I think the Minister should be defined in the interpretations as the Minister in charge of legal affairs in the country. At the moment, we do not have such a Minister, but we have the Attorney-General acting in that capacity. However, there was a time when we had a Minister for Justice, the late Tom Mboya, and the Attorney-General at the same time, Charles Njonjo. So, when you have got all of them, then the Minister here comes in, and I think he should be defined as the Minister in charge of legal affairs in the country at that time, rather than just leaving it as "the Minister". He could as well be the Minister for Co-operative Development.

Mr. Temporary Deputy Speaker, Sir, I would also like to comment on clause 2 (a) (ii). This is a very important clause and, I wanted to request the Attorney-General to give some incentive to people who are going to take courses on legislative drafting. These people are very few in this country and the Attorney-General's Chambers has got that problem. It has been persisting right from the time of Independence when we had a lot of *wazungu* there. However, when the *wazungu* left, we have had difficulties in getting replacements. The only experienced one we had passed away very recently, so, he left the Attorney-General with very few of them. Therefore, I think incentives should be given for these people. They are people who are never heard of. Many lawyers are usually very verbal in praise and so on, but we never hear of these legal draftsmen. They do a lot of strenuous work like drafting such Bills and, therefore, there should be incentives for them. Many of the legal fraternity would run to private practice or teaching course rather than becoming legal draftsmen, and I would beg that the Attorney-General considers some incentive for this type of people.

Clause 12 is rather naked. It says: "The Council shall appoint a secretary to the Council." I would think that it should be clothed by saying: "... who shall be an employee of the Council". They cannot just appoint a secretary. Will he be an employee of the Council or will he just be picked up from anywhere? So, it is rather naked there and I think it should be clothed by being qualified as to how he is going to be appointed and what he will be to the Council. As I said, I will be very brief. My last remark is on clause 15. A lot has been said about this clause and I agree entirely with those who have said that clause 15 should be removed from this Bill. The hon. Member for Alego-Usonga has been referring to the ordinary man; it is not the ordinary man who is going to suffer alone. Many of us here are potential clients of the legal fraternity and when this levy is going to be passed to the clients of the legal fraternity, we are going to suffer. Since I was first elected to this House in 1963, I have been going through petitions every time and, as such, I have paid a lot of money to the legal fraternity.

Mr. Temporary Deputy Speaker, Sir, So, this is going to be passed on this ordinary man. Hon. Members of this House are very potential clients of the legal fraternity and I think that they should make sure that they defeat this Bill or kill it during the Committee Stage particularly this Section, Clause 15, because it is a very dangerous Clause which is going to make lawyers have excuses for raising money. I must point out that at one time a lawyer defending me from my opponent appeared only three times in court of law and the case was thrown out. The charges he brought up for me to pay was Kshs 63,000. Even the Registrar of the High Court was

wondering why this was the case. He said that that amount of money must be taxed. I wrote back and said that I was not going to pay that money because he had just appeared three times. He had not even done what should be done like for example, carry out a research in the constituency and by default the petition was knocked out and he was billing me with Kshs 63,000.

The Temporary Deputy Speaker (Mr. Wetangula): That was very reasonable hon. Osogo.

The Assistant Minister for Commerce and Industry (Mr. Osogo): Probably according to the Chair it was very reasonable because the Chair has got interest in the legal fraternity, but I must say it was too much and, indeed, I objected. When I objected at the taxing stage it was brought down to only Kshs 16,000. It cannot have been reasonable if at the taxing stage where I was known only the lawyers and the Registrar went for taxing and brought it down to Kshs 16,000 because he only appeared three times and he had done nothing in the petition.

With these remarks, I beg to strongly support this Bill.

Mr. Orenge: Thank you, very much Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill.

I would wish to associate with various contributions which have been made by my colleagues particularly on Clause 15 which relates to the levy. I am happy that hon. Osogo has dealt with this point. I have had a chance of looking at some of his petition files against him or some that he has filed and I have sympathized with hon. Osogo because he always had a jinx of the High Court and his matter never really went well. I think that the Clause which deals with the reasons for the establishment of the Council and which sets out the functions of the Council, that is Clause 6, is a very important Clause for consideration. I am happy with the Bill in so far as it speaks that one of the functions of the Council shall be to organize and conduct courses in legislative drafting and also organizing and conducting courses for magistrates and thirdly, organising and conducting courses for officers of the Government. I hope that sincerely this will be made a reality because even in the field of law the need for continuous education and to keep abreast with new legal situations or concepts is important and those who are given the responsibility of dispensing justice or those who are charged with the enforcement of the law must be kept trained at all times.

I think that the Attorney-General now should consider the training of public officers so that they could come into grips with the new political situation, the new constitutional order. I am saying a new constitutional order knowing very well that the Opposition is still not quite happy with the fate of our Constitution or the amendments which have been made because we need a really new democratic order. But in so far as we are now a multi-party system, there is need to train our public officers and those charged with the duty of dispensing justice. Previously, a lot of people in the Police Force or in the Provincial Administration were trained to think in terms of security. They are all the time security conscious without being conscious of the rights and freedoms of individuals. So much so that when we are in a situation where the Police Force or the Provincial Administration should be conscious of people's rights and freedoms they would---

Mr. Moiben: On a point of order, Mr. Temporary Deputy Speaker, Sir. Now that we have exhausted this Bill, will I be in order to call upon the Mover to reply?

The Temporary Deputy Speaker (Mr. Wetangula): Alright. Hon. Orenge, I will give you five minutes before the Mover is called upon to reply from 6.00 p.m.

Mr. Orenge: Mr. Temporary Deputy Speaker, Sir, I hope I can be given ten minutes. I just wanted to point out a few areas.

One, the Office of the Attorney-General should be prevailed upon to enlist officers who can help it in legislative drafting or it should have people trained. I hope that the establishment of this Council will enable the Office of the Attorney-General to train qualified legal draughtsmen because for the last three years particularly we have really been in a terrible situation where Bills are brought here which are shoddy and sometimes the Attorney-General probably without intending to do so, has enacted some rules which in the end have been found to be contrary to the law or to the Constitution. So there is need to train qualified legal draughtsmen. What I was trying to point out particularly on the question of training of public officers and even those in the Judiciary is that unless we have officers who understand the law there can never be a proper administration of justice. For example, when it comes to taking pleas in court many magistrates are prepared to enter a plea of guilty just because somebody has been kept in custody for a month and if he has pleaded guilty the magistrate straight-away would proceed to enter a plea of guilty and yet if you look at Section 207 it requires the magistrate, as a custodian of justice, to establish whether there is sufficient cause to enter a plea of guilty or not. For example, if somebody appears before a magistrate after he has been in custody for 30 days, surely the Magistrate must make an enquiry as to why this particular person who has been brought before him was in custody for 30 days and that he is coming to court as a free agent. There has been cases where people have appeared in court on stretchers like I

remember one time Prof. Wangare Mathai was brought to court in a very ill disposed situation and if she had pleaded guilty the magistrate would just have gone ahead to enter a plea of guilty. Some people have been brought to court in stretchers and the magistrate would not enquire as to why that has been the case.

We also have a lot of abuse of power. For example, when the police think that they should hold somebody in detention for a long time before they take him to court. If you make an application to the High Court for him to be produced under writs of *Habeas Corpus* the police will normally give the excuse that the person is going to be charged with treason or murder or some such offence when they know that that is not the case. Somebody is kept in custody for an offence which is a misdemeanour and is held in custody for 30 days or two months and when he is charged in court he is charged with an offence of incitement or creating disturbance for no particular reason. So if we had officers who are conscious of the details of the law such things would not take place. Sometimes they are also unnecessarily difficult on bail when the Law of Bail is quite clear. This comes about because there is no proper legal training or they do not have a proper legal foundation or they have been intimidated by this system.

Mr Temporary Deputy Speaker, Sir, talking about training again, I think, this is one thing which the Attorney-General should make clear about the Public Order Act. If I look at the Public Order Act, it is quite clear that a meeting which is held by members of a trade union or even by a group, religious or a culture---

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Orengo, your time is up. The Attorney-General to reply.

Mr. Orengo: Mr Temporary Deputy Speaker, Sir, I thought that in a Bill like this, there is no time limit?

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Attorney-General!

Mr. Orengo: But we have not made a resolution at all. The House has not made a decision on the matter.

Mr Temporary Deputy Speaker, Sir, what I am saying is that the Attorney-General should read the Public Order Act properly and should tell this country and police officers that a meeting called by a political party, for example, for only members of that political party, that is not a public meeting and people should not be harassed for convening such meetings.

Secondly, I want the Attorney-General to clear to us whether the hon. Justice Dugdatel is still a High Court Judge. Some of us are very bitter about this particular Judge. When he was a Judge, he carried out many acts of injustice and he is still appearing in the courts, has access to court files, he is driving a car which is assigned to him by the Judiciary, and yet, in accordance to the Constitution, he does not have the jurisdiction to act or conduct the duties of a Judge, and this the Attorney-General needs to make very clear because it will be tantamount to an abuse of---

The Assistant Minister for Tourism and Wildlife (Mr. Kisiero): on a point of order, Mr Temporary Deputy Speaker, Sir. Could I be in order to propose that the Mover be called upon to reply?

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

QUORUM

Mr. Muite: Mr Temporary Deputy Speaker, Sir, do we have a Quorum?

The Temporary Deputy Speaker (Mr. Wetangula): We do not have a Quorum, ring the bell.

(The Division Bell was Rung)

The Temporary Deputy Speaker (Mr. Wetangula): Order! We now have a Quorum. Attorney-General.

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

First of all, I want to thank all those who have contributed to this important Bill, His Excellency, the Vice-President, who seconded me, hon. Paul Muite, hon. Wetangula, hon. Dr. Lwali-Oyondi, hon. ole Sunkuli, hon. Ms. Karua, hon. Makau, hon. Murungi, hon. Busolo, hon. Nassir, hon. Biwott, hon. Toweett, hon. Mak'Onyango, hon. Osogo and, last but not least, hon. Orengo.

Mr. Temporary Deputy Speaker, Sir, a number of points have been made, the major one being on clause 15, which I will come to later on. Let me, first of all, dispose of the other points. I believe that hon. Wetangula and hon. Dr. Lwali-Oyondi, did raise the issue of the Principal of the Kenya School of Law being appointed as

secretary to the Council. We will, first of all, note that there is nearly no reference in the main Bill on the Kenya School of Law because what the Bill intends to do is to establish the Council of Legal Education, to exercise the general supervision and control over legal education in Kenya and to advise the Government in relation to all other aspects thereof. To this end, and I will like hon. Members to note, Clause 6(2)(a) gave the necessary authority for the Council to establish, manage and control such training institutions. Therefore, it is when this Bill is passed that the Council of Legal Education will now take over complete management and control of the Kenya School of Law as provided for under the Second Schedule Clause 2, which says that the Kenya School of Law will, then, become one of the institutions which the Council of Legal Education will manage under Clause 16.

Mr Temporary Deputy Speaker, Sir, it may again very well be that we may have other institutions, in addition to the Kenya School of Law, we cannot say it. But whether we have one or more, it is the Council of Legal Education that will exercise general supervisory powers over all these training institutions.

Mr Temporary Deputy Speaker, Sir, I would like hon. Members particularly to note that, in fact, the head of such an institution, such as the Kenya School of Law, is himself a member of the Council of Legal Education in his own right. If we look at Clause 3(1)(g), it provides that the head of any training institution established by the Council under section 6, is himself, by his own right, a member of the Council. Therefore, the Principal of the Kenya School of Law is himself, by his own right, if this Act comes into force, will be a member of the Council of Legal Education. Therefore, the question of the appointment of the secretary is best to the Council itself. It may very well be that in his wisdom, to say let the Principal of the Kenya School of Law be the secretary, who is one of the members. But let us leave the decision to the Council itself in its own wisdom.

Mr Temporary Deputy Speaker, Sir, a number of comments have been made as regard pupils, those who are doing their chambering for one year and so on. A suggestion was made by hon. Muite that we should expand the category of masters, so that such pupils can also serve under senior magistrates and judges. The purpose of pupillage is really to train somebody in the practical aspect of practice. Going to court representing clients either in criminal or civil matters, is just, but one aspect, the other aspect, I think, things like drafting of pleadings, complaints, defense, affidavit, originating summons, conveyancing documents, agreements, wills, forming of companies and also, I think, management ought to be part of it. Now, it will be very difficult, if they were attached to judges and magistrates for them to get this aspect of their training. I do agree that a way has to be found where such lawyers, and maybe even advocates, can be attached to judges, so that like in America, they can be doing most of the research work for the judges and so on. So, a way has to be found to do that. Whether that in-itself on its own can amount to proper training within the chambering period, is a question mark. One way, of course, of doing this, is to, I think, you did suggest yourself that there should be 12 months full training at the Kenya School of Law rather than three months.

One way would be to probably increase the period of pupillage from 12 to maybe 18 months, or even two years. Then during that period, for six months or so, some of these people are attached to judges and magistrates, and in addition, during that period, they can get this other practical training. That is just one way. But it is also a good suggestion, and I think it is a matter that can be got into very carefully by the new council competent to look into this aspect.

Another idea was suggested that pupils who have completed their training, their chambering period or pupillage period, should take about one year because they are actually enroled. I have checked this and whereas this was a problem during the tenure of the Chief Justice Hancox because there was a lot of backlog, but even then their waiting period was six months or four. During the period of Justice Apaloo, he put in place a method of admitting pupils every month to clear the backlog. That has been cleared, and as we stand here today, there are only two applications waiting which were filed ten days ago. So, that problem which was there sometimes ago, during the tenure of Justice Hancox has been dealt with.

Hon. Wetangula did say that Clause 3 1(g) is not properly drafted, in that, even a messenger may be appointed to the Council. This is not a new Clause. It is already there under the existing laws and it has always been interpreted to mean it must be a person who teaches law at the university, and that is the way it is going to be. In other words, there is really no problem with the interpretation.

A number of comments have been made as to the composition of the council. I did say at the beginning of my submission here that I will be bringing one amendment to this particular Clause. As a result of the contribution emanating from the Floor, I will be amending not just that one Clause that I told the House when I was moving the Bill, but I will be making one or two other amendments to take into account the contributions from the House. This merely relates to the heads of the faculties of law. It has been pointed out to me that, in fact, we have more than one university with a faculty of law. It is only appropriate that each faculty of law of a public university should be represented in the council. Just as each institution that will be established under this

Act, is also going to be represented in the council. It was suggested that we should put on the council, members of the general public, anthropologists, environmentalists, representatives of FIDA, Legal Aid Centre---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Wetangula): Order, Dr. Wameyo and your group. I want to hear what the Attorney-General is saying.

The Attorney-General (Mr. Wako): This includes the Legal Aid Centre and so on. This is a very specialised Council dealing with the actual training practical training of people to become advocates and so on. Therefore, whereas this category of people may be useful in an academic institution, and whereas also they could be useful in other types of committees such as if you set up some legal aid scheme and what not, like Kituo cha Sheria and Legal Aid Centre being independent, in this type of practical training, it may not be practical to have it.

An idea also floated that the Chief Justice is very, very busy and may not be able to chair a meeting all the time. In fact, if you look at the first schedule to the Act, Clause 6, it does provide that if the chairman is not available, then the Council as a whole will erect somebody to chair that particular meeting. Therefore, it is not that sometimes he can be busy, and he may not be able to physically attend the meeting of the Council and therefore, that is why we have the First Schedule to control the proceedings of the council. But the fact is, that because we made him the chairman, that adds stature and importance to the Council. The Chief Justice is the head of the Judiciary in this country. When advocates are enrolled, their names are put in the roll of advocates which is kept by the court and so on. All advocates are officers of the court and, therefore, it is fine and proper that the Chief Justice becomes Chairman. One of the reasons why we did not say 'or his representative' in the Act, is to underline the importance of the Council, so that the Chief Justice can make it a point to be attending all its meetings all the time.

But there is an incident where he cannot attend, then we are brought back to clause 6 of the first schedule to the Act. I believe hon. Kiraitu Murungi did make a suggestion following the revelation I made to the House that some plot has been allocated to the Kenya School of Law so that it can be developed into a proper institution. He did make a suggestion that maybe a current one can be sold, money raised and that plot developed. That is a good suggestion and I think, the Council when it is established on the Act process, will look into such possibilities of raising funds because it is important and as Members from both sides of the House recognise that we have grossly inadequate physical facilities at the Kenya School of Law. And I think, that is also part of the reasons why we have not even been able to fill the ten vacancies as far as the lecturers are concerned and so on. Therefore, if we can a proper institution, it will be very good. So, a suggestion such as this one, how it can be done, I am quite sure it is a suggestion that can be considered by the Council of Legal Education when it comes to consider various matters.

Mr. Temporary Deputy Speaker, Sir, an issue was raised regarding morality and ethics in the society and a suggestion was made that we cannot expect lawyers to be above everybody else as it were in the society when it comes to matters of morality, ethics and so on. My own views on this matter are that professionals, and not just lawyers, but all professionals, have a particular more special duty to the society, not just related to the delivering of services in the area of their speciality, but also in ensuring that the spirit of professionalism permeates the entire structure of the society. The spirit of professionalism involves such issues as honesty, commitment to duty, dedication to work and efficiency in delivering services; such issues as self-disciplined, self-restrain, moderation, objectivity and impartiality. That is the spirit of professionalism. And to my mind it is the professionals of this country be they doctors, be they lawyers, be they surgeons, quantity surveyors, architects and so on because these characteristics permeate all the professions. It is they who can create an example for the rest of the society to emulate. Is they who can act as a beacon for the rest of the society to emulate. And, therefore, though one can say professionals are just like any other person in the society and, therefore, they should be judged just like any other person in the society, I think, professionals should be given a higher standard of judgement. Not just professionals, but also religious leaders should be given higher standards of morality. Therefore, it is our duty collectively on issues of morality and so on, professional ethics and what not to act in such a manner that the rest of the society can come along with our spirit of professionalism.

If I may touch on clause 15 (1), as I said right from the very beginning, we are going to make changes on this clause during the Committee Stage really to take into account what the hon. Members have said. In fact some of the issues that have been raised here are issues which have been the subject of discussions between me, the Law Society and the lawyers and so on. Others have been very busy in electioneering in Nyatike. We have discussed these issues and so on and, therefore, I will be bringing some amendments to take into account the views of the hon. Members.

Mr. Temporary Deputy Speaker Sir, I do not think we can abolish the levy as such. If I may put it first of all in the proper perspective, the levy is not the only method of raising funds. In fact, it is just one of the optional methods of raising funds when all else has failed and that is why clause 15 (1) talks in terms of "may". If you read the combination of Clauses 7 and 16, you will see first of all that the major source of funding will be from the budgetary provisions. The Government will continue to budget for the Kenya School of Law. On that issue I think hon. Muite did draw my attention to the Vote of the Ministry of Education and the Kshs5.4 million is which is earmarked for Nairobi alone and you said that amount of money could be used for the Kenya school of Law. The fact of the matter is that the vote for the Kenya School of Law comes under my office. If you look at the 1995/96 Estimates of Recurrent Expenditure for the year ending 30th June 1996, you will find that the vote for the current year is K£534,563. But as we have said again and again, that is not adequate at all. It is a question of cost-sharing. The principle of cost-sharing has now been accepted. In fact, it was practised by the Government long before the World Bank came into the picture, but the World Bank has also supported cost-sharing. As far as the education is concerned, we have the James Kamunge Report of 1988 on this whole issue of cost-sharing and, therefore, apart from the allocation by the Government, the students themselves love to contribute to the cost of running the school by way of fees and so on and also the people who benefit from the services of lawyers of particular categories will also have to contribute something towards the running of the school and therefore the principle of cost-sharing does involve students and the people who benefit from the services in sharing the cost of running the school. But if that were to happen again it will not be enough and that is why we would like this Council for Legal Education and the institutions established thereunder to be run independently. In fact, it will be run almost like a post-graduate institution because as all of us are aware, if a school can be run on proper basis as a post-graduate institution, if it can be able to earn respect nationally and internationally then there are ways of getting grants and what-not to be able to run that school and, therefore, we are hoping that with the establishment of the Kenya School of Law on the proper footing, not only will the Government continue to subsidise the cost of running that school not only will the Council of Legal Education engage in the income-generating activities and it may very well be that most of the courses that they will mount; courses for legal draughtsmen, for magistrates, for civil servants and so on will have to be paid for now specifically.

Apart from all those things, Mr. Temporary Deputy Speaker, Sir, we very much hope that the Kenya School of Law should be able to attract grants and assistance from outside to be able to run it properly. If we are going to have a Kenya School of Law or a similar institution which is credible, which can attract good lecturers, academicians, and so on, which can look after the welfare of the students in the manner that they should be looked for, I noticed hon. Kiraitu Murungi, did mention, of course, in the light vein that they should be allowed to eat *nyama choma, ugali kunde* and so on. But, you know that at the inns of Court in London, at least part of the qualifications to be admitted to the bar was the requirement for one to have eaten so many dinners, maybe 21 dinners at the Inn so that you can learn manners on how to behave and the rest. Well, we do hope at this Kenya School of Law, that may not be a requirement, but at least, it will be a decent school of law where everybody will be proud to belong, to go there and to eat, not just the students themselves, but also the professionals in town including the private sector. The judges can feel free to go there and eat, mix, talk, chat and so on, with the students who are about to join them.

Mr. Temporary Deputy Speaker, Sir, therefore, this levy is going to be there, but the provision of the levy is going to be there. But whether or not at any given time it will be imposed, will be very much dependent on the needs of the Kenya School of Law, as assessed, by the Council of Legal Education, and also by the Council of the Law Society. What is required really, first and foremost, I think is, that before the levy is imposed, should it be deemed necessary for the levy to be imposed, that there should be adequate consultations with the Council itself. On the Council itself, we have three societies of the Law Society, we have people from the Judiciary. We have people from the academic institutions and so on. And also, of course, we have the main body, the Law Society of Kenya. Now, if these two bodies, the Council of Legal Education can agree, the Council of Law Society can agree, then the Minister can, by order publish, impose such levy at such levels, as he sees it is necessary to meet the exigencies of a particular situation. But, as I said, the main method of raising funds are all those other methods, but it may be very well be, because in questions of funding we do not want to close all options. So, in a Bill of this nature, you put all options on the table and then let the Council proceed on with the work. What is important is adequate consultations. And, therefore, the amendments that I will bring at the Committee Stage will be amendments which will tie in the principle of cost sharing, tie in the principle of adequate consultations before a levy of this nature is imposed. And also to make it clear that it is not a permanent levy, but it is a temporary levy that will be imposed from time to time as it may be deemed fit.

Mr. Temporary Deputy Speaker, Sir, a number of other comments were made and, I think, maybe time has expired, particularly by the people who spoke last, for example, hon. Mak'Onyango, who said that we

should abolish the Kenya School of Law, in fact, there is now more need to have the Kenya School of Law. In fact, the reasons you gave, by the way, are the other way round. We are now having very many lawyers qualifying from India and the United Kingdom, and from other areas, who are coming to the Kenya School of Law. That, whereas before, the overwhelming majority of the lawyers came through the Faculty of Law at Nairobi, and only a few came from Overseas countries, but we are now getting into a situation where even more than 60 every year are coming in from India, from UK and so on. And, therefore, the reason you gave actually---

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Attorney-General in order to keep on addressing hon. Mak'Onyango and saying "the reasons you gave"? Should he not be addressing the Chair?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, I know hon. Mak'Onyango, that is the way we talk to each other. I am, of course, addressing the Chair.

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)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Members, it is now time to adjourn. The House stands adjourned until tomorrow, Thursday, November, 23rd, 1995, at 2.30 p.m.

The House rose at 6.30 p.m.