

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 5th July, 2001

The House met at 2.30 p.m.

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

PRAYERS

(A cell phone rang)

COMMUNICATION FROM THE CHAIR

IMMOBILIZATION OF CELL PHONES

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, before we go to the first Question, I think you all heard a cell phone ring. I would like to inform whoever was responsible to note that he was lucky enough because I do not have time to look for him. Please, be warned again, as the Chair has warned in the past, that we do not want cell phones to be on while we are in the Chamber.

Could we now proceed to the first Question!

ORAL ANSWERS TO QUESTIONS

Question No.024

DISMISSAL OF MR. SIMON KAMAU

Eng. Muriuki asked the Minister for Vocational Training:-

(a) whether he is aware that the services of Mr. Simon N. Kamau, Personal No.300728, and instructor attached to Kinangop Youth Polytechnic have been terminated; and,

(b) why his services were terminated.

Hon. Members: No, you are on page 247!

The Temporary Deputy Speaker (Mr. Musila): Order! I am sorry. I beg your pardon I went to page 247. So, I now come back to page 246.

Mr. Kiminza's Question!

Question No.392

HARDSHIP ALLOWANCE FOR GOVERNMENT OFFICERS

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

(a) whether he is aware that Government officers in Kitui South Constituency are not paid hardship allowance despite the area being arid; and,

(b) when he will pay the said officers hardship allowance.

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

(a) The officers in Kitui South Constituency are not paid hardship allowance because the area is not one of the classified and gazetted hardship areas.

(b) The Government is in the process of reviewing the following: Criteria used in declaring certain areas as hardship areas in view of the development trends in the country. Harmonization in classifying hardship areas should apply to all areas in the Republic.

Once the above issues are sorted out, it will be possible to determine when and where, or not whether the officers in Kitui South will merit to receive hardship allowance.

Mr. Kiminza: Mr. Temporary Deputy Speaker, Sir, almost everybody in this world knows that Kitui South extends to cover most of Tsavo East National Park, and goes as far as bordering Tana River District. All these areas are hardship areas, and civil servants in those areas are paid hardship allowance. Could the Minister tell this House what criteria was used to classify the neighbouring districts as arid areas, with civil servants in those areas earning hardship allowance and those in Kitui South being left out?

Mr. ole Ntimama: Mr. Temporary Deputy Speaker, Sir, as I have said, the Government is reviewing the whole system of classifying hardship areas to see that we harmonise the whole system in the whole country. As a matter of fact, the question of aridity is not the only factor to qualify a district or a region to be classified as a hardship area. There are very many other factors which actually contribute to an area being classified as a hardship area. I would like to promise that we are definitely reviewing the whole system to make sure that all the factors are looked into. We have an overview of the whole country.

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

The Temporary Deputy Speaker (Mr. Musila): Mr. Munyasia, do you want to ask a question or you are actually rising on a point of order?

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister was asked about an action that has already been taken. It has already been distinguished that Kitui South is different from Tana River and the hon. Kiminza wanted to know what criteria was used to discriminate against Kitui South when they were classifying Tana River as a hardship area and Kitui South as a non-hardship area. So, the Minister must answer that question instead of saying that aridity is not the only reason. What are the other reasons? I think Mr. Kiminza's question was legitimate. Is he, therefore, in order to avoid answering that legitimate question?

Mr. ole Ntimama: Mr. Temporary Deputy Speaker, Sir, I think I have answered the question. There might have been certain inconsistencies in the past, and those are the wrongs that we want to rectify. Certain areas, definitely, were not considered. I know there are some areas which have been left out, like Narok District which is just as arid or more arid than Kitui South, and other areas. So, these are the issues we want to harmonise and make sure that we come up with a plan to review everything.

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, the Minister says clearly that they are out to remove the inconsistencies. Hon. Members would like to know what are these inconsistencies that led to even his own district not be declared a hardship area. In this regard, two locations, which constitute half of my constituency are as arid as Mr. Kiminza's location. So, we would like to know the inconsistencies they are removing so that they can harmonise them.

Mr. ole Ntimama: Mr. Temporary Deputy Speaker, Sir, I will keep saying that there must have been inconsistencies. I do not know really what I have to say again. There might have been some wrongs committed in some areas which were not considered for certain reasons that I really do not know because this system started a long time ago. But I promise a proper overview of the whole classification system.

Mr. Murathe: Mr. Temporary Deputy Speaker, Sir, in my own Kakuzi Division, the Teachers Service Commission pays teachers hardship allowance, but the Government officers, including the DOs, chiefs and other officers are not paid this allowance. When you talk of Harmonisation of the Civil Service Reform Programme so that officers who are working in the same conditions are given the same terms, could you consider paying Government officers in Kakuzi Division hardship allowance like their counterparts in the Teachers Service Commission?

Mr. ole Ntimama: Mr. Temporary Deputy Speaker, Sir, as part of my answer, I said that once the above issues are sorted out, it will be possible to determine when and whether or not the officers in Kitui South merit. We are definitely going to review the conditions in the whole Public Service and this is why it is in our docket.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, this Question comes up in this Parliament every time. We would like to know from the Minister the circumstances, conditions and factors that constitute a hardship area, and how are they expressed. Are they expressed in a legal form or a policy form?

Mr. ole Ntimama: Mr. Temporary Deputy Speaker, Sir, this is the first time my Ministry has had to answer this Question. I do not know whether it was asked before. I would like to state, and I have repeated this issue several times, that it is the question of aridity, the infrastructure, which can mean the roads and even the communication services--- There is also the question of distances. The infrastructure refers to the general geographical distances. In some areas like ours, there are no roads and teachers have to criss-cross rivers on their own, and these are the people who actually should be paid hardship allowance. There are many other factors, but those three are actually the main factors that have to be considered.

The Temporary Deputy Speaker (Mr. Musila): Maybe to assist the Minister, the Chair can remember that, this is not definitely the first time this Question is being asked in the House. I remember Col. Kiluta asked a similar Question last year and was given almost a similar answer; that harmonization was going on. If I was not on the Chair, maybe, I would have asked a supplementary question about the same. So, I think you had better look at this matter more seriously. You should go and look at the answers given on the same Question, because they are similar, so that you can at least give hon. Members a time frame within which your harmonization exercise is going to end. It seems we are getting the same answer all the time.

Mr. Kiminza: Mr. Temporary Deputy Speaker, Sir, thank you for your sharp memory. You must have observed that this eloquent Minister has been avoiding this Question for about three weeks, and yet he has not answered it satisfactorily. He has avoided telling this House the criteria used. However, in every place where there is a teacher, there is an agricultural extension officer and an assistant chief. As per the three factors the Minister has given to the House, Kitui South Constituency qualifies to be classified as a hardship area. Therefore, as the Chair has directed, this Minister should tell the House the time frame for the harmonization of all the regulations in the country.

Mr. ole Ntimama: Mr. Temporary Deputy Speaker, Sir, I realise that this is a Question that seems to concern most hon. Members in this House. It also concerns me, because I have been battling to see to it that teachers in Narok are paid hardship allowance. You can see we are all together. As the Swahili saying goes: "Tuko pamoja". I cannot really give the time frame when the whole process will be completed, but if you give me until next week, I will try and get a comprehensive analysis of what is going to happen or the time frame within which the Government will complete harmonization of the payment of hardship allowance. I am saying this because it concerns the Ministry of Education, Science and Technology, the Teachers Service Commission and it will definitely be an effort that has been co-ordinated between us. We are only the parent Ministry, but the real action will be taken by Ministry of Education, Science and Technology and the Teachers Service Commission.

The Temporary Deputy Speaker (Mr. Musila): Therefore, in order for this Question to be put on the Order Paper, I defer it to next Thursday.

(Question deferred)

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

The Temporary Deputy Speaker (Mr. Musila): What is your point of order? We have concluded that matter so well!

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, being close to hon. Kiminza, he did confide to me, at one time after his defection, that those were some of the agreements they reached with His Excellency the President before he defected!

(Laughter)

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Wanjala! We are dealing with a very serious matter and I think we have agreed to defer this Question to Thursday next week so that the Minister can come here with the necessary details.

Question No.050

IRRIGATION PROJECTS IN MERU CENTRAL

Mr. Murungi asked the Minister for Agriculture:-

(a) whether he is aware that in the Development Estimates for the financial year 2000/2001, Kshs60 million has been earmarked for irrigation projects in Meru Central District as a grant from the Government of the Federal Republic of Germany;

(b) which small-scale irrigation projects have benefited from the money; and,

(c) whether he could table the agreement between the Government of Kenya and the Government of Germany containing the terms of the said grant.

The Assistant Minister for Agriculture and Rural Development (Mr. J.D. Lotodo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that an allocation was made in the Development Estimates in the 2000/2001 financial year

for a feasibility study----

Hon. Members: We cannot hear what he is saying! He should speak up! He is too close to the microphone!

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Assistant Minister! We want to hear you!

The Assistant Minister for Agriculture and Rural Development (Mr. J.D. Lotodo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that an allocation was made in the Development Estimates during the 2000/2001 financial year for a feasibility study for small-scale irrigation development projects in the Mt. Kenya region which includes Meru Central.

(b) The small-holder irrigation projects that will benefit from the funds are situated in Meru Central, Meru South, Embu and Kirinyaga districts. The particular projects will be identified after the feasibility study.

(c) There is a standing consultancy agreement signed by the Government of Kenya and KWF, a development bank in Germany. I beg to table a copy of that agreement.

(Mr. J.D. Lotodo laid the document on the Table)

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, I am very disappointed by this answer. The Assistant Minister has not told this House whether the feasibility study was made or not. We have reliable information that the German Government is willing to spend Kshs350 million to support small-scale irrigation projects in the east of Mt. Kenya region. But we understand that our Government has been "putting brakes", and fooling around, so that this agreement is not signed, because the projects are to be carried out in an Opposition area. Could the Assistant Minister confirm what steps the Government is taking to ensure that this matter is quickly concluded? Our people need that water!

Mr. J.D. Lotodo: Mr. Speaker, Sir, I would like to disagree with the hon. Member that the Government discriminates against Opposition-dominated areas in matters of development. We are working for the people of Kenya. The Government is still waiting for the findings of the feasibility study which will soon be completed. I also agree with the hon. Member that the Government of Germany is willing to spend Kshs350 million on these projects. The Government of Kenya has earmarked Kshs60 million for that programme under the Medium Term Expenditure Framework.

Mr. Mwenda: Mr. Speaker, Sir, the Assistant Minister has said there are three districts that will benefit from this money but, at the same time, he said the feasibility study has not been completed. How did they identify the districts that will benefit from this project when the feasibility study has not been completed? What is he telling us?

Mr. J.D. Lotodo: Mr. Temporary Deputy Speaker, Sir, the Government has earmarked Kshs60 million for the feasibility study so that the German bank can bring in the necessary funds for us to continue with the work.

Mr. Wamae: Mr. Temporary Deputy Speaker, Sir, the hon. Assistant Minister says that this was money for small-scale irrigation projects in Mt. Kenya area. But he did not name Nyeri District! Where does Nyeri District come in?

Mr. J.D. Lotodo: Mr. Temporary Deputy Speaker, Sir, we are answering this Question as per the agreement between the German bank and the Kenya Government. Probably, Nyeri District will be considered later.

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, this is a very important Question. Indeed, Kshs.60 million was allocated for the feasibility study in the last financial year. We come from the ground and no feasibility study has been made. Could the Assistant Minister explain to this House who "ate" the Kshs60 million which was meant for the feasibility study?

Mr. J.D. Lotodo: Mr. Temporary Deputy Speaker, Sir, I would like to inform the hon. Member that it was not last year but this year. Therefore, the question of money being "eaten" does not arise.

Mr. Murungi: On a point of order, Mr. Temporary Deputy Speaker, Sir. We are talking about the 2000/2001 financial year. That year ended. That was last year! We are now in the 2001/2002 financial year. So, could the Assistant Minister answer the question? He should know which financial year he is in!

Mr. J.D. Lotodo: Mr. Temporary Deputy Speaker, Sir, I assure the hon. Member that I know figures. I learnt mathematics in school and I know that this is 2001/2002 financial year and last year was 2000/2001. I would like to inform the hon. Member that we did not have the Kshs60 million during the last financial year. So, we had to budget for it during this year's Budget.

Mr. Kibicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to include Kirinyaga District in this scenario when he knows that it is supposed to benefit from Kshs60 million which the Kenya Electricity Generating Company is supposed to pay through the Tana and Athi Rivers Development Authority (TARDA) every year?

Mr. J.D. Lotodo: Mr. Temporary Deputy Speaker, Sir, I think that is a different Question and I do not wish to venture into it. So, I have nothing to say.

Question No.411

MARKETING OF HORTICULTURAL PRODUCE

The Temporary Deputy Speaker (Mr. Musila): Dr. Murungaru is not here. I understand he had made a request that his Question be deferred to next week.

(Question deferred)

Next Question, Prof. Anyang'-Nyong'o!

Question No.369

MANAGEMENT OF MUGRUK QUARRY

The Temporary Deputy Speaker (Mr. Musila): Prof. Anyang'-Nyong'o is not here? We will leave the Question until the end.

Next Question, Eng. Muriuki!

Question No.024

DISMISSAL OF MR. SIMON KAMAU

Eng. Muriuki: Mr. Temporary Deputy Speaker, Sir, this Question was deferred last week because a dispute arose between myself and the hon. Minister as to whether Mr. Simon Kamau was, in fact, a Government employee. The Minister was supposed to go and confirm that. I also asked the person concerned to check in his records whether he has any papers to show that he is a Government employee. I got information this morning, through a phone call that he has papers to show that he was a Government employee. So, I wish to seek the indulgence of the Chair to defer this Question to next week so that I can come here duly armed with those papers which indicate that Mr. Kamau was, in fact, a Government employee.

The Temporary Deputy Speaker (Mr. Musila): That is a fair request. I defer the Question to next week, but I will leave the date for the Clerk to sort out.

(Question deferred)

Next Question, Mr. Wanjala!

Question No.186

MEASURES TO CONTROL MALARIA

Mr. Wanjala asked the Minister for Public Health:-

(a) whether he could inform the House how many deaths were caused by malaria in Siaya and Busia districts in the years 1998, 1999 and 2000;

(b) what steps he is taking to contain the spread of malaria in Budalangi Division which is situated in Yala Swamp; and,

(b) whether he could consider reclaiming Yala Swamp to reduce the death rates.

The Minister for Public Health (Prof. Onger): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Malaria-related death cases in Busia District were 77 in 1998; 124 in 1999 and 31 in the year 2000. In Siaya District, there were 86 deaths in 1998; 58 in 1999 and 160 cases in the year 2000.

(b) The Ministry, in collaboration with other healthcare providers, has conducted public education and awareness campaigns on malaria prevention in Budalangi. Secondly, it has distributed mosquito nets to some

members of the community; and thirdly, it has supplied sufficient anti-malarial drugs to health institutions in Budalangi.

(c) It is not possible for the Ministry of Health to reclaim Yala Swamp as this is obviously beyond the scope of the Ministry of Health.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, when you look at the statistics they have given us here, they are "doctored". Siaya District has been split into two, to create Bondo District, and the three districts have got more than ten constituencies. So, those statistics do not hold any water.

Mr. Temporary Deputy Speaker, Sir, the Yala Swamp is a natural disaster in those districts. Mosquitoes infect people with malaria even during the day! The death rate in my constituency alone is 20 people per day. How did the Minister arrive at such statistics for Budalangi? Could he tell us how he arrived at those statistics when the death rate is so high?

Prof. Onger: Mr. Temporary Deputy Speaker, Sir, the only way one can get very accurate statistics is to peruse through the records of dispensaries and health centres within that division. Indeed, the hon. Member for Budalangi knows very well that one source of such statistics is the Port Victoria Sub-district, Mukobole Dispensary, Lugala Dispensary and, unfortunately, Madua Dispensary which sank because of the nature of terrain in that place.

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, although these figures are hospital-based, I would rather go by the figures given by the hon. Member for the area. In his answer to part (b) of the Question, the Minister says the Ministry distributed mosquito nets to "some" people. Why did the Ministry not consider distributing those nets to "all" the people?

Mr. Temporary Deputy Speaker, Sir, last week, we were treated to a very interesting answer here by the Assistant Minister for Agriculture and Rural Development when he said they were apparently sterilising male tsetse flies in an effort to decrease the tsetse fly population in the country. Is the Ministry of Health also considering sterilising male mosquitoes in order to bring down the population of mosquitoes in Siaya and Busia districts?

(Laughter)

Prof. Onger: Mr. Temporary Deputy Speaker, Sir, obviously, the hon. Member knows that it is not possible to supply everybody with a mosquito net. When I say "some" people, I am referring to pregnant mothers and those who are with children below the age of five years. The hon. Member knows the criteria very well. That is how we sometimes give free mosquito nets to some of these "very high risk groups", pregnant mothers and children below the age of five years. Others can now buy them because, through the indulgence of this House, we did request the Ministry of Finance and Planning to offer duty-free mosquito nets. They were originally costing Kshs800, but now with duty rated at zero, it is now Kshs300. I am sure they can buy mosquito nets which can protect them for, at least, one year.

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

The Temporary Deputy Speaker (Mr. Musila): Dr. Kulundu, if you want to ask a supplementary question, say so!

Dr. Kulundu: No, it is a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): Okay! What is your point of order?

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, my point of order is: Is it in order for the hon. Minister to evade answering my question on the control of the mosquito population by using the technique that this House was told by the Assistant Minister for Agriculture and Rural Development? He did not respond to that particular question.

Prof. Onger: Mr. Temporary Deputy Speaker, Sir, I do not understand what the hon. Member is getting at. He knows very well that the most efficacious and correct measure of dealing with the elimination of malaria is residual spraying. That is absolutely clear and it is being done. The second one is clearing of waterlogged areas. He appreciates that Yala Swamp is such a gigantic swamp that, at the moment, even if all the resources of this Government were put there, it would not be feasible to deal with it and, therefore, we now prefer to do it case by case.

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, the statistics given by the Minister are not accurate at all. Those figures of 50, 55 and 70 cases cannot be true because malaria is the number one killer of our people around Yala Swamp. Therefore, I think he will do us a favour to go and find out exactly what is happening. This is because, on the ground, more people are dying than what he is giving. However, my question is: Four years ago,

we were told here in Parliament that the Ministry of Health bought mosquito sprays which could last this country more than 20 years and there was a Permanent Secretary who was sacked because of that. Are these mosquito sprays being used in our areas? The Minister is speaking as if people live in the swamp but they actually live around the swamp which can be sprayed and even the water can be cleared. I have never seen those sprays!

Prof. Onger: Mr. Temporary Deputy Speaker, Sir, no sane person would doctor statistics for the sake of answering a question. In the case of Siaya, and I have been able to commission and look at the statistics, the total number of attendance of out-patient clinics in 1998, was 292,011. The malaria cases that were spotted in the out-patient cases were 109,624 and the deaths that I have just announced today were 77. It is an unusually slightly higher figure, but if you look at the total attendance of 292,000 and the malaria cases of 109,624 this conforms clearly to what we know to be correct statistics; that 30 per cent of patients attending the out-patient clinic are due to malaria.

In 1999, there were 363,031 out-patients and the malaria cases were 131,062 again conforming to the statistics that we know; that 30 per cent of cases attending out-patient clinics in these malaria-prone cases are due to malaria. In 2000, there were 320,707 out-patients and there were 124,837 malaria cases that were reported. In the case of Busia District, in 1998, the total attendance of out-patient clinics was 26,000 and malaria cases were 11,000 giving a percentage of 50 per cent of the malaria cases in the out-patients. In 1999, there were 247,754 out-patients total attendance and 90,000 malaria cases giving again a figure of 26 per cent due to malaria. In 2000, there were 137,239 cases in the out-patient clinics and 54,000 due to malaria, once again conforming to 30 per cent and those are the statistics we know.

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, the Minister should be aware that in Busia District, 80 per cent of the population lives below the poverty line. Could he, therefore, consider giving free mosquito nets to the people of Budalangi because they cannot afford them?

Prof. Onger: Mr. Temporary Deputy Speaker, Sir, I have given the whole of Busia District free mosquito nets totalling 2,500. That is the maximum we can afford within the limits of the budget which is available to us. Now, in the case of residual spraying, this is a job that is to be done by public health technicians gradually. Unfortunately, these were the people who were captured in the retrenchment exercise and we are now trying to bring them back so that we can be able to carry out that function.

The Temporary Deputy Speaker (Mr. Musila): Next Question!

Mr. Wanjala: I have one last question, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Wanjala! I said next Question, but I know that it is traditional that I should give you the last chance but you were not standing and I could not have spotted you from the Chair.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, I stood up!

The Temporary Deputy Speaker (Mr. Musila): Alright, I will give you the last chance.

Mr. Wanjala: Thank you, Mr. Temporary Deputy Speaker, Sir. Here, we are talking about the lives of people in three good districts and you will realise that even today in these districts, it is only myself, hon. Wanjala who is in the Opposition. The rest are now in the Government and they are reducing the number of people who will be even supporting that very Government. Now, considering the lives of those pro-Government people, and they are dying at that high rates because of this Yala Swamp, could the Government supply mosquito sprays to these people? This is because spraying is the most efficient way of eliminating mosquitoes. Since Yala Swamp is gigantic, could the Minister consider using helicopters to spray the area to reduce the mosquito population? However, could he now consider, on a serious note and from an economic point of view---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Wanjala! You are not giving a speech. Ask your question or I take it that you do not have a question!

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, since these people support the Government, could the Minister, in conjunction with the Ministry of Agriculture and Rural Development, consider reclaiming Yala Swamp as the cheapest way of eradicating mosquitoes?

Prof. Onger: Mr. Temporary Deputy Speaker, Sir, first of all, let me correct the notion that there are those who belong to the Government side and those who belong to the Opposition. These are all Kenyans, and they are entitled to a health facility wherever it exists. The second point is that it is not feasible to do helicopter spraying because, in the first instance, the helicopter is the only means of transportation that can hover over the Yala Swamp. You cannot use the small aircraft because there is no landing strip there to be able to spray. Therefore, that becomes a very costly exercise, to do the spraying, and yet we know that the use of mosquito-treated nets and residual spraying within the residences of the people should be able to reduce drastically by 50 per cent some of these calamities that we are getting.

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

The Temporary Deputy Speaker (Mr. Musila): Overruled! There is no point of order there!

Next Question!

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, it is a special point of order!

The Temporary Deputy Speaker (Mr. Musila): Okay!

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, is the Minister in order to mislead this House that it is expensive to use a helicopter to protect the lives of people when he recently used a helicopter to campaign in Nyanza Province?

(Applause)

Prof. Ongeri: Mr. Temporary Deputy Speaker, Sir, obviously hon. Wanjala has misdirected his "ammunition". Could he direct it elsewhere?

(Laughter)

The Temporary Deputy Speaker (Mr. Musila): Next Question, Mr. Katuku!

Question No. 160

REPAIR OF MUTHETHENI-KALAWA ROAD

Mr. Katuku asked the Minister for Roads and Public Works:

- (a) whether he is aware that Muthetheni-Kilala-Kalawa Road is in a state of disrepair;
- (b) whether he is further aware that Miu River Bridge on the said road, which was partially washed away during the *El Nino* rains, has not been repaired; and,
- (c) when the bridge and road will be repaired.

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

(a) I am aware that Muthetheni-Kilala-Kalawa Road is in need of routine maintenance.

(b) I am also aware that the drift across the seasonal Miu River, which was washed away during the *El Nino* rains needs some repair.

(c) The Ministry has already disbursed Kshs6,569,340 to the district for routine maintenance of this road and others in the district during the 2000/2001 Financial Year.

Mr. Katuku: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has indicated that his Ministry has disbursed Kshs6 million to Machakos District. Could he clarify one fundamental issue: Is the Kshs6 million part of the District Roads Committee (DRC) money, or it is meant for routine maintenance within the Ministry? Is this money lying at the District Treasury, or it is in the treasury of the DRC? Could the Assistant Minister also tell us the amount of money which will go towards the repairing of this particular road?

Mr. Mokku: Mr. Temporary Deputy Speaker, Sir, this money was released to Machakos District on 18th May, 2001. I would like to point out that this money is part of the DRC money, which was sent to every district.

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

The Temporary Deputy Speaker (Mr. Musila): Order! Hon. Members, if you want to ask questions, please, do. Rising on a point of order does not help.

Mr. Mwenda: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Katuku asked the Assistant Minister to be specific. He asked how much of the Kshs6 million has been allocated for the repair of this bridge and the road. He has not answered that question. Is he not out of order?

Mr. Mokku: Mr. Temporary Deputy Speaker, Sir, the Kshs6,569,340 is meant for the repair of the road. Already, the Ministry has released Kshs2.1 million for the drift across the seasonal Miu River. The total cost of repairing the drift will be Kshs7,535,000. The remaining Kshs5.4 million will be sent to that district, this financial year.

Mr. Munyao: Thank you, Mr. Temporary Deputy Speaker, Sir. I have interest in this matter because I border this area. In 1988, when I was the hon. Member for the entire area, including the current Mwala Constituency, hon. Magugu, who was the then Minister for Public Works, travelled to Miu and Kalawa, where there are ten drifts. At that time, he disbursed Kshs300,000 to murrain the road. It was even passed by---

The Temporary Deputy Speaker (Mr. Musila): Mr. Munyao, this is Question Time!

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, in 1998, the then Minister for Roads and Public Works, Eng. Kiptoon, disbursed Kshs250,000 to repair the same road. But the Assistant Minister cannot state the amount of money that will be used to repair the Miu-Kalawa Road. Could the Assistant Minister be specific and give us the date when work on the road will start? Last time, he even gave us the date when work on the road would commence. Will this be the usual song?

Mr. Mokku: Mr. Temporary Deputy Speaker, Sir, I think I was very clear in my answer. I said that the Kshs6 million was part of the DRC money, out of which the six areas represented by the hon. Members will get a share of about Kshs1.09 million. On the bridge, I have given the figure of Kshs2.1 million, which is already at the District Treasury. The remaining Kshs5.4 million will be disbursed this financial year.

Mr. Kanyauchi: Mr. Temporary Deputy Speaker, Sir, all of us come from constituencies, like Mr. Katuku's constituency, where the roads are in pathetic conditions. I would like to say that they are impassable, and more so, during the rainy season. We tried to redress this pathetic situation by passing the District Roads Board Bill, whereby each constituency was supposed to be allocated Kshs5 million per year. If we would have been allocated the Kshs5 million per year, we would not have asked this kind of Question in this House. Could the Assistant Minister tell us when the implementation of the District Roads Board will kick off so that we can have the Kshs5 per annum? This will enable us not to come back to this House and ask this kind of Question.

Mr. Mokku: Mr. Temporary Deputy Speaker, Sir, the issue on when the DRC money will be reimbursed to the districts in full is before the House, and it is on the Order Paper of today.

Mr. Katuku: Mr. Temporary Deputy Speaker, Sir, this is the second time I am asking a Question on this road. I asked a Question on this road in 1998, and I was assured that it would be repaired. Even now, the Assistant Minister has told us that the road will be repaired. On the money he has talked about, what will go to Mwala Constituency is slightly over Kshs1 million out of Kshs5 million. Could the Assistant Minister be specific on this road and bridge? This is because, even if all the DRC money was allocated to this particular road and bridge, it is not adequate to complete the work. The Assistant Minister has admitted that the bridge will cost Kshs7 million and my constituency will get Kshs5 million. Could he tell us what he will do about this road, because the amount of money he has promised is not adequate? Will he provide more money?

Mr. Mokku: Mr. Temporary Deputy Speaker, Sir, I think I am almost repeating the answer I have given the hon. Member. First, it is not only Mwala Constituency which will receive the Kshs5 million, but every constituency which is represented by an hon. Member. I would like to point out that Mwala Constituency will get exactly Kshs5 million. On the bridge, we have released Kshs2.1 million to be used for repair. The total cost of this bridge will be Kshs7,535,000, and I would like to promise the hon. Member that, that money will be disbursed this financial year. If the money will not be enough, as he alleges, we can look at it again. But so far, the total cost of the bridge will be Kshs7,535,000.

The Temporary Deputy Speaker (Mr. Musila): Next Question!

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, I have a copy of the written answer to that Question, which has come from the Ministry of Local Government. I do not think that the Ministry should answer a Question which is not relevant to it.

Question No.076

NAMING OF INSTITUTIONS AFTER LEADERS

Mr. Kihoro asked the Minister for Local Government:-

(a) whether he is aware that no public building, institution, installation or road has been named after the late hon. J.M. Kariuki and hon. Robert Ouko, who died 25 years and ten years ago, respectively; and,

(b) what action the Government is taking to rectify this anomaly.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kihoro! The Question is clearly directed to the Ministry of Local Government. Let me call upon the Minister for Local Government to answer it. Why are you objecting to that?

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, this is a Question about culture and the history of this country, and the Ministry of Local Government is really an administrative unit. This Ministry should not answer the Question; it should be directed to the Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kihoro! The Order Paper states that the Question has been directed to the Minister for Local Government.

Mr. Minister for Local Government, answer the Question!

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, very often we do have this problem in this House. An hon. Member directs a Question to a particular Ministry because, in his or her knowledge, that is the Ministry that is responsible. There is a game going on between the Ministries, where a Ministry then shifts the Question to another Ministry, and yet, this Ministry really has no sense of responsibility over that Question. The hon. Member claims that he directed this Question to the Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports, which I believe is the correct Ministry. Now, we are being told that another Ministry will answer it. I think this is a matter that the House has to resolve.

The Temporary Deputy Speaker (Mr. Musila): Very well! The Clerk cannot know exactly whom the Question has been directed to. Nevertheless, by the wisdom of the office of the Clerk, the Question was directed to the Ministry of Local Government, and the Minister for Local Government has got an answer. Why do we not hear the answer, and if we find that there is need to--

Mr. Minister for Local Government, answer the Question!

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

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

The Temporary Deputy Speaker (Mr. Musila): Let the Assistant Minister answer the Question!

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

(a) Yes, I am aware.

(b) Every local authority has the sole discretion to name their roads, institutions, installations or public buildings after any personality. My Ministry does not interfere with the process.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. That is precisely the point. They are evading the issue. Only the Ministry can be responsible to this Parliament, a local authority cannot. The Assistant Minister is saying that we should go and ask the local authority. Either he answers this Question, or it is directed to the Ministry to which it was intended to go in the first place.

The Temporary Deputy Speaker (Mr. Musila): Order! Hon. Members, the Chair directs that the matter be looked into later and it will be decided if it is the Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports which will be given the Question. I need to consult with the Office of the Clerk on this matter later. So, we will defer the Question.

(Question deferred)

Mr. Kihoro: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a Question about culture. We thought looking into our history---

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Mr. Kihoro! I have already ruled over that matter. Why are you revisiting it? The matter is concluded and the Question is deferred.

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

The Temporary Deputy Speaker (Mr. Musila): Mr. Muchiri, I said we will consult with the Clerk and it will appear on the Order Paper. Obviously, the Member asking the Question will be informed.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. We need some direction from the Chair. It looks like Government Ministries and Ministers are running away from their responsibilities. Could you advise the President to tell them clearly what they should be responsible for? We are being told that all local authorities are going to be responsible for these things. What is the Minister for Local Government doing?

The Temporary Deputy Speaker (Mr. Musila): Order! Order! Mr. Angwenyi, I have deferred the Question and the matter is over. Therefore, you have no business revisiting it.

Next Question, Mr. Muturi!

Question No.409

LIST OF EMBU COUNTY COUNCIL ASSETS

Mr. Muturi asked the Minister for Local Government:-

(a) whether he could table a list of all assets and liabilities of Embu County Council prior to the creation

of Mbeere District in 1996;

(b) whether he is aware that there has never been a sharing out of these assets and liabilities between Embu and Mbeere County Councils; and,

(c) when the sharing of these assets and liabilities will be done.

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

(a) Assets of Embu County Council prior to the creation of Mbeere District in 1996 were as follows:-

Assets

29 staff houses
 1 Financial Adviser's house
 1 County Hall and offices
 Ishiara Slaughter House
 Mwea grazing scheme
 Mbeere grazing scheme
 West Mavuria grazing scheme

Machineries/Equipment

Land Rover	KRY 802
Land Rover	KWE 208
Volvo	KVA 210
Caterpillar Grader	KUH 928
Lorry Tipper	KUJ 485
Lorry Tipper	KUL 320
Lorry Tipper	KUL 321
Crawler	KWE 205

Liabilities

Long-term loans	Kshs 287,400.00
Current liabilities	Kshs 538,417.95
Creditors & other liabilities	Kshs6,981,567.00
Total liabilities	Kshs7,799,384.95

(b) Yes, I am aware that the sharing of assets and liabilities between Embu and Mbeere County Councils has been going on but has not yet been concluded.

(c) Arising from part "b" above, the process has already commenced and is expected to be concluded by the end of this year.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, while thanking the Assistant Minister for his answer to part "a", it is surprising that he says that, for five years, the process of sharing out assets and liabilities of both county councils has been going on and then in part "c", he says it has commenced. The situation can either be one. Either it has been going on or it has commenced. If it has commenced, we need to be told when the process of sharing out these assets and liabilities commenced. Of these current liabilities, how many of them have been repaid and to what extent?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, this is not the only council which has the problem of sharing out assets and liabilities. But I wish to inform the hon. Member that a committee has already been gazetted in the Ministry by the Minister. That is the first process of the commencement of which all the assets and liabilities have been identified. It is now a matter of agreeing between the two parties; Embu and Mbeere County Councils so that they can be able to amicably conclude this exercise. We do expect to conclude this process by the end of this year if we are able to agree. To date, they have stopped payment of any other liabilities which are there because they want to share them out and be able to identify who is supposed to pay what item.

Mr. Manyara: Mr. Temporary Deputy Speaker, Sir, yesterday, the Chief Legal Adviser of the Government; the Attorney-General, told us that 28 districts of this country were created unlawfully. We know that

the creation of these county councils that are sharing out assets follows the creation of these new districts. What is the basis of sharing out properties if in law the districts themselves were unlawfully created? Would the Assistant Minister clarify this issue?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, this is not the only system which is working within the districts. We have the DCs and all the others. If they are illegal, I do not think the services to the people can be put aside. This process has started and we are sure that the gazettement of the new districts, as promised by the Attorney-General yesterday, is going to be done.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, in the first place, the Assistant Minister is required by part "a" of this Question to table that list and not to read and go away with it. Is there a standard way of sharing assets and liabilities of local authorities? There are problems all over the country over this issue. Is there a formula and if it is not there, would you create a rational or standard formula to be followed?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, I am sure the hon. Member is aware of the modalities of sharing out assets and liabilities as spelt out in Cap. 265; the Local Government Act. The modalities of sharing---

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have read the Act very well. Could he tell us which section of that Act deals with sharing of assets and liabilities? It is not there!

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, I do not have the section at the moment because I am not a lawyer. But I am the Chairman of the distribution of assets and liabilities of Narok and Trans Mara County Councils, and we are going by the law.

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Mr. Assistant Minister! That was alleged in the question by Mr. Anyona because you quoted the law. He asked you to state the section! So, the answer was that you do not know!

Mr. Katuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. I believe that the Assistant Minister does not know the relevant section of the Act. Could he, therefore, withdraw that remark?

The Temporary Deputy Speaker (Mr. Musila): Order! Order! He may not know but the section could be there. So, the question of withdrawing does not arise.

Mr. Ndilinge: Mr. Temporary Deputy Speaker, Sir, new districts are created before county councils are formed. Yesterday, the Attorney-General told Kenyans that there are 28 districts which were unlawfully created. Could he also tell us whether these 28 county councils are also illegal?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, the county councils are gazetted.

The Temporary Deputy Speaker (Mr. Musila): The last question, Mr. Muturi!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, as a matter of fact, the Local Government Act does not deal with sharing of assets and liabilities of local authorities. It only deals with what an individual local authority is supposed to do under that Act. Be that as it may, yesterday the Attorney-General (AG) said that he intends to bring here a Bill to validate the districts that have been created unconstitutionally. Could the Assistant Minister tell us the basis upon which the assets and liabilities are going to be shared between the two county councils? On what law will the exercise be based? The AG has not even brought here the validation Bill!

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, sharing of assets and liabilities between two local authorities has been a tradition.

Mr. Imanyara: On a point of order, Mr. Temporary Deputy Speaker, Sir. All of us here have sworn to defend and protect the Constitution. The AG, who is the chief legal advisor to the Government, said that these districts do not exist legally. Is it in order for the Assistant Minister not to tell us the legal basis upon which the county councils are sharing liabilities and assets? These local authorities would not be in existence if the new district had not been created.

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, the local authorities have nothing to do with the districts. The districts and the local authorities are independent of each other.

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

The Temporary Deputy Speaker (Mr. Musila): Order! Order, hon. Members! Let us have one at a time.

Mr. Katuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has not responded to part of the question.

The Temporary Deputy Speaker (Mr. Musila): That is not a point of order, Mr. Katuku!

Mr. Katuku: Mr. Temporary Deputy Speaker, Sir, the same aspect was raised by Mr. Anyona. The Assistant Minister was asked to table the list of the assets, which he has not done. Could you, therefore, order him to do so? He was unable to table that list yesterday.

The Temporary Deputy Speaker (Mr. Musila): Mr. Assistant Minister, it is proper that you table that

list.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. When we came to this House, we swore to uphold and protect the Constitution of Kenya. We are now condoning the contravention of that Constitution. Are we going to contravene the Constitution on the basis of tradition? What tradition was the Assistant Minister referring to? Is it Kisii or Maasai tradition?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Angwenyi!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, we must discuss this matter with seriousness if we are to uphold and defend the Constitution. We should not allow this kind of a situation to prevail.

The Temporary Deputy Speaker (Mr. Musila): Order! Order! We have heard your point!

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, local authorities are not created only through the creation of districts. The Local Authority Act provides for the creation of local authorities through commissions.

Mr. Nyachae: On a point of order, Mr. Temporary Deputy Speaker, Sir. Since we are heading nowhere with regard to this matter, would I be in order to request that the question raised by Mr. Imanyara be answered through a Ministerial Statement concerning the legality of establishing these institutions?

(Applause)

The Temporary Deputy Speaker (Mr. Musila): Mr. Nyachae, the Question we are dealing with is about the sharing of assets between Embu and Mbeere County Councils. That aspect has been dealt with. The issue of the legality of local authorities ties in very well with the Question, on the legality of the recently-created districts, which was answered yesterday. So, that matter can be pursued separately. I do not wish to defer this Question.

Let us proceed to the next Question.

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

The Temporary Deputy Speaker (Mr. Musila): Overruled! Prof. Anyang'-Nyong'o's Question for the second time!

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, before I ask the Question, allow me to apologise for arriving late.

Question No.369

MANAGEMENT OF MUGRUK QUARRY

Prof. Anyang'-Nyong'o asked the Minister for Environment what steps the Government is taking to ensure that the quarry at Mugruk on the Kisian-Bondo Road in Kisumu Town West does not continue to pollute the air and poison the water used by the local people.

The Minister for Environment (Mr. Ngala): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

In May, 2001, the Government directed the quarry owners, and others within Kisumu Municipality, to undertake an environmental impact assessment of their operations as required by Section 58 of the Environmental Management and Co-ordination Act. The findings of the assessment will enable the Government to evaluate the various quarry operations with a view to determining whether there is need to re-design the methods, technologies and plans used by the quarry to better meet the air and water quality standards.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, arising from the Minister's answer, the quarry on the right side of the road, as you drive from Kisian to Kombewa, on your way to Bondo, is owned by a man called Haya Bishan Singh. It has been there for donkey years, during which time it has been polluting the air without any thinking about the harm it has been causing to the environment and the people. I realise that the Ministry only directed the said environmental impact study to be undertaken after they received my Question. That is what prompted them to order the undertaking of that study. Mr. Singh has been exploiting the environment and the natural resources of Kenyans for many years while putting back very little. We must protect our resources for posterity.

The Temporary Deputy Speaker (Mr. Musila): Ask your question now.

Mr. Anyang'-Nyong'o: But I must give the background to my question, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): You have already given enough background.

Mr. Anyang'-Nyong'o: Why are you so impatient, Mr. Temporary Deputy Speaker, Sir?

The Temporary Deputy Speaker (Mr. Musila): Could you ask the question?

Mr. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, could the Minister tell this House the exact specifications they are going to require the particular quarry to consider undertaking their environmental impact study? Given the result of that study, what steps is the Government taken to ensure that the particular quarry pays back for the harm it has done to the environment and the people of the area, its owner having operated it without any thinking whatsoever about the harm it has been causing to the environment for the last 15 or 20 years?

Mr. Ngala: Mr. Temporary Deputy Speaker, Sir, in my reply, I said that the quarry owners were to undertake an environmental assessment impact study within their operations. This request was made in May, 2001. It is a long process---

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

The Temporary Deputy Speaker (Mr. Musila): Let the Minister answer the question put to him first!

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

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kihoro! Why do you not let the Minister answer the question first?

Mr. Kihoro: The Minister is out of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): Why do you say so?

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, the issue raised is about water poisoning by the quarry but the Minister is talking about environmental management. He has mentioned something about the air, but---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kihoro! Sit down!

(Mr. Kihoro sat down)

Hon. Members, the habit of interrupting Ministers as they answer questions should cease. The Minister is on the right footing. Let him answer the question. If you feel like asking a supplementary question thereafter, you can do so.

Mr. Ngala: Mr. Temporary Deputy Speaker, Sir, I said in my reply that in May 2001, the operators of the quarry were requested to undertake an environmental impact assessment. This exercise will take a bit of time. Until the results of that exercise are known, it will not be possible now to say what kind of measures will be taken because there are different levels of pollution. The hon. Member wants to know what the Government will tell quarry owners to do, especially those ones he referred to. We will tell them what to do after the environmental impact assessment study is over and results are known.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, in areas like Kayole and Dandora, there are very many quarries that have been deserted and they are causing pollution and environmental problems. Children have died in those deserted quarries. However, the Government is not taking any action. Could the Minister assure us that he will be more vigilant in ensuring that deserted quarries are filled up?

Mr. Ngala: Mr. Temporary Deputy Speaker, Sir, we have heard about the Kayole incidents. The Ministry of Environment and Natural Resources will work very closely with the Ministry of Local Government to see how best they can address the problem of those quarries. But as far as the environment is concerned, if a request is made, just like it has been said here, we will try to find out how far the environmental impact assessment within Kayole area has been done.

Mr. Khamasi: Mr. Temporary Deputy Speaker, Sir, our environment is being abused left, right and centre without any due regard to the Act which was put in place in 1999. This is because the National Environmental Management Authority (NEMA) has not been put in place and it is not operational. Could the Minister tell this House when this Authority will be operational?

Mr. Ngala: Mr. Temporary Deputy Speaker, Sir, the NEMA will be operational very shortly.

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, this Question is about public health. It is not about Section 58 of the Environmental Management and Co-ordination Act 2000. It is about public health in respect of poisoned air and water. Has this Ministry taken any samples to the Government Chemist to find out whether actually water has been poisoned?

Mr. Ngala: Mr. Temporary Deputy Speaker, Sir, I think those are the areas that will be considered when we will be doing the total environmental impact assessment. This exercise will involve several things. Yes, this Question is about air and water pollution. Therefore, we cannot give an immediate answer because this process will take a long time.

Dr. Omamo: Mr. Temporary Deputy Speaker, Sir, I would like to appeal to the Minister to be very serious because this pollution is affecting human health. It is a known fact that water and air are being polluted and that corrugated iron sheets of schools in those areas are being corroded. So the question of damage being

done has already been established. We know that the Minister will use the environmental impact assessment study to confirm that damage is being done. However, it has been confirmed that damage has already been done. Could the Minister order the closure of this factory until results of the exercise are out? This exercise must also assess the damages already done to the community for purposes of compensation.

Mr. Ngala: Mr. Temporary Deputy Speaker, Sir, I do not want to give any undertaking here that we will stop the quarrying work which is being done there. I have said steps are being taken to try and establish the damage that has already been done in terms of pollution. There are systems and mechanisms which are being applied to establish the situation. It is true that we may not be able to stop the situation right now until we know the level of pollution in that area. From there, we will be able to apply this information and tell the operators to take certain measures to ensure that air in that particular area does not continue to be polluted. That is the best way of solving that problem.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. If you listened carefully to the Minister, he said that "they have requested". A "request" can be honoured or turned down. Is the Minister saying that he does not actually have any power in law so that he has to request? What is he telling this House? Is he saying he has no power so that he has to depend on a request? What is he talking about?

Mr. Ngala: Mr. Temporary Deputy Speaker, Sir, I am using the word "request" because that is what we have done. Definitely, I have the powers and I will use them. So, the hon. Member should not worry about how I will use those powers. Let him rest assured that I will use them.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I am a worried man because the Minister says they have requested the owners of the quarries themselves to carry out the environmental impact assessment exercise. These are the people we are complaining about in that area. They will be judges in their own case. This defeats the rule of natural justice. Could the Minister set up an independent body to do the environmental impact assessment so that we get an objective assessment of the damages already done urgently, and know how to arrest this unfortunate situation? We want this to be done by an independent body, not the parties to the issue.

Mr. Ngala: Mr. Temporary Deputy Speaker, Sir, we will look into that.

QUESTIONS BY PRIVATE NOTICE

ABDUCTION OF MR. MUTEA MWENDA

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

(a) Is the Minister aware that Mr. Mutea Mwenda was, on 22nd September, 2000, abducted while tending his farm in Ntoroni Location and the matter reported to Gatunga Police Station, and that he has not been traced to date?

(b) What steps have been taken to search and trace him?

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

(a) I am aware that Mr. Mutea Mwenda was, on 22 September, 2000, abducted while tending his farm in Ntoroni Location.

(b) The area District Officer and the OCS, Gatunga Police Station, led a team of security officers and members of the public in a search for the missing person to no avail. The missing person's file is still open at Gatunga Police Station. Any one with clues to the missing person's whereabouts should report the same to Gatunga Police Station or the nearest police station.

Mr. Mwenda: Mr. Temporary Deputy Speaker, Sir, this is a very unfortunate incident because a similar incident occurred in December, 1998, when five people were abducted in the same area. In January, 2000, another group of five people were abducted from the same area and up to date, even their remains have not been found. The same Assistant Minister, in response to my earlier Question about the five missing people, gave a similar answer and admitted that these people were missing. Now, this is the third time this Question is being asked in this House. The motive of these abductions has to be established by the Government. What has the Government done to unearth the motive behind all these abductions because to date, 11 people have been abducted and they are still missing?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, I do confirm what the hon. Member has said. In this particular incident, a thorough search was done in the area but, unfortunately, there was no trace of the missing persons. As a result, in January this year, the Minister did instruct the Director of CID to send a special team to

look into the circumstances surrounding the disappearance of persons around that area, and in the district. We are yet to get a report on the incidents. But that exercise, aimed at finding out the root cause of these problems is under way.

Mr. Murungi: We are shocked by the incompetence of this Ministry. Way back in 1994, I drew the attention of this House that, a certain Mr. John Nyamu Mbutu had disappeared in Maua. Five years later, no action has been taken by the police. We conducted our own private investigations and found that, contrary to what the police officers were saying, that man might have been eaten by animals, as a matter of fact, he was murdered. I forwarded the name of the person who was suspected to have murdered Mr. Mbutu to the Attorney-General and, so far, no action has been taken. Could the Assistant Minister tell this House what special steps his Ministry is taking to conduct investigations with regard to this matter because the police officers in that area are not taking any action? Once you are abducted near Meru National Park, they just come and say that you must have been eaten by wild animals. We do not want to hear about these animal stories in this House any more. Could the Assistant Minister tell this House what specific directions they have given to the police so that murderers do not get away with murder under the pretext that the victims are being killed by wild animals?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, while it is true that there have been cases or incidents where the police have not been in a position to find out where exactly the missing persons are, to a greater extent, we have kept checking issues concerning murder. The issue raised by the hon. Member about the murder of Mr. Mbutu cannot really be ascertained. He cannot give facts about it. If he can, five years down the line, he cannot claim today that he has factual information. As I said, specific instructions have been given to the Criminal Investigations Department and we are satisfied that they are taking action.

Mr. Mwenda: Mr. Temporary Deputy Speaker, Sir, the first incident, as I have said, occurred in 1998. We are talking about three years since the first serious incident occurred and five people went missing. For the benefit of this House, and the nation, these incidents are occurring in an area where, in 1996, there were serious clashes between the Tharaka and Igembe communities. The Tharaka community were forcibly kicked out of their farms. All the victims are returnees who were trying to resettle back on their farms. What is the Government doing to ensure that there is a peaceful and orderly re-settlement of all those people who have been forcibly removed from their farms?

Mr. Samoei: Mr. Temporary Deputy Speaker, Sir, the Government's position in relation to private ownership of land is very clear. We shall do everything possible to make sure that persons entitled to live in their pieces of land do so.

Mr. Muchiri: On a point of order, Mr. Temporary Deputy Speaker, Sir. If you listened to the Assistant Minister's answer, you heard him say that he had directed the Director of the CID to compile a report. This means the Question has not been fully answered. Could the Question be deferred to another time?

The Temporary Deputy Speaker (Mr. Musila): No, No, Mr. Muchiri! I think to be fair to the Assistant Minister, he has answered the Question and the Chair is satisfied. Of course, there is no solution. Therefore, there is no justification in deferring the Question.

Next Question by Mr. Mugeke!

Mr. Mugeke: Mr. Temporary Deputy Speaker, Sir, this Question came up yesterday and the Minister was not able to answer it. I have a problem here. My Question has been altered a bit, because initially, I had asked about land grabbing involving a plot where that Hall stands and which has been grabbed by KANU. So, when these changes were done, it would have been in order to inform the Questioner. Yesterday, this Question was also directed to the Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports. Now, I can see that they have taken the Question to the Ministry of Labour and Human Resource Development. This Question has nothing to do with this Ministry. There are two issues here: That Hall is an historical monument which was built by the late Minister, Mr. Mboya. We would want to remember the late Minister. So, why has this Question been directed to the Ministry of Labour and Human Resource Development, when there is no industrial dispute?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Mugeke! You should have asked the Question and then followed it with such arguments.

Mr. Mugeke: Mr. Temporary Deputy Speaker, Sir, I do not have a written answer. I am wondering why the Question is being directed to the Ministry of Labour and Human Resource Development, when this is not a labour issue.

Hon. Members: Ask your Question first!

The Temporary Deputy Speaker (Mr. Musila): Order! Order! Mr. Mugeke, just ask your Question, sit down and then the reaction will come. I will then give a ruling over it. You have not formally asked your Question.

ACQUISITION OF TOM MBOYA MEMORIAL HALL

Mr. Mugeke: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Labour and Human Resource Development the following Question by Private Notice.

(a) Is the Minister aware that KANU Nairobi Branch has taken over Mboya Memorial Hall in Makadara Estate?

(b) Is he further aware that the Hall has been sub-divided into small units (offices) for hire, contrary to the wishes of the late Minister and the people of Makadara?

(c) Could the Minister order KANU to vacate the premises and restore the hall to its original status?

The Assistant Minister for Labour and Human Resource Development (Mr. Chanzu): Mr. Temporary Deputy Speaker, Sir, this Question was re-directed to the Office of the President on 26th of June. So, I hope the Office of the President has an answer.

(Loud consultation)

The Temporary Deputy Speaker (Mr. Musila): Order! Order! Hon. Members, I think there is some confusion here. Going by what the Questioner stated, he had submitted the Question to another Ministry, but the Question has been directed to the Ministry of Labour and Human Resource Development. Now, the Assistant Minister says that the Question has been re-directed to the Office of the President. I think, to be fair, this Question will be deferred. I now direct that the matter be sorted out by the parties involved.

Mr. N. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think it is fair and important that we know who should occupy this Hall. This particular Hall which was built by Tom Mboya, with funds from USA, was meant for the trade movement and it should be treated in the same way as the Tom Mboya Hall, based in Kisumu, which is managed by the relevant Ministry that is supposed to answer this Question. I see no relevance in the Office of the President coming to answer this Question. This docket falls squarely on this Assistant Minister and he should give us an answer.

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

The Temporary Deputy Speaker (Mr. Musila): Order! There is already a point of order! You cannot raise a point of order on top of another point of order!

Mr. Assistant Minister, do you have an answer to the Question?

The Assistant Minister for Labour and Human Resource Development (Mr. Chanzu): Mr. Temporary Deputy Speaker, Sir, I do not have an answer at the moment. But as you ruled, we will make further consultations and make sure that this Question is answered.

An hon. Member: Let him be ordered to answer the Question!

The Temporary Deputy Speaker (Mr. Musila): Order! There is nothing you can do to the Assistant Minister, if he has no answer. The only thing is---

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

The Temporary Deputy Speaker (Mr. Musila): There is no information you can give the Assistant Minister who has no answer, Mr. Mkalla!

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, it is very interesting that today is the anniversary of the late Tom Mboya, who died on 5th July. This was the day the late Tom Mboya was killed, and this is an important Question. KANU has got the habit of grabbing public institutions, like the Kenyatta International Conference Centre (KICC). Collective responsibility---

The Temporary Deputy Speaker (Mr. Musila): Order, Dr. Ochuodho! You must be orderly. That is not a point of order.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, my point of order is---

The Temporary Deputy Speaker (Mr. Musila): Order, Dr. Ochuodho! I declare you disorderly and order you out for the rest of the day!

(Dr. Ochuodho withdrew from the Chair)

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. I request the Chair to set a date on which this Question should be answered. I think the Chair, earlier on, ruled that they should go and sort it out, but

given that it is KANU which is involved, they may go playing round in circles. Please, set up a date on which---

The Temporary Deputy Speaker (Mr. Musila): The Question is very important, and it will be deferred to Wednesday afternoon.

(Question deferred)

SHORTAGE OF PARAMEDICS IN SAMBURU

Mr. Leshore to ask the Minister for Medical Services:-

(a) Is the Minister aware that there is a shortage of paramedics in Samburu District, especially nurses?

(b) What action is he taking to ensure that people in Samburu District are getting adequate medical services, especially in Samburu East?

The Temporary Deputy Speaker (Mr. Musila): We have information that Mr. Leshore is not well. The Question is deferred.

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. This Question is already before the House. It is supposed to be an on-going Question. All that we asked the Minister to do was to tell us the number of the paramedics who are going to be employed. So, could he just bring that answer?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Munyasia! I know that, but it is in the interest of the Questioner also. Therefore, he has requested that it be deferred. So, it is ordered that it be deferred.

(Question deferred)

NOMINATION OF PROVINCIAL OFFICERS AS COUNCILLORS

Mr. Obwocha to ask the Minister for Local Government:-

(a) Why did the Minister find it necessary to re-publish the nomination of the PCs, DCs and DOs as councillors under the Kenya Gazette Notice No.1613 of 16th March, 2001 whereas the same had been revoked under publication of Gazette Notice Nos.2597 and 2598 of 2000?

(b) Is he aware that a Motion was passed by this House in 1998 revoking their nominations?

(c) Could the Minister assure the House that he will revoke the publication, thus de-linking the Civil Service from politics?

The Temporary Deputy Speaker (Mr. Musila): Also, the Question by Mr. Obwocha is deferred because he has requested that it be deferred because he will not be here. The Chair has also consented to that. It should be deferred to next week.

(Question deferred)

POINTS OF ORDER

MIS-REPORTING BY *THE PEOPLE*

Mr. Nyachae: Mr. Temporary Deputy Speaker, Sir, I stand to request you to help me correct an error committed by *The People* newspaper. On page 24 of today's newspaper, they reported that yesterday, I told the House that during the last four years, Kshs513 billion of public funds has been misappropriated and stolen. I have the HANSARD here. It does not talk about four years. I said the following:-

"This is because for the last 20 years, records show that Kshs513 billion from taxpayers has been misappropriated or stolen. That is equivalent to four years' taxation in this country."

That is what I said, and it is not Kshs513 billion as having been misappropriated during the last four years. *The People* newspaper has misled its readers, and I do not think that they were being malicious. But I think that the reporter was not listening. May I request you to ask the newspaper to correct that mistake because I want that issue to be set on record. I stand by my figure and years, but the correction must be done.

The Temporary Deputy Speaker (Mr. Musila): The importance of newspapers reporting correctly cannot be overemphasized and I believe that the newspaper concerned has taken note of that and will take appropriate measures to correct it.

DISAPPEARANCE OF MR. JOHNSON MWANGI

Mr. Githiomi: Mr. Temporary Deputy Speaker, Sir, I rise on a point of order to demand a Ministerial Statement from the Minister of State, Office of the President in charge of internal security, regarding the disappearance of constable Johnson Mwangi Gichuhi. On 4th June, 2001, Mr. Johnson Mwangi Gichuhi, a police officer attached to Parklands Traffic Police disappeared. On 3rd June, 2001, Mr. Gichuhi met Inspector Ngugi at Mathare Police Depot. Constable Gichuhi requested Inspector Ngugi to collect his salary for the month of May, due to the fact that he was committed at his work station on 4th June, 2001. Constable Gichuhi reported for work on 4th June, 2001 and, together with Constable Kiama, were assigned to report to the National Museum roundabout for duty. Both police constables were assigned duty by Corporal Kimani of Parklands Traffic Police office. The disappearance of Constable Gichuhi was not reported to the authorities by the officer in charge of the Traffic Police Office, Parklands until 19th June, 2001--

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Githiomi. You asked for a Ministerial Statement, but you are going into all the details. Be very brief!

Mr. Githiomi: Mr. Temporary Deputy Speaker, Sir, I am trying to give these facts that will lead them to do investigations. We suspect that--

The Temporary Deputy Speaker (Mr. Musila): Order! Now, if you are telling him what you are suspecting, then, you do not need any Ministerial Statement. So, keep to yourself what you are suspecting until later. You have already asked for assistance. I hope Mr. Samoei has taken note of that.

ROLE OF FOREIGN OFFICE ON NATIONAL DAYS

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, I request for a Ministerial Statement from the Minister of Foreign Affairs and International Co-operation. It will clear a lot of confusion, and I would like the Ministry to put the procedure right. The foreign office has got protocol. We have got national days for our country and other countries. Ambassadors and High Commissioners accredited to Kenya hold celebrations during their national days. The Geneva Convention explains all the issues that pertain to foreign affairs. We have got some of our national days that are observed in Kenya and also in other countries. I have been in the field of foreign affairs for a long time. I have served for so many years in that field, and we have observed so many of our national days.

Sometimes, Kenya goes wrong because yesterday I observed the Head of State attending the American National Day at the American Embassy. The other day, he had attended the birthday of the Queen. We do not know whose birthday or a national occasion will be celebrated next. It is procedural that we know what role the Minister for Foreign Affairs and International Co-operation plays in such occasions. This is because yesterday, the President, the Vice-President and the entire Cabinet were celebrating the American Day, but the Minister had no role to play, and yet we know his role as per the rules of foreign office. Could I be in order to ask the Minister to make a Ministerial Statement on that issue?

ATTACK ON CHAIRMAN OF
GITHAMBO TEA FACTORY

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from the Minister of State, Office of the President in charge of internal security, about the incident regarding the Chairman of Githambo Tea Factory whose house was broken into by robbers and he and his wife were chopped to pieces and left for dead. They are now languishing in Aga Khan Hospital and their attackers are politically well-connected, including one of the former driver of a Minister hailing from that area and also another political aspirant for the constituency's Parliamentary seat. Those people have been seen visiting the area, with the OCPD and the DCIO. Can I ask the Minister to institute an inquiry and maybe, involve police officers from Nairobi and elsewhere, so that there is an independent inquiry into that matter?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kariuki! I thought you were asking for a Ministerial Statement. Now, you are asking for an inquiry.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I would like to get a Ministerial Statement and an inquiry.

The Temporary Deputy Speaker (Mr. Musila): Very well.

Next Order!

Mr. Munyao: The Minister is here. Can he tell us when he will come back to respond?

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Munyao, I am running this show and not you.

Next Order!

MOTIONS

ADOPTION OF SESSIONAL PAPER NO.2 OF 2001

THAT, this House adopts Sessional Paper No.2 of 2001 on the Liberalization and Restructuring of the Coffee Industry laid on the Table of the House on 25th April, 2001.

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I would like to seek the indulgence of the House that this Motion be deferred in view of the fact that the Minister for Agriculture is not present. He is in Nakuru for the agricultural show and the substance in question is so crucial that we would rather the Minister himself be present to move this Motion.

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, I do agree with the Deputy Leader of Government Business that this is a very important Motion affecting the coffee industry in this country. Comparing the importance of this Motion to the agricultural show in Nakuru, should the Minister not have been here to move this Motion instead of being a heckler as the President is talking in Nakuru?

(Laughter)

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Murungi!

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

The Temporary Deputy Speaker (Mr. Musila): Just before you raise your point of order, I will make a ruling concerning what Mr. Murungi said. He made a statement referring to the Minister as a heckler. Mr. Murungi, that is unparliamentary language and I do not think you agree with what you said. Could you be a gentleman and withdraw that remark?

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, I sincerely wish to apologise and withdraw the word "heckler". I want to emphasise that the Minister should take this House more seriously than---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Murungi! We accept your apology. That is enough.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, although I agree entirely that it is proper that this Motion should be debated in the presence of the Minister for Agriculture, could you emphasise to the Deputy Leader of Government Business that the Government should not take this House for granted? Most Members take their work seriously, particularly when it is an important matter like this Sessional Paper. When we received the Order Paper in the morning, we specifically prepared to come and contribute to this Motion. The date of the agricultural show was not set last week. The show is not an emergency. When the Members were sitting in the House Business Committee to agree on the order of debate of this matter the Government must have known about this Motion and the show. With all due respect, this Parliament should not be treated to this sort of cavalier manner. I would like to ask that this House should not witness this behaviour on the part of the Government again. Let this be the last time.

Mr. Mbela: Mr. Temporary Deputy Speaker, Sir, it is a good coincidence that the Minister is not in, particularly because those Members of Parliament who come from the coffee growing areas are in complete disagreement with the Motion he is bringing. Would it not be a good opportunity to take it out of the Order Paper altogether so that we can sit somewhere with him and agree on what is best for the country before the Motion is brought back to the House?

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. This Motion was put on the Order Paper by the House Business Committee to which the Leader of Government Business is a Member. Did he not know that the President would be opening the show today and, therefore, the Minister for Agriculture would not be available and yet he put this Motion on the Order Paper for today?

The Temporary Deputy Speaker (Mr. Musila): That point has already been raised.

Mr. Munyao: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am the Chairman of the Committee for Agriculture and I also want to participate. This morning I chaired a meeting of my Committee from 9.00 o'clock to about 1.00 o'clock. We went through this Sessional Paper and the draft paper. So far, we have received a lot of papers from many stakeholders. We are also inviting COTEPA to come and give us their views. We will propose an adjournment at an appropriate time so that we can discuss this Sessional Paper. We went round the country with the Minister last year, but it is appropriate that we now go for another tour around the

country so that we can iron out a lot of issues. I, therefore, support the proposal that we remove this Motion from the Order Paper and discuss it again.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Munyao! That is besides the point. The most important thing is that we are all in agreement that the Minister is not here. That notwithstanding, it is very serious that the matter was put in the Order Paper today and, therefore, some serious steps should have been taken to ensure that the Minister is there. Be that as it may, it has been generally agreed that we should put off the matter. The question of removing it from the Order Paper does not arise at the moment.

Mr. Ndwiga: On a point of order, Mr. Temporary Deputy Speaker, Sir. I need your guidance. In view of what the Vice-Chairman of the Agriculture Committee has said and also the sentiments expressed by Mr. Mbela, could you, please, rule that this matter be removed from the Order Paper completely until there is mutual consent?

The Temporary Deputy Speaker (Mr. Musila): I will not do that. I will let it be considered further by the House Business Committee.

Mr. Muchiri: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is more than one Minister in that Ministry and they knew that this Motion was coming today in this Parliament. We represent several constituencies and the Nakuru Agricultural Show cannot hold--

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Muchiri! I think we are now repeating ourselves. I did say that the Chair cannot decide what Order will appear on the Order Paper. I did say that the matter will obviously go to the House Business Committee and it will be decided on what date it will be placed on the Order Paper next time.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, the correct procedural position is that, as of now, this Order is out of the Order Paper until it is brought back again. All that is being said here is that instead of bringing it back, let there be consultation so that the whole picture is complete. As of now, it is no longer on the Order Paper; we have passed it.

The Temporary Deputy Speaker (Mr. Musila): That is exactly what I said; that we go to the next Order and it will be decided next time.

Mr. N. Nyagah: Mr. Temporary Deputy Speaker, Sir, let me add my voice to this whole issue. May I request the Chair to ensure when we come back here on Tuesday afternoon, this Motion will not be the first item on the Order Paper until such a time when we, in the House Business Committee, will have discussed it. We will meet on Tuesday and discuss it. As a Member of the House Business Committee, it is quite interesting to note that it has come on the Order Paper before we discussed it in our Committee.

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I just stand up to correct an impression that has been created. During the last House Business Committee meeting, Mr. N. Nyagah was not present. We agreed that the Sessional Paper on Coffee should appear to start the initial process of debate today. Unfortunately, Mr. N. Nyagah was not there.

In any case, I agree that we have agreed in this House that the Motion be deferred. But at the same time, I just want to stress the fact that, if the hon. Member will recollect, when we discussed the Sessional Paper on Tea, the debate was protracted. We started the discussion on the Sessional Paper on Tea and during debate, we agreed to send it back after the sentiments of the House had been made very clear, and the Sessional Paper on Tea was adjusted accordingly. So, this also provides a very good opportunity for the House to air and ventilate on the issues that are totally in conflict with the interests of the coffee farmers.

(Motion deferred)

ADOPTION OF REPORT ON KENYA ROADS BOARD

THAT, this House adopts the report of the Departmental Committee on Energy, Communications and Public Works on the operations of the Kenya Roads Board laid on the Table of the House on 26th April, 2001.

(Mr. Mbela on 7.6.2001)

(Resumption of Debate interrupted on 13.6.2001)

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me a chance to contribute on this important Motion.

The Temporary Deputy Speaker (Mr. Musila): Mr. Angwenyi, I am reminded to remind you that you have 15 minutes remaining.

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir. I did not know that.

The issue of roads is a very important issue in this country. Wherever you go in this country today, there are no roads. I understand there is a move today to defeat the Motion on this Sessional Paper simply because we are demanding for what rightfully belongs to our people, namely to provide them with means of communications. Almost two years ago, we passed an Act in this Parliament that stated clearly that 6 per cent of the revenue collected through the Fuel Levy Fund (FLF) would be given to the Roads Board; 24 per cent would be distributed equitably to the districts, and 15 per cent would be distributed equitably to all the constituencies in the country.

During the financial year which ended on 30th June, 2001, I understand we had collected close to Kshs10 billion. Out of that Kshs10 billion, Kshs1.6 billion should have been distributed to all constituencies in the country, and the balance should have been distributed as I have said. To date, the amount of money which has been disbursed to our districts is less than Kshs1.5 million as opposed to Kshs5 million that we had estimated should be allocated to each constituency in the country.

Mr. Temporary Deputy Chairman, Sir, our economy is in shambles for various reasons. One of the reasons is that we cannot take our agricultural produce to the market because there are no roads. The cost of production for our manufacturers is so high because we do not have a proper road network. Our road network has been destroyed over the years and we are not repairing it. Just because one mischievous citizen went to court and said that hon. Members of Parliament should not serve on the District Roads Committees as Chairmen, the Ministry has withheld funds to the constituencies for roads repair. That is a frivolous excuse.

For the last four months, my constituents cannot deliver their tea leaves to the factory, which is 40 kilometres away. I have made numerous pleas to the Minister for Roads and Public Works to repair roads in my constituency. Four bridges in my constituency have been washed away by a stream and, therefore, we cannot deliver our tea to the factory, yet Kshs10 billion is lying idle somewhere, if it has not been looted, when our people are suffering. I believe the same thing is happening all over the country. People from the North Eastern Province cannot get to their homes and constituencies because there are no roads.

I was not surprised when His Excellency the President visited the Eastlands, Nairobi, and his comfortable Mercedes Benz could not be driven through the roads there. There are no roads there, but only craters. The President was shocked to see that some parts of Nairobi are impassable. Roads that were constructed immediately after Independence have all been worn out, yet we have a department under the Ministry of Roads and Public Works that deals with roads in this country. This is a department that we allocate funds towards its operation. The department is supposed to receive the collection from every litre of fuel that you buy.

Mr. Temporary Deputy Speaker, Sir, the reason why the Kenya Roads Board has not been operational is to subvert the intentions and objectives of this House when it passed the Kenya Roads Board Bill. I hope that this House, when discussing the allocation of funds to each of the Ministries, will demand that this Ministry, in particular, must make the KRB operational before we can allocate funds to it. The Ministry should disburse funds to the constituencies and districts as per the Kenya Roads Board Act. This House has been taken for granted for a long time. It is time we rose up and said that we want to discharge our responsibilities to Kenyans by demanding that the laws that we pass in this House be followed to the letter and seen to be followed.

It is only yesterday that this House was told by the Attorney-General that the Government has created 28 districts in this country unconstitutionally. Today, it has been confirmed again that the Government has created so many county councils unconstitutionally. Again, we are being treated to a similar illegality in respect of the KRB. This is an Act which was passed by this Parliament, but is not being followed. If that Act had been followed, we would have no problem today with our roads network. If it had been followed, we would have curbed some of the looting avenues that have been created over the years. If that Act had been followed, people would have caught this man who is polluting Kisumu Town and who was referred to during Question Time. Kenya is a great country and it has resilient people. Kenyans are industrious if only they can be provided with the services they deserve from the taxes they are paying. We are getting into a situation whereby we will be fatigued by paying taxes and levies without receiving any appropriate service.

I hope that the Minister for Roads and Public Works will tell this House clearly why the Ministry does not want to implement the intentions and objectives of the Act when replying to this Motion. Why is the Ministry hiding behind this mischievous citizen who went to a court which was being presided over by a KANU activist? Our people are fed up with the type of services we are receiving from our Government. The KANU Government has one of the best manifestos you can have in this world, but it is not following even 10 per cent of it. If KANU were to follow its manifesto fully, it would make the President's retirement very easy. The President would retire honourably and travel on a good road to Kabarak, and later take his goats, cows, milk and other farm produce to

the market through a good road. But now, even he is scared! How will he take his produce to the market? The same thing will happen to me if I will be retired by the people of Kitutu-Chache next year! Where will I earn my living if I will not have a road to deliver my tea leaves, coffee and milk? This country has gone through thick and thin.

Mr. Nyachae: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is Mr. Angwenyi not misleading this House by saying that the President does not have good roads to deliver his milk? He has good roads! It is the rest of the country that does not have good roads!

Dr. Kituyi: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform Mr. Angwenyi that President Moi's produce is from a "Mhindi" in River Road! He does not need a road for that!

(Applause)

Mr. Angwenyi: Thank you for that information and the point of order! One thing that I would like to say is this: I spent one week at Lake Bogoria in Baringo Central. There was only one major road. The other roads were footpaths. There were no roads. I am saying that if he is at his Sacho home, he might not get to the market. On the other hand, I do not believe that the President makes his money from people in River Road. But even if he did that, you cannot get to River Road today! It is full of craters and potholes. So, even if that is where he can make some money, he cannot get there.

Be that as it may, what I would like to say is this: This House must stand up and say that if it passes a law, it must be followed before it can allocate further funds to the same Ministry. We must stick to that, and that is when we will be seen to be doing our job. It seems that nobody is in charge of the Ministry of Roads and Public Works. When you go there, you are promised that a road or a bridge will be built. But for months and years, you do not see anything! That is why we established the Kenya Roads Board (KRB), with a hope that it could implement what the Ministry had failed to implement. As we sit here today, you can walk to the Minister's office--- He is a very nice man! I think he has not yet been corrupted! You can go to the Permanent Secretary's office - a very nice man too - but they will promise what cannot be delivered. I do not know who runs that Ministry. Maybe, it is the Wahindis who have been entrenched into our system. It is a cartel of Wahindis who have been looting from this country. This House may have to demand that public contracts are awarded to the people of Kenya, in proportion to their tax-paying ability! If the Africans are paying so much tax, African contractors should be given the jobs. We should not award contracts to Asians who have messed up this country. They are the people who get the cream of this country and yet, they do not pay for it.

Mr. Temporary Deputy Speaker, Sir, maybe, this House, through a miscellaneous amendment Bill or a Finance Bill, should amend the percentage that is distributed out to the districts, constituencies and the KRB. Since the KRB has not been operationalised, we should reverse the percentages, so that 60 per cent is distributed to the constituencies and 16 per cent to the KRB! We gave them a lion's share, thinking that they would handle our roads system and the resources of this country. But they have not done that.

Mr. Temporary Deputy Speaker, Sir, there was money that was transferred to the Ministry of Local Government illegally. Even the Ministry of Local Government has said that it does not need that money. That money should go to the KRB. The KRB has not been established because a Chief Executive has not been appointed, as if we do not have qualified people in this country. The Permanent Secretary in the Ministry of Roads and Public Works and the Chief Roads Engineer are qualified to be the Chief Executive of the KRB. But they cannot be appointed because we want to delay the period, to seal off the looting loopholes that have been embedded in this system.

In conclusion, I sincerely believe that this House, for once, will stand up and discharge its responsibility to allocate funds to Ministries that are effective and serve our people!

With those few remarks, I beg to support.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the beginning of anarchy is when there is a law, and those who should be in the forefront in respecting the law, are in the forefront in breaching and violating that law. That is what anarchy is all about. That is what undermines the rule of law. One of the pillars of the rule of law is respect and observance of the law. But if those who should be respecting and enforcing the law are the ones violating the law, then the rule of law loses meaning, and we plunge right at the centre of anarchy.

This Parliament passed the Kenya Roads Board Bill as an Act of Parliament. We debated it and went through the three stages; it received Presidential Assent and became a law of the land. If there was any elected Member of Parliament who was unhappy with the provisions of that Act, he had the opportunity of persuading his or her fellow colleagues in Parliament to vote against the Bill before it became law. If the Government and the ruling party KANU were unhappy with any of those provisions, they had the opportunity to object and to persuade

us not to enact that Bill into law. Even the President had the opportunity of persuading the Cabinet to speak loudly against the Bill before it became law.

But it is not right, and it undermines the rule of law, when the Bill has gone through Parliament and received Presidential Assent, for the President to stand in public fora and start criticising the Act, and to say that he is opposed to the Members of Parliament sitting in the District Roads Committees (DRCs). The right to sit in the DRCs is given in that Act of Parliament. So, the time to have objected was when the Bill was being debated, but not after it became law. Once it became law, it was the business of the Government to enforce that Act and, in particular, it was the responsibility of the Minister for Finance to implement the provisions of the Act. The provisions of the Act required all the funds collected by way of Roads Maintenance Levy--- That is a tax measure in the Finance Bill, and it is a lot of money!

The Act requires that the Roads Maintenance Levy Fund be paid in total into a special account. Now, instead of doing that, the Ministry of Finance has gone paying that money, first, to the Ministry of Roads and Public Works, and some more money to the Ministry of Local Government. First of all, the Ministry of Local Government is not even one of the beneficiaries listed in the Act of Parliament. So, we have a situation here where the Minister for Finance is actually committing a criminal offence because the Act says that, if you do anything which is contrary to the provisions of the Act, you have committed a criminal offence. We have a case here where the Minister has paid money otherwise, than in accordance with the provisions of the Act, which is a criminal offence, for which he should be prosecuted. This is because the Act specifies the criminal offence.

Mr. Temporary Deputy Speaker, Sir, it is a serious matter because the Minister for Finance is a Member of this House and participated in the debate. It is he who should be responsible for observing the provisions of this Act and ensuring that all the money which is collected by way of Roads Maintenance Levy is paid into this specific account which was created under that Act of Parliament, in order for that money to be distributed and be spent specifically for roads maintenance. We spent many days at Safari Park Hotel debating this issue. It is one of the most noble ideas of a new style of management, that is participatory approach, where the grassroots people, their Members of Parliament and the leaders at the local level are involved in managing the funds and choosing which roads are to be repaired. This was an excellent, and remains an excellent, piece of legislation.

Mr. Temporary Deputy Speaker, Sir, however, leaving aside the brazen and blatant breaches in respect of which I ask you, if the authority of this House is going to be maintained, to must direct that from today, this Act, unless and until it is repealed or amended, must be obeyed. This Government, and in particular the Minister for Finance, must from today obey the provisions of this Act and must not pay another cent to the Ministry of Roads and Public Works or to the Ministry of Local Government. He must pay all that money to the account which was created under the Roads Board Act.

Now, the other very important matter is that the District Roads Committees have not been meeting because of this judgement by hon. Justice Kassanga Mulwa. Sooner than later, this House will need to debate the parameters of the *sub judice* rule because, quite often, we have seen that rule being misapplied and misinterpreted in this House; that just because a matter is in court, it cannot be discussed. A matter is only forbidden in terms of discussions if the discussions are saying how the case should be decided. However, in the other jurisdictions, people are entitled to discuss a matter which is in court as long as they are not saying how that matter should be decided; as long as they are not saying it is the applicant who should succeed, or it is the defendant, or the case should be dismissed. As long as they are not substituting themselves for the judge, they are entitled to discuss by way of enlightening. For example, the balance between Parliament and the Judiciary can be discussed in the context of a case which is in court.

All I am saying is that we need, perhaps, as this House, to discuss the parameters and boundaries of the *sub judice* rule. That is the extent to which this House can debate a matter even if it is in court. Secondly, if we are going to avert a major constitutional crisis in this country, we need to discuss and agree on the boundaries between the Legislature and the Judiciary. We cannot tolerate a situation where an Act of Parliament which is absolutely not unconstitutional, because it is not the judges who are lawyers since we went to the same law schools--- We cannot tolerate a situation where a judgement that is unsupported on any jurisprudential reasoning, declares an Act of Parliament unconstitutional.

We talk about separation of powers; that is, Executive, Legislature and Judiciary, but we have got a constitutional order in this country where the Executive is part of the Legislature. The President, his Cabinet and the Assistant Ministers are part of the Legislature. Where is the division of duties there? If we are going to adopt a new constitutional order, let us do so. Let us go to the American model, where the President and his Cabinet are not members of the Legislature. But here, the constitutional order that we have actually allows some overlapping, like the example I have just given. So, you cannot persuade any person who has been to any law school to hold an Act of Parliament unconstitutional; that because Members of Parliament are sitting on the District Roads

Committees that, that is overlapping jurisdiction and that they are being part of the Executive. That is not reasoning that is supportable on any theory of the law. In any case, no section of the Constitution was cited as the one being breached in terms of separation of powers.

Mr. Temporary Deputy Speaker, Sir, therefore, I am appealing to you that in order to get the District Roads Committees operational, the Minister should issue a Ministerial Statement clarifying that even as we wait for the final decision by the Court of Appeal, these District Roads Committees should begin to meet. As long as Members of Parliament are not chairing those Roads Boards and not having executive authority in terms of executing or implementing the decisions of those District Roads Committees, they can be members. This is because the ruling by the hon. Justice Mulwa does not prohibit Members of Parliament from being members of the District Roads Committees.

So, it is critically important that these District Roads Committees should commence sitting and that the Minister should disburse the money to the district to be divided to the constituencies, so that the members of those committees can begin to utilise that money on repairing the roads of their choice, because that is not in conflict with anything.

Really, truly, when Prof. Wangari Maathai goes to court to prevent the grabbing of land on Koinange Street, she is thrown out. She is told: "You have no *locus standi*." When Mr. John Harun Mwau goes to court to say that these District Roads Committees are unconstitutional, nobody tells him that he does not have a *locus standi*. He is heard and injunctions are issued. We need to have a balance. If the law is going to continue being respected; if judgements are going to continue being respected, they must be in accord with logic and ordinary common sense. This is because even no lawyers can see judgments that are not in accordance with the law and those that are not in truth delivering justice.

Mr. Temporary Deputy Speaker, Sir, as of 19th March, 2001, the Ministry of Finance had collected just under Kshs5.6 billion as Road Maintenance Levy. In fact, they had collected Kshs5,569,302,337.15. It is a lot of money that has been collected. If you are collecting this amount of money, we want the benefit to be seen by the people at the grassroots. In the past, this money has been collected and this Parliament has authorised the levy and its taxation. People have been taxed and when we are talking about Road Maintenance Levy, we add this money to the cost of fuel. When you raise the cost of fuel, you raise the cost of everything across the board. This is because even when the old *cucu* in *gichagi* goes to buy her salt or *kibiriti*, that salt or *kibiriti* has been taken to that far distant village shop by a vehicle which has used fuel. So, indirectly, she is paying and contributing to this tax on the Road Maintenance Levy. Once you raise tax on fuel, the cost of everything goes up, for example, the cost of manufacturing, travelling and transporting goods. It is of no use, for example, in this liberalised market to make platitudes; pleading with oil companies not to pass on the increment to the motorists; that it should be absorbed by oil companies. Why should the increment be absorbed by the oil companies, and yet this is a liberalised market? So, this is passed on to the consumer and the economy.

Mr. Temporary Deputy Speaker, Sir, we are saying that Kenyans are tightening their belts in order to pay these taxes. The very least they are entitled to is to see that money being spent legitimately for the maintenance of the roads. We do not want a situation whereby if you go to the books in the Ministry--- For example, I had a road between Thogoto and Karai in Kikuyu Constituency, and when I went to the books I found that they had shown that the previous year they had spent Kshs86 million on the road. But that money was only spent in the books and not on the ground. Such situations arise because decisions are made centrally by the Permanent Secretary, the Roads Engineer or somebody else in that Ministry. Things are done in a manner that is not transparent. One of the most important things about this Act is that it is bringing out transparency. If there is a particular constituency and the leaders there swindle that money, the local people will know, and they will be the first ones to complain.

So, we want this money to go to the districts, and then to the constituencies so that the local councillors and leaders in the dairy and coffee industries can sit together and decide the road that should be given the first priority. We have got many areas of the country where there are pathetic situations of pregnant women being carried on wheelbarrows to the nearest place where they can catch a *matatu* to hospital because the small roads in that village are impassable. We want the local community to decide that this is the road that is used most by the people, and it is the one that should be given the first priority.

I would like to plead with the Minister, that he issues a Ministerial Statement clarifying that the District Roads Committees have not been stopped from meeting despite there being a judgment by the hon. Justice Mulwa, the merits or demerits of it notwithstanding. Secondly, the District Roads Committees have not been prohibited from having hon. Members of Parliament as members. That judgement needs to be clarified so that the District Roads Boards can begin to meet, and hon. Members of Parliament can begin to participate as long as they do not chair them and carry out any executive functions.

This is important, and we hope that this is the last time that we will witness a situation where the

President makes some statements and a few days later, somebody rushes to court, and a judgement is made agreeing with what the President said. What inference is one supposed to make when a statement is made that hon. Members of Parliament should not do X,Y,Z, and within some few days, somebody rushes to court - this person is not even asked to establish his *locus standi* - and a judgement is made that agrees with what the President said? We hope that we will not see this undermining of the authority of Parliament ever again. I do hope that if it continues, an hon. Member of this House will bring a substantive Motion to discuss the particular judge who undermines the authority of this House.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I beg to support.

Mr. Khamasi: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving an opportunity to contribute to this Motion from this side of the House.

(Applause)

I think a lot has been said about this Motion, and it was unfortunate that---

Mr. Ochilo-Ayacko: On a point of order, Mr. Temporary Deputy Speaker, Sir. Whereas it was clarified that hon. Members can sit on either side of the House, I believe that when picking hon. Members to speak, if an hon. Member who ordinarily sits on that side has spoken--- If you gave a chance to an hon. Member who does not ordinarily sit on this side to contribute, it lessens our opportunity to contribute. Is it in order, therefore, to do that?

The Temporary Deputy Speaker (Mr. Muturi): But Mr. Khamasi caught the Speaker's eye!

Mr. Khamasi: Thank you very much, Mr. Temporary Deputy Speaker, Sir.

Mr. Kanyauchi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think we need the Chair's ruling on this issue. We have a tradition where hon. Members speak alternately. When an hon. Member on that side of the House has spoken, an hon. Member from this side of the House is given a chance to contribute. I think it will be taking this side too far if hon. Members were to cross sides just for purposes of contributing. Really, it will not work. Hon. Members are allowed to cross over the Floor for purposes of consultations, and not for purposes of contribution. Surely, we need the Chair's guidance on this issue.

Mr. Angwenyi: I thought KANU should complain and not NDP!

(Laughter)

Mr. Khamasi: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I thought that the Chair made a very researched ruling about this matter, and I think you are within your rights to allow me to contribute from this side of the House because I am a Back-bencher.

I was saying that this Motion generates a lot of heat and anger when we contribute to it. This is because this was a Bill which was passed by this House, got Presidential Assent and it is the Government that is actually disobeying its laws. It is very unfortunate! The little money that has been collected by the Treasury, which has got to be disbursed in accordance with the provisions of the Act, has gone to quarters that are not provided for in the law. I would like to say that 21 per cent of this money has gone to local authorities, which, in addition to this money, charge cess on various crops, like tea, coffee and pyrethrum. Where does all this money go to?

A road is the heart of any business. Without a road, you cannot talk about any development. What type of development are we talking about if we cannot look after our roads? In my constituency - Shinyalu - I am unable to get to my homestead because the roads in that place are completely impassable now that it is raining heavily in that area. I wanted to contribute when the Accounting Officer of this Ministry was here, but for one reason or the other, he took off. We wonder what sort of order this Accounting Officer gives to public works officers, district works officers and roads engineers. The little money, which is about 7 per cent, that has been disbursed to the districts has been left in the hands of these officers, who work in the same way they have been working since time immemorial. There is no consultation whatsoever with hon. Members of Parliament. They do not consult councillors at any stage; they do a bit of grading to a road which comes to their mind, or they do about half a kilometre of a road, withdraw the equipment and, at the end of the day, say that they have used all the funds.

Mr. Temporary Deputy Speaker, Sir, we have to address the issue of maintaining equipment. We have got equipment in districts and provinces which broke down about 20 years or 15 years ago. Part of the money that has been sent to the districts has been used to repair graders, bulldozers, and so on. One of the biggest conduits

through which money is stolen is through repair of equipment. The repair of equipment is the killer. I want to challenge the Minister to do any study and find out how much money has gone into repair of equipment. A small mechanical breakdown will take millions and millions of shillings and that equipment will not come to the road. Roads are only made in areas that have Ministers, if there is even any gravel. There is one specific example in Western Province, where we know that if there is a Minister in that area, you will find either a road being gravelled or some bit of tarmac being put by Singh, which peels off in the next one-and-half years. There are very classic examples to that. The fact that money goes to the districts and is left completely at the mercy of these officers - the District Works Officers and the District Works Engineers - does not necessarily mean that there are proper checks on how it is being utilised.

Mr. Temporary Deputy Speaker, Sir, I want to support this Report very strongly. One of the things which this House must address is what should happen if any person applies this money incorrectly. This money has been applied wrongly by the Treasury. It is high time this House resolved that the person who applies this money wrongly should be charged because he has committed an offence. It is, indeed, appropriate that the Permanent Secretary, Treasury, must be called upon by the Committee concerned and be grilled to show cause as to why he should not be penalised for applying these funds wrongly. I suggest that from now on, any funds coming from the Fuel Levy Fund should be monitored very closely to an extent whereby every Member of Parliament must be put into the picture about what is going on in that particular constituency. We would like the Permanent Secretary in this Ministry to be very strict with this money.

The Assistant Minister, Office of the President (Mr. Gumo): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Member for Shinyalu, who is a FORD(K) Member, to contribute from this side, instead of the other side?

The Temporary Deputy Speaker (Mr. Muturi): Continue, Mr. Khamasi!

Mr. Khamasi: Mr. Temporary Deputy Speaker, Sir, this is the problem you have on this side of the House, where Members who have come late do not know what is going on. They even do not follow the Speaker's ruling on matters that go on in this House. This is the type of Members who sit on this side!

(Laughter)

The Assistant Minister, Office of the President (Mr. Gumo): On a point of order, Mr. Temporary Deputy Speaker, Sir. Could you make a ruling on that issue?

The Temporary Deputy Speaker (Mr. Muturi): I have already ruled on the matter.

Mr. Khamasi: Mr. Temporary Deputy Speaker, Sir, I need your protection, otherwise, I will be hit as is usual by "*Jeshi la Mzee*"!

(Laughter)

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear hon. Khamasi say that he was afraid he would be hit as is usual? Was he implying that Mr. Gumo usually hits him? Is he not imputing improper motives on Mr. Gumo?

The Temporary Deputy Speaker (Mr. Muturi): No, he did not mean that. Proceed, Mr. Khamasi!

The Assistant Minister, Office of the President (Mr. Gumo): On a point of order, Mr. Temporary Deputy Speaker, Sir. I demand that he withdraws that statement. I do not hit anybody.

The Temporary Deputy Speaker (Mr. Muturi): There have not been any allegations that Mr. Gumo hits anybody.

Mr. Khamasi: Mr. Temporary Deputy Speaker, Sir, it is now more than one-and-half years since this Act came into being, and as we are speaking now, we do not have the Chief Executive of this Board as was supposed to be the case. One wonders, with all the engineers we have got in this Ministry and elsewhere in this country, would it take all this length of time for this country to get anybody who can head this Board? This morning, we had a Question here and we were assured that in the course of this month, they are going to appoint a Chief Executive of the Board. We do believe that this will be done. We want to see it as soon as possible because it looked to be the hinderance. It is high time it was done so that we can have this Board going.

It is of paramount importance that any monies that have been wrongly applied must be refunded to the right place. I urge the persons who are responsible to make sure that if it is the local authority which has been given this money wrongfully, it must be returned to the Board so that it can apply it in the proper manner.

Otherwise, it is wrong for us to enact laws which cannot be obeyed. We will look a useless Parliament that enacts laws which cannot be applied. Who is breaking these laws? It is the Government of this country. The Government breaks its own laws, which it enacts in this House. It is high time that we moved fast so that our roads can be looked after, and until we do that, we shall be wasting our time here talking and doing nothing.

With those few remarks, I beg to support.

Mr. Murungi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to make a few comments regarding this Motion.

Capt. Ntwiga: On a point of order, Mr. Temporary Deputy Speaker, Sir. Since the National Development Party (NDP) crossed the Floor, it should not be usual for you to be alternating the speakers in this House because there is no equilibrium any longer. For that matter, you should consider the fact that we are more on this side than the other side.

Mr. N. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. Since a number of us have deliberated over this issue since it came to the Floor, could we call upon the Mover to reply?

Hon. Members: Yes! Put the Question!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, the issue of roads is so important as far as the economy is concerned. We would like to be able to discuss this issue.

Hon. Members: Put the Question!

The Temporary Deputy Speaker (Mr. Muturi): Order! Order, hon. Members!

Hon. Members: Put the Question!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): We want to discuss this matter!

The Temporary Deputy Speaker (Mr. Muturi): Order! Order, hon. Members! The point raised will be considered after we have heard from Mr. Murungi.

Continue!

Mr. Murungi: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to be very brief. I only want to make one suggestion. I was in court when this ruling was made and the court said that Section 17 of the Kenya Roads Board Act was unconstitutional in so far as Members of Parliament exercised executive functions.

Mr. N. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. You did not give a ruling to what I have asked, that the Mover be called upon to reply.

The Temporary Deputy Speaker (Mr. Muturi): I made a ruling!

Mr. N. Nyagah: It does appear that the Vice-President and Minister for Home Affairs is the one who is ruling this House.

The Vice-President and Minister for Home Affairs (Prof. Saitoti): I am not the Chair---

Hon. Members: Sit down!

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, we are calling upon the Minister to issue a circular which clarifies that Members of Parliament are still members of the District Roads Committees, so long as they sit there as *ex-officio* members and they do not exercise any executive functions. This will enable us to monitor how the funds from the Roads Maintenance Levy are being spent at the district level.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Muturi): Proceed, Mr. Keah!

Mr. Murathe: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is the tradition of this House for the Chair to put the Question when an hon. Member moves that the Mover be called upon to reply. You promised to put the Question after Mr. Murungi had spoken. You must be consistent in your rulings!

The Temporary Deputy Speaker (Mr. Muturi): Let us hear the views of other hon. Members first.

The Assistant Minister for Transport and Communications (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion.

Hon. Members: Just put the Question!

The Temporary Deputy Speaker (Mr. Muturi): Hon. Members, the Chair is not bound to put the Question.

Hon. Members: But you have ruled!

The Temporary Deputy Speaker (Mr. Muturi): I ruled that I would make a decision after hearing the contribution of Mr. Murungi. Now, my decision is that debate on this Motion should continue.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I beg to move that the Mover be now called upon to reply.

(Applause)

Hon. Members: Yes! Put the Question now!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. Honestly, you cannot be directed on what to do by hon. Members.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Muturi): Order! Order! Hon. Members, I have already made a ruling on this matter.

An hon. Member: No! Make another ruling!

The Temporary Deputy Speaker (Mr. Muturi): Order! I have ruled that debate on the Motion shall continue for the time being; I am not bound to put the Question.

Proceed, Mr. Keah!

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

The Temporary Deputy Speaker (Mr. Muturi): No! Not on the same issue. Proceed, Mr. Keah!

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I do not understand why hon. Members are agitated by this Motion when it is clear and straightforward that---

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek your guidance. The practice of this House has always been that, whether the Question will be put or not, the Chair takes into account the mood of the House. The mood of this House now is that the Question should be put.

An hon. Member: Correct!

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, in contributing to this Motion, I would like to make the following observations.

Hon. Members: No! No!

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, first of all, I would like to congratulate the Members of the Departmental Committee on Energy, Communications and Public Works for the good work they have done in preparing this Report.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Muturi): Order! Order! Hon. Members, the ruling I have made is based on due consideration of all matters the Chair must take into account. Among those matters is the mood of the House. Having considered the mood of the House, the Chair ruled that we hear a few more hon. Members on this debate.

Hon. Members: No! No way!

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to congratulate the Members of the Departmental Committee on Energy, Communications and Public Works for the manner in which they have addressed the issue at hand.

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, I wish you could hear these words of wisdom.

Hon. Members: On a point of order!

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I recognise the Committee's recommendations, which appear at the end of the Report. However, I would like to---

Hon. Members: On a point of order! On a point of order! On a point of order!

The Temporary Deputy Speaker (Mr. Muturi): Order! Order! Hon. Members, since Mr. Keah already has the Floor, let us hear him.

Hon. Members: No way!

The Temporary Deputy Speaker (Mr. Muturi): The Chair will make a decision after reading the mood of the House sufficiently.

Proceed, Mr. Keah!

The Assistant Minister for Transport and Communications (Mr. Keah): Hon. Members, please, give me a chance to contribute to this debate.

Hon. Members: No way! On a point of order! On a point of order! On a point of order!

The Assistant Minister for Transport and Communications (Mr. Keah): Hon. Members, this does not do us any good. Really, you are lowering the dignity of this House. The Chair has made a ruling. It is important that we respect the Chair.

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, the roads in this country require rehabilitation. When we---

The Temporary Deputy Speaker (Mr. Muturi): Order! Order, hon. Members!

*[The Temporary Deputy Speaker
(Mr. Muturi) consulted with the
Clerk-at-the Table (Mr. Werunga)]*

Hon. Members: Werunga must go! Werunga must go! Werunga must go!

The Temporary Deputy Speaker (Mr. Muturi): Order! Order, hon. Members! It behoves each one of you to uphold the dignity of this House!

An hon. Member: Correct!

The Temporary Deputy Speaker (Mr. Muturi): And unnecessary shouting at the hon. Member on the Floor is one way of lowering the dignity of this House!

An hon. Member: What is your point?

The Temporary Deputy Speaker (Mr. Muturi): The Chair has already ruled that hon. Keah, who is already on the Floor, shall finish his contribution. We have not even heard the Minister respond to this debate. The Mover will reply after the Minister responds. So, for the time being, let Mr. Keah continue with his contribution.

Hon. Members: No way!

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I would like to make a few brief comments on the condition of roads in this country.

Hon. Members: On a point of order! On a point of order! On a point of order!

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, since Independence, the system of upgrading roads in this country has not been effective. So, I would like to call upon the Ministry's roads engineers to ensure that roads are upgraded systematically throughout the country. There is a procedure in this country where roads are allocated funds only when they have a number. This system of numbering or upgrading roads collapsed a long time ago. It is important that this issue is taken seriously by all hon. Members.

Mr. Munyao: On a point of order, Mr. Temporary Deputy Speaker, Sir. I beg the Chair to listen to me for one minute. We have seen hon. Members in Parliaments of the world fighting each other because of undue rulings by the Chair. I plead with the Chair to listen to the whims and will of the House. This House wants the Chair to put the Question. For heaven's sake, let us strive to maintain the dignity of this House. We respect the Chair and we expect it to reciprocate because we want to put this matter to rest once and for all. Please, do not just listen to the hon. Leader of Government Business because he is serving a different master. The Chair should serve this House. The Leader of Government Business is not serving this House, but he is serving one individual elsewhere. Please, let us all serve Kenyans. Therefore, I beg the Chair to put the Question.

The Vice-President and Minister for Home Affairs (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member has imputed improper motives.

An hon. Member: That is true!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, hon. Members do not shout at each other, but they listen to each other. I believe all of us are equal in the eyes of this House. Every hon. Member has a right to contribute in this House. Therefore, I should not be muzzled. The Chair has made a ruling that Mr. Keah should finish his contribution. The important thing here is that the Chair's ruling should be respected.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Muturi): Order! Order! Hon. Members, in making decisions the Chair must consider the mood of the House. If we cannot conduct the business before us, then we are not making any progress, but we are lowering the dignity of this House. To avoid that dignity being lowered, the Chair now rules that the Mover be called upon to reply.

(Applause)

The Minister for Roads and Public Works (Mr. W.C. Morogo): On a point of order, Mr. Temporary Deputy Speaker, Sir. If this House is serious, it should have given an opportunity to the Minister to respond. This is very wrong!

Mr. Mbela: Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me the chance to reply. The Minister who is protesting has had several opportunities to respond to this debate. However, he was actually hiding away from this House, so that he does not have to commit himself. That being the case, he has no *locus standi* to protest in this House that he was not given a chance to respond. He is treating this House with contempt. When he was given the chance to respond, he actually went into hiding and he had to be pulled out from there.

Mr. Temporary Deputy Speaker, Sir, I am asking this House: Do you want your money to go to the Ministry or would you like it to go to the constituencies?

Hon. Members: Let it come to the constituencies!

Mr. Mbela: Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to move.

(Applause)

An hon. Member: But the Minister has the right to respond!

The Temporary Deputy Speaker (Mr. Muturi): Order! I believe all of you have looked at the Standing Orders carefully. There is no obligation for the Chair to call upon the Minister to respond. The Minister is, at all times, entitled to [**The Temporary Deputy Speaker**] respond and give his position during the debate. Therefore, I will proceed now to put the Question.

(Question put and agreed to)

The Vice-President and Minister for Home Affairs (Prof. Saitoti): On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek your guidance on this matter. Should an hon. Member be denied an opportunity to contribute? We need a ruling to that effect because we cannot run the business of this House through dictatorship. I want guidance on that!

The Temporary Deputy Speaker (Mr. Muturi): Order! Hon. Members, I do not think I need to repeat what has been ruled on in the past, that, whereas the majority will have their way, the minority will also have their say. Therefore, in keeping with that, even those that are considered to be the minority should be given their say, so that nobody feels that they have been denied an opportunity to ventilate their opinions.

The Assistant Minister for Transport and Communications (Mr. Keah): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do respect the ruling the Chair has made, that the minority be given an opportunity to be heard. When I was on the Floor, as a representative of the minority, I was not given the opportunity to be heard. I had not even said what I wanted to say on this Motion. Is it fair that I was not given a chance to be heard?

The Temporary Deputy Speaker (Mr. Muturi): Order! Order, hon. Members! That business has already been concluded and it cannot be re-opened, whether by way of points of order, points of information or otherwise. We are now moving on to Zero-Hour Statements.

MEMBERS' HALF-HOUR STATEMENTS

RELEASE OF MR. KISILU

Mr. Muchiri : On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to express the gratitude

of the people of Kenya to the Office of the President for heeding the prayers, requests and the wishes of many Kenyans who have been campaigning for the release of Mr. Kisilu Mutua, the longest-serving prisoner, whose continued imprisonment amounted to cruel and unusual punishment, given his age and the period he served in prison, following his conviction for the murder Pio Gama Pinto. I also want to express gratitude to the Attorney-General for keeping his word that the Kenyan Government intended to release Mr. Kisilu.

INSECURITY IN KARIOBANGI

Mr. Temporary Deputy Speaker, Sir, for the last three weeks, the residents of Korogocho, Kariobangi North, Ngomongo Village and Kariobangi Light Industries have been undergoing sleepless nights due to criminal activities by well-known persons who reside in Korogocho and whom the Government is aware of. Could the Minister issue a Ministerial Statement as to why those persons have not been arrested and prosecuted for the crimes they have committed and which have been reported to the police? Could the Minister of State, Office of the President, in charge of Internal Security, issue a statement on the issue?

COMPENSATION FOR MR. KISILU

Mr. Munyao: On a point of order, Mr. Temporary Deputy Speaker, Sir. In addition to that, although Mr. Kisilu has been released, up to now he still says that he has been a victim of confusion because he was not really the person who murdered Pio Gama Pinto, and yet he spent 35 years in prison. We call upon the Government to consider compensating this individual. We should be told the person who actually killed Pio Gama Pinto, who was a national figure.

Mr. Ndilinge: On a point of order, Mr. Temporary Deputy Speaker, Sir. I just want to thank his Excellency the President for having seen that the time had come for the release of Mr. Kisilu and others. Actually, Mr. Kisilu's release was overdue. I just want to thank His Excellency the President for releasing Mr. Kisilu and the other eight convicts, and also urge the Ukambani leaders to make sure that the remaining life of Mr. Kisilu is not ruined. So, there is need for Mr. Munyao, Mr. Ndilinge and others to meet and see how Mr. Kisilu would spend the rest of his life.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Muturi): Order! Hon. Members, there being no other business, it is time for the interruption business. The House, therefore, stands adjourned until Tuesday, 10th July, at 2.30 p.m.

The House rose at 5.35 p.m.