

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 27th October, 1998

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.627

DISCRIMINATION AGAINST BAJUNIS

Mr. Kajembe, on behalf of **Mr. Hashim**, asked the Minister of State, Office of the President, to inform the House why the Bajunis are being discriminated against by the Department of Immigration when they are applying for passports and other related documents.

The Assistant Minister, Office of the President (Mr. Choge): Mr. Speaker, Sir, I beg to reply. The Department of Immigration does not discriminate against any person or persons on the basis of ethnic or religious background in the issuance of Kenyan passports. Any applicant for a passport or related documents must satisfy the Department that he is a Kenyan citizen and that he has a valid or legitimate reason to hold a passport.

Mr. Raila: Mr. Speaker, Sir, the Assistant Minister needs to explain to this House why Somalis, Bajunis and Nubians have difficulties in obtaining passports, if it is not on religious grounds. It happens that Nubians, Somalis and Bajunis are Muslims also. I want to put it to the Assistant Minister that, indeed, there is discrimination, not on ethnic, but on religious grounds.

Mr. Choge: Mr. Speaker, Sir, that is not true. The hon. Member cannot substantiate that in this House; he cannot give an example of a person who applied for a Kenyan passport and was denied one on the basis of religion.

Mr. Raila: On a point of order, Mr. Speaker, Sir. I represent Langata Constituency where a majority of the Nubians in Nairobi live. I know for a fact, and this cannot be disputed, that Nubians in this town, who are darker than myself in complexion, have difficulties in obtaining passports. Is he in order to mislead the House?

Mr. Speaker: Actually, you are not in order. That is an argument, hon. Raila!

(Laughter)

Mr. Shidiye: Mr. Speaker, Sir, the Department of Immigration is the most corrupt department in this Republic. I say so because Somalis, Bajunis and Swahilis suffer most when they want to be issued with passports.

When they apply for passports, they are required to furnish the Department with so many documents such as verification card, PIN card, identity card and so on. It becomes so difficult for them to get a passport. Could the Assistant Minister decentralise the issuance of passports to the district or province level so that Kenyans could get this document with ease? Otherwise, to get this document in Nyayo House is the most difficult thing in this country. Students have lost their scholarships and many Kenyans have failed to travel---

Mr. Speaker: Very well, Mr. Shidiye.

Mr. Choge: Mr. Speaker, Sir, we have no plans yet to decentralise the issuance of passports. If a Kenyan wants to be issued with a passport, he has to produce an identity card and a birth certificate. The Somalis and Bajunis look like any other Somali from Somaliland. We cannot just be issuing passports to Kenyans without them producing birth certificates and identity cards.

Mr. Shidiye: On a point of order, Mr. Speaker, Sir. There are Maasais in Tanzania and Karamajongs and Pokots in Uganda. The Assistant Minister is misleading us because we are all Kenyan Somalis. There is nothing peculiar about Somalis of Kenyan origin.

Mr. Choge: Mr. Speaker, Sir, if I want a passport today, I have to produce a birth certificate and an

identity card. If the Bajunis fail to get identity cards or birth certificates, then they cannot be issued with passports.

Mr. Kajembe: Mr. Speaker, Sir, the Department of Immigration in Mombasa does not issue passports to Bajunis. They are required to produce birth certificates of their parents, grand parents and forefathers. Is the Assistant Minister aware that Bajunis and Swahilis are denied their right to obtain passports by the Department of Immigration?

Mr. Choge: Mr. Speaker, Sir, that question will be best answered if the hon. Member can substantiate.

Mr. Maore: Mr. Speaker, Sir, the Assistant Minister has enumerated requirements for one to get a passport.

Mr. Michuki: On a point of order, Mr. Speaker, Sir. Hon. Shidiye has made a very serious allegation in this House. He has said that the Department of Immigration is the most corrupt department in this Republic. Could he substantiate that or withdraw?

Mr. Speaker: Mr. Michuki, what do you want him to do? We suspend Question Time, and the other Business of the House?

Mr. Maore: Mr. Speaker, Sir, it is true because in corruption transactions there are no receipts issued. Could the Assistant Minister state before this House and the country that the Department of Immigration, apart from the legally stated requirements for one to produce an identity card, birth certificate and other related documents, that the question of money or bank statements should not be used as the criteria on which a Kenyan citizen gets a passport?

Mr. Choge: Mr. Speaker, Sir, I am not aware of any other money apart from the required fee for one to be issued with a passport.

Mr. Maitha: Mr. Speaker, Sir, I am the most affected hon. Member about the plight of Bajunis because I represent them in this House. In 1968, the Government appointed a committee of Bajuni elders to vet the true Bajunis, Somalis and other tribes so that they could be issued with identity cards and passports. I have a letter here from the late Ngala and I want to table it.

Mr. Speaker: Mr. Maitha, I give you two seconds to ask your question.

Mr. Maitha: Mr. Speaker, Sir, there was a committee appointed by the Government to vet Bajunis and Somalis in order for them to be issued with identity cards, birth certificates, employment and so on. This committee was set up by his Excellency the President Daniel arap Moi. There is a letter here from the late hon. Ronald Ngala. Why did the Government abolish that committee? I wish to table this document.

(Mr. Maitha laid the document on the Table)

Mr. Choge: Mr. Speaker, Sir, first of all I am not aware of what hon. Maitha has raised. Secondly, he is trying to raise an old case right now in this House. I would like to repeat that there is resemblance between the Somalis and the Bajunis in Kenya and the people of Somaliland. The Government has to get the birth certificates and the national identity cards to prove beyond reasonable doubt that they are Kenyans.

Hon. Members: On points of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Order, all of you! The amount of heat which is generated by the issue of passports here is probably generating the same amount of heat at the Immigration Department. Next Question! Hon. Anyona!

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

(Mr. Maitha stood up in his place)

Mr. Speaker: Hon. Maitha, you are out of order. Order, hon. Maitha!

Question No.423

NON-REGISTRATION OF KCSE CANDIDATE

Mr. Anyona asked the Minister for Education and Human Resource Development:-

(a) whether he is aware that Mr. Eric Ongori Momanyi joined Form I at Nyambaria Secondary School in Kitutu Masaba in 1995 vide admission No.1968;

(b) whether he is further aware that Eric Ongori Momanyi was not registered for the 1998 KCSE

despite the fact that he was given index No.706402/044 by the Kenya National Examinations Council (KNEC) and;

(c) if the answers to (a) and (b) are in the affirmative, whether he could urgently investigate this case and ensure that the prospective candidate is duly registered for the examination.

The Minister for Education and Human Resource Development (Mr. Musyoka): Mr. Speaker, Sir, I beg to reply.

(a) I am aware. The student, Eric Ongori Momanyi, was, however, given admission No.9868 at Nyambaria Secondary School and not 1968.

(b) Mr. Eric O. Momanyi was not registered for the 1998 KCSE examination and KNEC did not assign him index No.706402/044.

(c) The Student, Eric O. Momanyi, did not pay KCSE examination registration fee and his whereabouts have been unknown to the school administration since 23rd March, 1998.

Mr. Anyona: Mr. Speaker, Sir, I would like to insist that the index number I have put in the Question is the one that I was given by the parents of this child. I am more inclined to believe the parents than the confusion in the corridors of the Ministry of Education and Human Resource Development. Having said that, I would like the Minister to confirm or deny that on 19th May, 1998, the father of this child, Mr. James Momanyi Mogire, did write to the Director of Education and brought out the facts that I have set out in the Question. The letter was also copied to the Provincial Director of Education, the District Education Officer and myself. I received my copy on 13th June, 1998 and that is when I submitted this Question. Could he deny or confirm that? If he confirms the matter, what will happen? I have a letter here which I intend to table before this House.

Mr. Musyoka: Mr. Speaker, Sir, I definitely deny that there is confusion in the corridors of my Ministry. Secondly, I deny any knowledge whatsoever that this parent wrote to the Director of Education. The Hon. Member is a very good friend of mine. He knows that we could still sit in my office and come up with an amicable solution to this matter, and report the same to this House because it is now the property of this House.

Mr. Anyona: Mr. Speaker, Sir, this is a very serious matter where a child has been deprived of an opportunity to sit for an examination of his life time. I would not like to play any little games over this issue. Here is the letter which the parent wrote to the Director of Education. I do not want to read it because it will take too much time of this House. It is quite clear that the father of Eric wrote to the Director of Education, and yet the Minister says that he is not aware of it. Does that not deepen the story of the confusion in the corridors of the Ministry of Education and Human Resource Development? In view of the Minister's response, would I, with your indulgence, request that the Question be deferred until the Minister studies this letter and comes with a proper answer.

Mr. Speaker: You table it first.

(Hon. Anyona tabled the letter)

Mr. Musyoka: On a point of order, Mr. Speaker, Sir. I thought that deferring this Question will certainly work injustice with regard to the examination status of this particular candidate. However, I am willing to abide by the Chair's ruling. I invite the hon. Member to my officer as it is normally the practice between the two of us.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: The Question is deferred for now.

(Question deferred)

Question No.039

PAYMENT OF CESS BY TOBACCO COMPANIES

Mr. Onyango asked the Minister for Local Authorities:-

(a) how much cess was paid by BAT Ltd and Mastermind tobacco (K) Ltd to Migori County Council during the year 1993, 1994, 1995, 1996 and 1997 and;

(b) how was the money utilised.

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

(a) The County Council of Migori was paid cess by BAT and Mastermind tobacco (K) Ltd during the years 1993, 1994, 1995, 1996 and 1997 as follows:-

BATYEARAMOUNT (Kshs)

1993/94	713,913.20
1994/95	<u>782,384.70</u>
Total _	<u>1,496,297.90</u>

MastermindYEARAMOUNT (Kshs)

(K) Ltd

1993/94	-
1994/95	<u>451,119.90</u>

Total	<u>451,119.90</u>
Grand Total	1,947,417.80

(b) These funds were utilised as follows:-

Road repairs and Maintenance	Kshs984,397.25
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Repairs and maintenance of grader GK K.803	Kshs480,000.00
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Administrative expenses, salaries and wages	<u>Kshs483,020.55</u>
Total	Kshs1,947,417.80

Further more, the roads that were repaired included Stela-Sibuoche, Oyani-Bware, Onyani-Kamugo Olela and Kakrao-Ogwedhi Roads. As of 9.00 a.m. this morning the Ministry had not received the details for the years 1996/97. The Ministry is working very hard to get the latest statistics with respect to the payments made and how they were utilised.

Thank you.

Mr. Onyango: It is a pity that the Assistant Minister is accepting that he has not answered the Question the way it was asked. The Question requires details from 1993 upto 1997. All the same, could the Assistant Minister tell this House the people who were paid this money. As far as I am concerned, salaries and wages were supposed to be paid by the Ministry and not from the cess money? Could he tell us the people who were paid those salaries and wages?

Mr. Mwakalu: I am at a loss to give you a list of persons who were paid salaries and wages for that corresponding period due to the fact that the 'co-operation' was not intended to come up with suggested issues such as detailing names and lists of wages and salaries. But if that is what you intend to get from us, you could as well put another question which we will be able to reply. It is too long a period from 1992 up to now to demand a list of salaries and wages. Can you tell us what your motive is?

Mr. Nyauchi: The hon. Member has asked a question which was basically this: Why was that money used to pay salaries of the employees of the county council when salaries ought to have been paid by the Ministry of Local Authorities?

Mr. Mwakalu: It is not the tradition nor the duty of the Ministry of Local Authorities, up to now, to pay those salaries. But should the need arise that we pay salaries since there is a Motion on the way coming to request the Ministry of Local Authorities and the central Government to try and help in paying the salaries of these people, if that Motion is passed by this Parliament, I think we will be obliged to do exactly what we are saying.

Dr. Omamo: Mr. Speaker Sir, since tobacco is an important cultural plant its cultivation should be encouraged in this area. Could the Assistant Minister tell the House how much of this cess money was used for the promotion of tobacco production?

Mr. Mwakalu: I am at a loss because I am not able to provide hon. Omamo with the specific statistics on this issue. What I can assure him is that the tobacco company does help to supplement the activities for tobacco growing. There is a lot of input from the BAT to the local farmers in assisting them to mature the crop and market it in that order.

COMPLETION OF GARISSA WATER SUPPLY PROJECT

Mr. Shill asked the Minister for Water Resources:-

- (a) when Garissa Water Supply project that stalled in 1991 will be revived; and,
- (b) what urgent measures he is taking to ensure that Garissa residents are supplied with safe clean drinking water.

The Assistant Minister for Water Resources (Mr. Mokku): Mr. Speaker, Sir, I beg to reply.

(a) Construction work on Garissa Water Supply project will be revived as soon as the Government concludes on going negotiations with a development partner on its financial arrangements.

(b) My Ministry intends to take three urgent measures to ensure that Garissa Residents are supplied with additional safe and clean drinking water as follows:-

1. Increasing the production capacity of Garissa water supply by 1200m cubic of water per day from five proposed boreholes.
2. Sinking and equipping seven shallow wells in the in the township with hand pumps.
3. Boosting the output of Garissa water supply by carrying out repairs on the damage occasioned by the recent *El Nino* rains at a cost of Kshs15 million.

Mr. Shill: The Assistant Minister is misleading the House because for one thing Garissa lies on the bank of Tana River and it has suffered for a long time. Many people are suffering from water borne diseases. The fact is that there is no ongoing negotiations because the developing partner is Saudi Arabia which say that unless the water project in Mombasa is completed, they will offer nothing for Garissa Water project. Could the Assistant Minister, therefore, tell us what plans the Government of Kenya has for that water project instead of going to beg money from Saudi Arabia?

Mr. Mokku: Mr. Speaker, Sir, to begin with the hon. Member seems to know the partner in this project. It is true that the Government is negotiating with Saudi Fund for Development. And it is true that one of the conditions is that the Government must first release some money to Mombasa Water Project, of which it has done. As I am speaking, the Ministry and that donor partner have reached an agreement with Saudi Fund for Development for a loan of Kshs510 million. So, I think that project is in the right hands and it is progressing well.

Mr. Otula: Can the Assistant Minister tell this House clearly the total amount of money which the Ministry has released when they are negotiating with Saudi Arabia to facilitate this particular project? How much has the Ministry set aside for this particular water supply?

Mr. Mokku: Under the *El Nino* Programme we have set aside Kshs15 million in order to equip shallow wells and sink the five proposed boreholes; we intend to spend at the rate of Kshs3 million per borehole. Before this project stalled way back in January 1995, there was an ongoing project by the Ministry of which Kshs90 million was spent on some parts of that project in that district.

Mr. Shidie: Mr. Speaker, Sir, Garissa is barely 500 metres from the river. Due to lack of clean water many people are dying of dysentery and typhoid. We want an assurance from the Assistant Minister as to when they expect to complete that water project in Mombasa because it is after that when Saudi Arabia is going to release the funds. At the moment we are using donkeys to fetch water. There is nothing like the Ministry of water there.

Mr. Mokku: Mr. Speaker, Sir, it seems that the hon. Member is asking the same question that has been asked by the other Member. To begin with, I agree totally with the hon. Members that there is an urgent need for clean water in Garissa. It is true as I have said earlier, January 1995 there was a project on which the Ministry had spent up to Kshs90 million. As of now we intend to take immediate measures as I have told the hon. Member about the proposed five boreholes and the seven shallow boreholes, actually while we are waiting for those funds of which negotiations are going on. I am sure with regard to that project we will get that funding. In order to show the hon. Members how serious the Ministry is with the project, the hon. Minister for Water Resources intends to visit Garissa to see these projects by the end of next month.

Mr. Shill: Mr. Speaker, Sir, the Assistant Minister told us that there is around Kshs15 million on *El Nino*. I am aware that funds were given by the World Bank through other Ministries. Could the Assistant Minister for Water Resources tell us how much money, as a matter of urgent measures, he has kept aside for the people of Garissa? Now that the Assistant Minister has made it public that he is going to Garissa, we shall give him contaminated water to drink. Could he answer that question?

Mr. Mokku: Mr. Speaker, Sir, what we shall drink there is not a bother. As regard the contribution of the Minister of Water Resources in Question No.3, in his initial question, the hon. Member has not asked me to be specific in that. If he wants a specific contribution from the Ministry, as regards the amount of Kshs15 million,

he will get it at a later date.

Question No.314

ITEMIZATION OF BILLS BY KPTC

Mr. Maore asked the Minister for Transport and Communications why the Kenya Posts and Telecommunications Corporation (KPTC) declined to adopt a system of itemising its bills per call detailing trunk call number dialled, duration of the call and charges arising thereof.

The Assistant Minister for Transport and Communications (Mr. Obure): Mr. Speaker, Sir, I beg to reply.

The KPTC has not in any way, declined to adopt a system of itemising call details for each telephone call made. International self dialling or operator assisted calls are fully itemised. Plans are right now underway to use such technology, which will enable the Corporation to fully itemise the remaining types of calls which are self dialled, including local trunk calls and operator assisted calls.

Mr. Maore: Mr. Speaker, Sir, can the Assistant Minister state when he is going to tell KPTC to start itemising local STD calls because this is how the many executives in this Corporation have become billionaires through fictitious billing. They gave AT&T consultancy and paid hundreds of millions of shillings in the contract for them to get the package of how they should itemise all the local calls. It is facing a lot of resistance in the Corporation because of the money involved in stealing by the Corporation's executives.

Mr. Obure: Mr. Speaker, Sir, I appreciate the concern expressed by the hon. Member for Ntonyiri. We are also concerned and, in fact, we would like to assist all subscribers to be able to control their usage of telephones and to reduce the expenditure by precisely identifying the kind of calls that they make, to who and at what cost. So, at the moment, most of the exchanges around the country, particularly in the rural areas are analogue exchanges. We are in the process of digitalizing most of the exchanges, so that we can introduce this technology under which we can be able to itemise telephone calls made. This is a very expensive programme as you will appreciate, but we have embarked on a gradual programme to digitalize the telephone exchanges. So, in a little while, we expect that we should be fully digitalized.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. I beg your indulgence to allow me to ask a question on this. It is very dear to my heart.

Mr. Speaker: How dear to your heart?

Dr. Ochuodho: Very dear, Mr. Speaker, Sir.

Mr. Speaker: Anyway, it cannot be nearer than Mr. Maoka Maore to the microphone! So, can we listen to Mr. Maore first? I am sure your heart will not stop.

Dr. Ochuodho. No problem, Mr. Speaker, Sir. I will oblige.

Mr. Maore: Mr. Speaker, Sir, the Assistant Minister has been very good in giving very nice sentiments.

But I was asking when the Assistant Minister can put his foot down and require the KPTC to start immediately itemising the local STDs, so that they can stop stealing from the customers. This is because that is what they are doing.

Mr. Obure: Mr. Speaker, Sir, we agreed and think that it is a good thing to itemise telephone calls made by the subscribers. We will assist them to do so. As I said, it is a very expensive process, but we have made budgetary provisions for this to be done. We have given instructions to the KPTC to start doing that on a gradual basis. We are confident that in due course, all this will be accomplished.

An hon. Member: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Overruled! There is an hon. Member with a heart problem.

Dr. Ochuodho: Mr. Speaker, Sir, as early as 1985, personally, as a post-graduate student at the University of Nairobi, I developed a device that could do exactly what the Assistant Minister seems to be talking about. That is a private subscriber based meter that you put at the subscribers site, and it records all the details that we are talking about. The advantage of having it at the subscriber base is that interference is minimised. Can the Assistant Minister tell us: Whether he is implying that as of today, they have not had the technology to give the same details as they are doing for the international calls for the local trunk calls? Can he tell us, how they are going to ensure that people do not tap calls and make erroneous phones that can still be reflected on the meters, even when the calls were not made by the subscriber himself?

Mr. Obure: Mr. Speaker, Sir, this technology is available. Once we digitalize most of our exchanges around the country, we should be able to come with this automatic way of recording all the telephone calls made

for the benefit of the subscribers, so that they can be able to control their telephones. I am aware that the hon. Member for Rangwe has some expertise in this area, and I would like to access his expertise. Unfortunately, in 1985, I was in the Ministry of Labour and I did not know exactly the kind of progress he had made, but we would be pleased to exchange notes and find out if this technology would be useful to us.

Question No.526

LICENSING OF LAND SURVEYORS

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

- (a) whether he is aware that only 56 Land Surveyors were licensed in 1998 by the Institute of Surveyors of Kenya ISK, whereas there were 166 Land Surveyors licensed in 1901, despite the fact that there are over 1,000 qualified land surveyors in Kenya, but those applications have been frustrated by the ISK; and,
- (b) if the answer to "a" above is in the affirmative, what the Minister is doing to correct this unfair situation.

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

(a) I am not aware that by the year 1901, there were a total of 166 land surveyors licensed in Kenya. I am, however, aware that since 1923, when the Land Survey Ordinance was enacted, 166 surveyors have been licensed and that currently, 56 are licensed. I am further aware that there are approximately 300 surveyors who qualified to be registered by the Land Surveyors Board, and not 1,000 as claimed by the hon. Member. Their applications are being processed regularly by the Land Surveyors Board.

(b) Survey Act was amended in 1988 to accelerate the licensing of surveyors. The requirements for licensing were drastically reduced. The Land Surveyors Board currently has no pending applications for candidates wishing to be licensed.

Mr. Kariuki: Mr. Speaker, Sir, this is a very serious issue. Kenya has got very many graduates in land survey totalling about 1,000. It is ridiculous to find only 56 of them licensed to survey land. There is a cartel in the Members of the Institute of Survey of Kenya MISK which prohibits qualified people from entering the survey profession. This is because the composition of the MISK is a cartel comprising of practitioners who try to keep off their own brothers from being licensed because they have vested interests. As a result, there are people who qualified 20 years ago as surveyors, but they have never been licensed. Some of the own masters degrees and PHDs in survey, and they are not licensed.

Mr. Speaker, Sir, our doctors who take seven years to graduate are licensed within three years of qualification. It beats common sense, why surveyors are taking more than 20 years to be licensed; more importantly, why the number of surveyors have reduced in 100 years time, from 166 to 56. Can the Assistant Minister for Lands and Settlement to tell this House why he has perpetuated this cartel which has kept off qualified people from being licensed?

Mr. Leting: Mr. Speaker, Sir, I do not think that the Member heard my reply. The Institute of Surveyors of Kenya has nothing to do with licensing. The licensing is done by the Land Surveyors Board. In fact, one of the qualifications of being licensed is the Land Law Examination which all those who wish to be licensed have to do and pass. I have a list of long conditions that must be fulfilled by a surveyor who wants to be licensed.

It is true that very few people have been motivated to register for reasons that we do not understand. I have the list, which I can table here, of the conditions that every surveyor, to be licensed, has to follow.

Right now, we have two types of surveyors in this country. We have the few licensed surveyors and the rest unlicensed surveyors who work under the Director of Survey. The fact that we do not have any list of applicants pending the onus to be registered as surveyors or licensed lies with the applicants themselves. They are not coming to us even after luring them by lowering the conditions.

Mr. Wamae: On a point of order, Mr. Speaker, Sir. Arising from the answer by the Assistant Minister, is he satisfied that 56 surveyors in Kenya are sufficient to do the work required in this Republic? Can he come up with a proposal of what the Ministry is going to do in this age of liberalisation to increase the number of surveyors? The ones who are there now are very difficult, expensive and not reasonable to people who want services. We want more people to be licensed as surveyors. What is the Ministry going to do to increase this number?

Mr. Leting: Mr. Speaker, Sir, I am not satisfied. We have used all manner of persuasion to make these unlicensed surveyors come forward. In fact, we have 28 people who are going to sit for the Surveyors Licensing

Board examination in December, 1998. So, apart from persuasions and having lowered the conditions, we do not see what else we can do.

Mr. P.K Mwangi: On a point of order, Mr. Speaker, Sir. May I first inform the Assistant Minister that I am a member of the Institute of Surveyors of Kenya and I am therefore, very well versed with what is happening in the survey field.

Mr. Speaker, Sir, can the Assistant Minister tell this House whether his Ministry is satisfied, one, with the pace of the survey work that is being done in the country while so many people are crying for lack of title deeds, and when the public cannot get surveyors to survey the land so that they can be issued with title deeds? Two,---

Mr. Speaker: Order! Order, Mr. Mwangi! one Question at a time!

Mr. P.K. Mwangi: Mr. Speaker, Sir, will you, please, give me another chance because I would want to ask one more question so that he can answer both?

Mr. Speaker: Order!, Mr. Kihara, I am not obligated, what is your question?

Mr. P.K. Mwangi: Mr. Speaker, Sir, is the Assistant Minister aware that one of the conditions required for the registration of a surveyor is that he must have his application signed by another licensed surveyor who signs the work of a qualified surveyor at a payment of 50 per cent of the fees that is chargeable? Therefore, it beats reason that if I want a surveyor to be licensed, and he pays me 50 per cent of the fees he earns, then I will not sign his form so that he can continue paying me? Can the Assistant Minister inform this House, for the benefit of the country, that the Ministry is going to change the conditions required for the registration of qualified surveyors?

Mr. Leting: Mr. Speaker, Sir, I am not aware that for one to be registered, another licensed surveyor has to sign the documents or propose.

Mr. Ndicho: On point of order, Mr. Speaker, Sir. It is total ignorance on the side of the Assistant Minister. He does not know that for one to be licensed as a surveyor, somebody must approve your application and he must be another qualified surveyor. So, is he in order to stand there and say he is not aware? Mr. Speaker, Sir, can you get the "ignorance" out of the Assistant Minister?

Mr. Speaker: Order! Order! Mr. Ndicho, I think you must be polite to your colleagues! I do not think it does earn you any political mileage by being very rude to colleagues. Now, Mr. Assistant Minister, what are the conditions for licensing surveyors?

(Applause)

Mr. Leting: Mr. Speaker, Sir, in brief, these are the conditions as per our records. The qualifications a graduate must fulfil are:-

- (i) Serve with Survey of Kenya as a surveyor for two years.
- (ii) Pass Kenya Land Law Examination set by Land Surveyors Board.
- (iii) Be a full member of the Institution of Surveyors of Kenya.
- (iv) Have demonstrated to the Board that he is proficient in carrying out surveys by tabling the following survey practical tasks:-
 - (a) Farm survey of 20 hectares with curved boundary and establishing four new control points.
 - (b) An urban cadastral survey of 30 plots consisting of one or numerous schemes.
 - (c) Topographical survey of five-hectare plots.

Mr. Speaker, Sir, those are the conditions.

Mr. Raila: Mr. Speaker, Sir, as a member of a related institution - the Institution of the Engineers of Kenya - once upon a time, the engineers, the architects and the surveyors were under one institution. I know that there were practices of trying to keep these professions as a closed shop. The people who were there did not want to have any new entrants. That is what is happening with the case of the surveyors here. The criteria being used is fairly subjective and can be subject to abuse. Would the Assistant Minister take the necessary steps to ensure that subjective criteria is not used to unnecessarily bar qualified Kenyans from registering as surveyors?

Mr. Leting: Mr. Speaker, Sir, I have learned a lot from hon. Members about what is alleged to be subjective conditions to being licensed as a surveyor. I would like to assure hon. Raila Odinga that we will make sure that if some of these are human or subjective conditions which are outside the ones I read, or I submitted to the House, definitely, we will correct them.

Mr. Speaker: Very well. Questions by Private Notice.

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

Mr. Speaker: Sorry, sorry, Question by Private Notice. Mr. David Mwenje.

Mr. Kombo: Mr. Speaker, I am not satisfied with the answer.

Mr. Speaker: It is okay, if you are not, look at the Standing Order No.17.

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

Mr. Speaker: Order! Order! It is not necessary that we spend all the time of the day on one Question. There is provision, on what you can do if you are not satisfied with the reply on a Question given by the Minister. Look at Standing Order No.17 and follow the procedures prescribed in that Standing Order. We must make progress. Mr. Mwenje.

Mr. Kariuki: On a point of order, Mr. Speaker.

Mr. Speaker: What is it, Mr. Ngenye Kariuki?

Mr. Kariuki: Mr. Speaker, I was not satisfied with the answer and can I, through the Chair, move a Motion of Adjournment so that this matter is discussed to greater length?

Mr. Speaker: Mr. Ngenye Kariuki, I was advising you. Look at Standing Order No.17 and follow it. Mr. Mwenje?

QUESTIONS BY PRIVATE NOTICE

SACKING OF KAA EMPLOYEES

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

(a) Why has the Government allowed the sacking of over 700 employees of the Kenya Airports Authority (KAA)?

(b) Is the Minister aware that a Company owned by a Senior Officer of the Kenya Airports Authority was awarded a contract to do the work that was being performed by the sacked employees?

(c) If the answer to "a" is in the affirmative, could the Minister cancel the contract and reinstate those sacked employees?

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

(a) I am not aware of the sacking of 700 employees of Kenya Airports Authority (KAA). However, I am aware that as result of restructuring, KAA gave employees an option of earlier retirement and 728 of them opted for early retirement but because the Authority reserved a right to retain the ones whose services were needed, they only approved 632 employees. Out of the 632 employees, 400 have been paid in full. For 232 employees, their cheques are ready and they will soon be issued with these cheques once they have received the necessary clearance.

(b) I am aware of the allegations and I am instituting investigations to establish the truth.

(c) As a result of my answer in Question "a", part "c" does not arise.

Mr. Mwenje: On a point of order, Mr. Speaker. It is common knowledge that 728 people cannot just voluntarily retire at this particular time of our economy. So, we know that the employees were coerced and intimidated to resign and promised that they would be paid a substantial amount of money which they were never paid and which they are not even going to be paid. The company which has been given that contract belongs to the former Managing Director who was sacked recently. He formed his own company which is now cleaning the Airport and the Government has taken action by relieving him of his duties.

Mr. Speaker, Sir, before I come to the real thing, he has promised to pay those people, yet he has still put another condition that they must leave those houses despite a court order. Could the Minister assure this House that those employees who will go will be paid immediately without the condition of leaving those houses as there is a court order allowing them to stay in those houses until that time? I will now come to the other question of investigation and who owns that company.

Mr. Speaker: Order, Mr. Mwenje, who told you that you will have another chance to ask another Question? Proceed.

Maj. Madoka: Mr. Speaker, Sir, I am not sure that employees were coerced into signing. They did sign and voluntarily opted to retire. So, they were not forced. On restructuring, it meant that the organisation decided to contract out certain services. I have said I am investigating the allegations as to who owns this other company.

Mr. Kajembe: Mr. Speaker, Sir, this was not optional retirement. Workers were tricked and this is what has happened at Moi International Airport. Is the Minister aware that the workers at Moi International Airport have been ordered to leave their houses immediately? They have not been paid their cheques and they have been kicked out from the houses. Where will they go? It is a sad affair. Is the Minister aware that these employees are---

Mr. Speaker: I think you are very clear, Mr. Kajembe. Where are they going?

Maj. Madoka: I am aware that these employees were given the option and they were paid, and once they are paid, obviously, they cease to be employees of that company.

Dr. Kituyi: Mr. Speaker, Sir, it has been brought to the knowledge of the hon. Minister that the company which had been awarded the contract leading to the termination of these employees' services belonged to the former chief executive, Mr. Lang'at. He said he might find out; if he establishes that the award of this tender was a product of incestuous trading; persons who are in management awarding themselves contracts, can he tell this House what he is going to do? If he establishes that it is Mr. Lang'at, what is he going to do?

Maj. Madoka: Mr. Speaker, Sir, until I have established, I will not be able to say what I will do. I have got to establish the causes first.

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

Mr. Speaker: Not a point of order. Last Question, Mr. Mwenje.

Mr. Mwenje: Mr. Speaker, Sir, the company, as Dr. Kituyi says, is called Power Bet and it belongs to Mr. Peter Lang'at and his wife, Perpetual Lang'at. What investigation is the Minister going to carry out when I have told him who owns it? The position is that the employees are being kicked out of their houses when the court order which I hold in my own hand and I raise it towards God - Here it is!

(Mr. Mwenje raised a document)

Mr. Speaker: Mr. Mwenje, leave God out of this!

Mr. Mwenje: Can the Minister, therefore, now that I am going to lay on the Table this court order, stop evicting and harassing these employees and stop this company which is operating at the Airport because now he knows that it was formed by the former MD and his wife.

Mr. Speaker: Put your documents there if you want. Would you like to respond to it, Mr. Minister?

(Mr. Mwenje laid the court order on the Table)

Maj. Madoka: Mr. Speaker, Sir, if there is a court order, we will certainly not go against it.

SUPPLY OF DIP CHEMICALS TO LIVESTOCK OWNERS

(Mr. Haji) to ask the Minister for Agriculture the following Question by Private Notice.

(a) Is the Minister aware that livestock owners in Ijara Sub-District, Masalani and Hulughu divisions have lost a large number of cattle due to uncontrolled tick invasion?

(b) Is he further aware that the veterinary officers in Garissa District have failed to control the invasion and cattle owners are left helpless?

(c) If the answers to "a" and "b" are in the affirmative, what urgent measures is the Minister taking to supply dip chemicals to the livestock owners and also direct the veterinary officers in Garissa to mount a tick control campaign in the area concerned as soon as possible?

Mr. Speaker: Very well. Question No.2 is deferred.

(Question deferred)

IMPORTATION OF TEA SACKS BY KTDA

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

(a) Is the Minister aware that for the last 10 years KTDA has been buying tea sacks made from imported paper?

(b) Is he further aware that the cost of these imported tea sacks is between Kshs200 and Kshs220 per sack; whereas the local sacks which are used by all private tea factories in Kenya such as African Highlands Produce Limited and Brooke Bond (K) Limited cost between Kshs75 and Kshs80?

(c) Is he also aware that KTDA has issued a tender currently for 3 million bags whose specifications demand imported paper that is wet strength and extensible paper whose price will be three times higher than the local natural extensible sack?

(d) If the answers to "a" and "b" are in the affirmative and since the farmers will suffer huge financial

losses if this tender is awarded, could the Minister, as a matter of urgency, cancel the tender and direct the Authority to purchase these sacks either in the local market or from the lowest tenderer?

The Assistant Minister for Agriculture (Mr. Karauri): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that for the last 10 years, KTDA has been buying imported tea packaging sacks.

(b) It is true that in the past, the tender price of the paper sacks ranged from between Kshs200 and Kshs220 per sack. However, this year, tenders have reached a situation whereby the price has dropped to Kshs117.50 per sack, excluding VAT, due to the availability of local manufacturers' supply. If VAT of 16 per cent is added, it comes to about Kshs136. It is important to note that KTDA requires higher specifications for the paper sacks due to the rough terrain covered by vehicles ferrying tea by the hired transport lorries. This is to avoid bursting of tea while under transportation. So, a comparison with other paper sacks used by the estate tea producers is, therefore, not appropriate.

(c) I am aware that the tender for three million bags has been issued. However, the tender notice specification did not require imported paper. The relevant specifications by KTDA proving these facts are available. Whereas there have been problems in the past relating to the price, my Ministry has studied the current tender document and is satisfied that the evaluation was properly done. This tender was awarded to a local manufacturer. Given the position, the Minister will not order the cancellation of the tender.

Mr. Speaker: Mr. Musikari Kombo?

An hon. Member: He is not interested!

Mr. Kombo: What do you mean I am not interested? I am up here. Mr. Speaker, Sir, I think the answer given is totally untruthful. Even the local manufacturer is actually importing paper to manufacture, and my interest is, as the Member of Parliament for Webuye which is manufacturing paper, I would like to have the local industry protected. At the rate we are going, Kenya is going to be a slave of other countries because we are not protecting our own local industries. So, in this case, it is not true to say it is because of the terrain. Brooke Bond has also got the terrain to talk about. How can the Assistant Minister stand there and say it is because of the terrain that KTDA has to import and not the other organisations? It is also true that there is a lot of corruption in this awarding of the tenders and it is obvious that public interests are being catered for. Could the Assistant Minister in fact go back, because that answer is totally untruthful, and investigate to see that the problem is resolved and in fact shelve the whole tender until the truth has come out?

Mr. Karauri: Mr. Speaker, Sir, my answer is very truthful. When we talk about wet strength we are talking about paper that will absorb some water and not bags. Because of transportation from the areas where tea is collected, we need strong paper so that farmers do not lose their tea by weak papers busting on the way.

Mr. Sambu: On a point of order, Mr. Speaker, Sir. The Assistant Minister is misleading the House. Collection of tea is from the factory. We are not talking of collecting tea from the field and all the terrain is the same, whether they are KTDA factories in Meru, Kericho or Kisii. They are carried to Mombasa to be auctioned in closed vans. There is more to this and I want the Assistant Minister to concur with me that what hon. Kombo said is true. This answer he is giving is not true. There is more to it than what he has given and this question should be deferred until he comes up with the right answer.

(Applause)

Mr. Karauri: Mr. Speaker, Sir, there is absolutely no reason to defer this question because I have admitted that in the past, the prices were ranging from Kshs200 to Kshs220. This time, a local manufacturer has been able to supply at a lower price. We are transparent. Twenty five companies---

Hon. Members: Point of order! Point of order!

Mr. Karauri: I thought I was responding to a point of order, Mr. Speaker, Sir!

Mr. Speaker: Order! Order hon. Members! I think what is raising the heat on you, Mr. Karauri, is that you are saying there is no point of postponing the question before you have said why it should not be postponed. So, maybe you can respond to what hon. Sambu said, that the roads in Kenya are the same. I do not think there was a place in Kenya that was affected by more affected by *El Nino* than North Eastern Province. The way the baggage is transported is the same. Maybe, you address that matter.

Mr. Karauri: Mr. Speaker, Sir, I am not deferring the question because there is nothing I have been unable to answer. The terrain we are talking---

The Minister for Finance (Mr. Nyachae): Let me hear him.

Mr. Karauri: I am responding to a point of order. Mr. Speaker, Sir, we are talking about very many factories which are serviced by KTDA. If you compare them to one or two factories by a private company who

have their own vehicles, KTDA has to hire transport from various people. So, the paper used must be stronger paper than may be required by these other companies. I wish to state here that there are factories in this country which do not have access to tarmac road and the roads are very bad. I know places in my own district, like Keoi, where during the rain, transporting tea is very difficult. But it must be transported.

Hon. Members: Point of order!

Mr. Speaker: Dr. Kituyi, I had given you the chance.

Dr. Kituyi: Mr. Speaker, Sir, I want to appeal to the Chair, not the Assistant Minister. Look at it this way, Mr. Speaker, Sir. An honourable Assistant Minister of Government, and he is a very honest person--- I respect that hon. Assistant Minister very much.

An hon. Member: Why do you respect him?

Dr. Kituyi: He has come up with an answer which does not make sense at all. First, he does not tell us how all of a sudden, the price of a bag has gone down from Kshs220 to Kshs117.00. Secondly, and more important, he explained that they needed to use imported paper because of absorbing water until he was informed that these bags are transported in covered vehicles where there is no water going in. Still he does not see that this is an irrelevant answer. I want to appeal to the Chair - this is a big deal for tea farmers and paper manufacturers in this country - that you oblige the hon. Assistant Minister, to see the correct thing and understand that he has been misled and that he goes back and tries to look for a better answer.

Hon. Members: Yes.

Mr. Speaker: Mr. Karauri, what is your reaction? Kshs220 is a reduction. Why is it?

Mr. Leshore: Corruption!

Mr. Karauri: Mr. Speaker Sir, even if we were to defer this answer, I have all the documents, I have even people who may have complained after the tender was awarded. I have their letter, I have their tenders, I have the specification. So, even if this question was deferred, the answer will be what I am giving to this House, unless a Member---

Hon. Members: Point of order!

Mr. Speaker: Mr. Osundwa?

Mr. Osundwa: Mr. Speaker Sir, we are not satisfied with the answer given by the Assistant Minister. It is common knowledge that the lowest bidder in this case was not given the tender. It was given in favour of East African Packaging Industries because of the interests of three people who are getting commissions in this deal, and I will go ahead and name them.

Hon. Members: Yes, name them!

Mr. Osundwa: Mr. Speaker, Sir, the first recipient of this commission is Mr. E. G. Karanja, who takes Kshs15 per bag. The second is a European called Mr. Sanderson, Kshs10 per bag, and the wife of Finance Minister, hon. Simon Nyachae, Kshs5 per bag

(Several hon. Members jeered at Mr. Nyachae)

So, is the Assistant Minister in order to mislead this House while we know that the reason for refusing to give the lowest bidder is because of selfish interests here?

Mr. Chairman: Can I hear, Mr. Nyachae's point of order?

Mr. Karauri: On a point of order, Mr. Speaker, Sir? I want to state here why the lowest tenderer was not given the tender. I have stated that the hon. Member can go ahead and prove his allegations because we are not aware of those allegations.

Hon. Members: Point of order!

Mr. Karauri: I am responding to a point of order. The lowest tenderer was (?) overseas Packaging. When East African Packaging Company tendered at Kshs136, including VAT, the Overseas Packaging company tendered at Kshs116. Now, what happened is that later, they wrote a letter because theirs was uncertain, and I have that letter here. If the Members want me to lay these documents on the Table, I will do so.

Hon. Members: Go ahead.

Mr. Karauri: The lowest tenderer wrote a letter to KTDA and I have that letter.

Mr. Speaker: Order! Order! I have heard of the phrase "in a tea cup". I think this is not a tea cup. I think it is a tea pot. Mr. Karauri, looking at the mood of the House, your own colleagues who represent tea farmers and seeing their mood, would you stick with what you have said or you want me to give you time?

The Assistant Minister for Agriculture (Mr. Karauri): Mr. Speaker, Sir, I can see the mood and while doing that, I would like to be asked specific question which has not been properly dealt with, so that Members can

say: "You have not been able to answer that question".

The Minister for Finance (Mr. Nyachae): Mr. Speaker, Sir, I am seeking your guidance. I think my name has been mentioned and as a member of this House---

Hon. Members: Even that one of your wife has been mentioned!

Mr. Speaker: Order! Order! I think the hon. Minister is right. If I must remind you of the writing in the Bible, it states: "What God has put together, man should not put asunder". Proceed!

(Laughter)

Hon. Members: On a point of order, Mr. Speaker, Sir! That is only one. There are several.

Mr. Speaker: Order!

The Minister for Finance (Mr. Nyachae): Mr. Speaker, Sir, what I am requesting this House is to support what the hon. Member for Mosop said; that, if this matter has to be postponed, let all the documents of substantiation come in, so that those of us who have been named can be proved to be doing what is being alleged in this House.

Mr. Speaker: Order! I think Mr. Osundwa, you have heard the sentiments of the hon. Minister because through his wife, you have named him adversely. What I will do in all fairness, is to postpone this question to Thursday. Mr. Osundwa, you must prove what you are saying. Mr. Karauri, you have heard the sentiments of your colleagues. I am not directing you how to answer the questions but you have heard the feeling of the House. So, I give you up to Thursday to respond.

An Hon. Member: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Not on this any more! Order! Order, all of you.

Mr. N. Nyagah: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Order! The two of you may sit out of this House now.

Mr. N. Nyagah: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Mr. Nyagah, you are a Whip and the more you talk when I am on my feet, I will whip you out of the House.

(Laughter)

Mr. Speaker: Order! Any Member with a suggestion to Mr. Karauri, please give it to him, preferably in writing.

Mr. N. Nyagah: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: What is it Mr. Nyagah?

Mr. N. Nyagah: Mr. Speaker, Sir, the reason why I was talking when you were on your feet is because on Thursday, the KTDA Board is officially meeting to give this tender out; that is the award. So, I appeal to the Chair that this Question be brought before the House tomorrow so that the sentiments of this House can be expressed and if they have any changes to make, they make it before Thursday. Right now the whole Board is in Mombasa, Bamburi Beach Hotel and on Thursday, they will be airlifted to come and award this tender. I kindly appeal, to you to consider this.

Mr. Speaker: Order! Order! In ordinary circumstances, when a Member has not respected the Chair, I will not accede but this does not look to me like an ordinary circumstance. So, I will change my mind and say tomorrow afternoon.

(Question deferred)

Mr. Speaker: Next Question!

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

Mr. Speaker: Overruled!

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir! This is very important to me because I am the Chairman of Coffee and Tea Parliamentary Association (COTEPA).

(Mr. Gatabaki waved a newspaper)

Mr. Speaker: Order! Mr. Gatabaki, I think you have been here long enough and know that, there are so

many papers in circulation in this country which purport to speak the truth but never actually speak any truth at all. Therefore, you cannot wave any newspaper or magazine in this House as an authority of whatever you purport to say. It was good sense even in those days when we did not have what we have today. So, can we leave those things out. Please, put it in the library.

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Overruled! Mr. Thirikwa Kamau's question by Private Notice.

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Order, Mr. Gatabaki! Order! I am not going to have this any further. Once you are overruled, you are overruled. Mr. Thirikwa Kamau. Order!.

Mr. Gatabaki: Mr. Speaker, Sir, I have to talk since I am the Chairman of COTEPA. I demand to be heard! I am talking on behalf of farmers and I have to speak.

Mr. Speaker: Order, Mr. Gatabaki! Order, hon. Members. Hon. Members, you have just witnessed one of the many and I think the worst of the outrages of the hon. Member for Githunguri. I think that is outrageous and beyond disorder. It is actually contemptuous of this House. I think my throwing him out will not be enough to restore the dignity of the Chair which must be guarded jealously by this House. I therefore order that this hon. Member, Mr. Njehu Gatabaki be now named.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. I think it is out of order for the Chair to ask the Member to be named. It is a Member who should ask the Chair for a Member to be named.

Mr. Speaker: Order! Mr. Ndicho, you may get into trouble yourself. I will order, if I miss a Member to make that proposition. But if a Member stands up and makes that order, it is correct but I cannot sit here--- I am now telling this House that the behaviour that I have seen in front of this House directed to the Chair and in total contempt of the Chair and the House by Mr. Gatabaki is not something the Chair can just ignore; The rule says and I will not have this ---. It is terrible. I will not send him away. If this Parliament cannot name him and then he stays, then there is total breakdown of order in this House.

The relevant Standing Order for our purpose is No.88. Standing Order No.88(3) reads as follows:-
"Any Member may at any time, as a point of order, invite Mr. Speaker to name another Member for gross disorderly conduct, but the decision whether or not to do so shall remain with Mr. Speaker."

In fact, I have already invited any hon. Member to invite me to do so.

The Minister for Tourism (Mr. Kosgey): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Yes, Mr. Kosgey.

(Several hon. Members stood up in their places)

Order! Order! What is your point of order, hon. Martha Karua!

Mr. Karua: On a point of order, Mr. Speaker, Sir. We seek your guidance. In view of the fact that Mr. Speaker has named hon. Gatabaki without inviting a hon. Member to name him, and in view of the confusion in the procedure, could the Chair guide the House and probably drop the matter?

Hon. Members: No!

Mr. Speaker: Order! Order! I will guide the House, but dropping that issue is tantamount to the Chair abdicating the responsibility to keep order and the dignity of this House. That, I will not do. I admit that I should have just ruled that the hon. Member was disorderly and waited for any hon. Member to ask me to name him. However, I think it is not in the interest of this House, this country and democracy for an hon. Member to behave the way hon. Gatabaki has done. Therefore, in my view, the conduct of Mr. Gatabaki is, to say the least, gross disorder. To send him out for the balance of today will not do the offence justice.

The Minister for Tourism (Mr. Kosgey): On a point of order, Mr. Speaker, Sir. In view of the behaviour of hon. Gatabaki, I request that he be named.

Mr. Speaker: I will now put the Question, that hon. Gatabaki be named, straightaway.

(Question put and agreed to)

Mr. Speaker: The result is that hon. Gatabaki will be excluded, not only from the sittings of the House, but also from the precincts of the National Assembly for the next three days, starting from this moment.

(Hon. Gatabaki withdrew from the Chamber)

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

Mr. Speaker: What is it?

Mr. Ndicho: Mr. Speaker, Sir, I quite sympathise with the situation. It is very unfortunate that---

Mr. Speaker: What is your point of order?

Mr. Ndicho: Mr. Speaker, Sir, my point of order is that while you were making your ruling, you made some remarks which I consider disparaging to the Press. With due respect, you said that some media publications do not publish any truth.

Mr. Speaker, Sir, I am also a media owner. So, could you, please, name those publications which do not publish the truth? This is because those of us who own some publications feel offended.

Mr. Speaker: Order! Order! Hon. Ndicho, if I say that everything that is published in all the newspapers in the world is true, I do not think that I will be honest even to you. I am also entitled to have my opinions. Next is Mr. Thirikwa Kamau's Question by Private Notice.

ALLOCATION OF PUBLIC UTILITY PLOTS

Mr. Kamau: Mr. Speaker, Sir, I beg to ask the Minister for Lands and Settlement the following Question by Private Notice.

(a) Is the Minister aware that Plot Nos. 165, 170, 171, 174 and 175, being prime public utilities of public dams and cattle dips, have been sub-divided and allocated to individuals without any consideration to the needs of the people of Muruai Settlement Scheme?

(b) Is he further aware of the suffering the allocations have caused to the residents of Muruai Settlement Scheme, who have drawn and fed their animals from these dams since they settled there?

(c) If the answers to "a" and "b" above are in the affirmative, could he cancel the allocations?

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

(a) I am aware that Plot Nos. 165, 170, 171, 174 and 175 in Muruai Settlement Scheme were originally planned and reserved as public utility plots for dams and cattle dips.

(b) I am also aware that Plot Nos. 165, 170, 171 and 174 have been re-planned and allocated to individuals on recommendations from the District Development Committee (DDC). Plot No. 175 is intact. However, I am not aware of the suffering the allocations have caused to the residents of Muruai.

(c) In view of the complaint the Ministry has received, the matter is being referred to the DDC, Nyandarua, for review. The Ministry will go by the recommendations of the DDC. Therefore, the hon. Member should pursue the matter with the DDC of Nyandarua District.

Mr. Kamau: Mr. Speaker, Sir, land issues in Nyandarua District are very sensitive due to the fact that the district is young. Right now, every public utility plot has been sub-divided on the recommendations of what the Minister calls the DDC. I would like the Minister to know that DDCs sometimes operate unprocedurally. If it were not so, this Question could not be here. The dams were sub-divided without proper consultation with the people of Muruai Settlement Scheme. However, I am very happy with the Minister's reply. It has been my prayer, and I highly commend him for what he has done. This matter now---

Mr. Speaker: Now, could you ask your supplementary question? However, I would like the Minister to assure me and possibly, assure this House that the matter will go back to the Muruai sub-DDC not to Nyandarua DDC. That is the assurance I would like to hear from the Minister.

Mr. Ngala: Mr. Speaker, Sir, I want to thank the hon. Member for showing his appreciation. I think at this point, let the matter go to the DDC. He is a member and I am sure they will find the best way out. If they will refer it to the Sub-DDC; that committee will decide.

Mr. Waithaka: Is the Minister aware that the DDC which allocated these parcels of land to individuals was not a well constituted DDC because it only involved civil servants and not elected leaders? The DDC meeting was held on 27th November, 1997 whereas Parliament had been dissolved by 10th November, 1997 and the DC, who is the chairman of the DDC, rushed the DDC to pass this resolution without involving the local leaders.

Mr. Ngala: Mr. Speaker, Sir, the DDCs perform on quorum. If the DDC that was convened at the time the hon. Member is talking about had a quorum, I am sure the business of the day was allowed to continue. So, I think all was done in good faith.

COMMUNICATION FROM THE CHAIR

MR. SPEAKER MAY NAME A MEMBER
UNDER STANDING ORDER NO.88

Mr. Speaker: Order! Order! Hon. Members, I just want to make a little clarification on the point raised by hon. Karua, that, indeed, as a matter of fact, I did not have the power in the very first place to name a Member. I do actually have the power. If I may read Standing Order No.88 just for record purposes, it reads as follows:-

(1) Mr. Speaker or the Chairman of Committees shall order any Member whose conduct is grossly disorderly to withdraw immediately from the precincts of the Assembly during the remainder of that day's sitting; and the Serjeant-At-Arms shall act on such orders as he may receive from the Chair in pursuance of this Standing Order; but if on any occasion Mr. Speaker or the Chairman deems that his powers under the foregoing provisions of this Standing Order are inadequate, he may name such Member or Members in which event the procedure prescribed in Standing Order No.89 (Member may be suspended after being named) shall be followed."

So, actually, I do have power to name a Member, if in my view, I consider that the mere sending out of a Member for disorderly conduct under Standing Order No.88 is inadequate. So, I was in fact, right because I was satisfied that a mere sending out of the hon. Member for the day was inadequate in the circumstances. So, I think we have got the procedure right now. So, that ends our Question Time.

POINTS OF ORDER

RELIEF FOOD FOR MWINGI DISTRICT

Mr. Musila: On a point of order, Mr. Speaker, Sir. I am standing on a point of order in relation to Question No.318 concerning relief food for Mwingi District. On 25th June, 1998, I asked that Question, but it was not satisfactorily answered and the Chair did rule that the Question be answered another time. Indeed, the Assistant Minister, Office of the President, hon. Jimmy Angwenyi did promise the House that he was going to give a reply the following week. On 28th July, this year, I rose on another point of order again seeking the indulgence of the Chair to get the Office of the President to reply to this Question. The Minister of State, Office of the President, hon. Ndambuki did ask for time and promised to reply to the Question when the House resumes. Upto now no reply has been forthcoming. May I, therefore, Mr. Speaker, Sir, ask you to intervene and assist me and this House to get a reply to this Question because it is very important that this Question be answered.

Mr. Speaker: Very well. Mr. Musila, if I had ordered that the Question be answered another time, I will direct that it comes on the Order Paper as soon as possible.

PROBE ON BRIBERY ALLEGATIONS BY MPS

Mr. Raila: On a point of order, Mr. Speaker, Sir. I rise to seek your guidance on a matter which I think is of importance to this House. Following the debate on the Motion of the Vote of no confidence that was debated in this House, there have been several allegations that have been made by some hon. Members of this House and also sections of the Press to the effect that some Members were bribed and some were intimidated to vote against that Motion. These are very serious allegations because they tend to lower the dignity of this House. It is needless to say that, if anything of the kind ever happened, it would be an infringement on the Powers and Privileges Act. I would, therefore, urge that in view of the seriousness of these allegations, a Parliamentary Privileges Committee be immediately convened in order to investigate in detail these allegations and make recommendations for appropriate action.

Mr. Speaker: Hon. Members, even before we came to discuss the Motion on the Vote of no confidence, Members will recall that many Members of this House did, in fact, take the debate outside when it was pending before this House. Members went to rallies, Press conferences and all manner of things and I was at a loss as to what to do to Members who knowing that a Motion was coming before the House went to rallies, held Press conferences and argued the matter one way or the other and also made various allegations. That having been a unique Motion, the Chair was constrained to let it be. But it has not gone out of my mind that Members deliberately anticipated debate out of the House and I will address this issue now as the Speaker.

I think the least Members should expect of the Chair when you take debate of this House outside, is to be able to see you. Since you have already said your bit, there is nothing new to make. I think that is what the Chair

ought to do. I am giving an indication of what I am likely to do. Once you have debated outside the House a matter that is coming here, do not expect the Chair to see you; I have already heard you. I think that would be enough. As for the issue the hon. Raila has raised of Members of the House alleging that Members of this House have been bribed, intimidated, or otherwise compromised in order to vote or not to vote one way or another; I think that is a very, very serious issue touching on the privileges of this House, the integrity of this House and the integrity of individual Members. It is not a light matter, it is a grave matter. Maybe, the hon. Members who have given press conferences and interviews have evidence.

I have received from the Member for Kitutu Masaba, hon. George Anyona, an application to have that matter investigated by the Powers and Privileges Committee under section 10. Once in receipt of that application, my Committee will look at that issue and summon all the witnesses. But, in the meantime, this same House had set up an ad-hoc Select Committee on corruption.

(Mr. Ndwiga interjected)

Mr. Speaker: Order! Mr. Ndwiga, you must now leave!

Mr. Ndwiga: Then sit down before I leave. I cannot leave while you are on your feet.

(Laughter)

Mr. Speaker: Order, Mr. Ndwiga!

(Mr. Ndwiga remained adamant)

(Mr. Speaker took his seat)

Mr. Ndwiga: Thank you, Mr. Speaker, Sir.

Mr. Speaker: Thank you, Mr. Ndwiga.

Mr. Ndwiga: But those in the Anti-Corruption Select Committee are also receiving bribes---

Hon. Members: No!

(Mr. Ndwiga withdrew from the Chamber)

Mr. Speaker: Order, Members. Well, what I was saying is that this House did set up an Anti-Corruption Committee to investigate all cases of corruption. I do remember the Members were very enthusiastic about it at that time. I thought that any Member who had any information on bribing of Members of Parliament would avail himself or herself to the services of the Select Committee that was recently set up by this House so that they can look at it and go to the bottom of it. That, of course, does not mean that the Committee on Powers and Privileges will ignore the issues referred to it.

I would like to urge all honourable Members that whatever you do and whatever you say, please, always have at the back of your mind that the integrity of the House is your integrity. So, if you destroy this House, you have destroyed yourself. So, please, let us, at least, keep this House as a dignified place; a place where we only do things that are right and honourable. So, those honourable Members with evidence on all those short-comings including those who have commented in the Press will shortly be requested, when the Powers and Privileges Committee reconvenes, to appear before the Committee to prove their allegations. If it happens that any of the offenses anticipated by Section 9 of the Powers and Privileges Act have been committed, then the law will follow its course. This will not be just sending a Member out of the House. If you are found guilty, or if there is evidence, the case will be referred to a court of law. In case you are convicted, you will go to prison for a specified term; I think it is two years in prison.

(Laughter)

That is the absolute truth. Mrs. Ngilu, it is now your turn.

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

Mr. Speaker: Order! Mrs. Ngilu?

MINISTERIAL STATEMENT ON POLICE HARASSMENT

Mrs. Ngilu: Thank you, Mr. Speaker, Sir. I rise to seek a Ministerial Statement on what happened in my constituency yesterday afternoon, when we were holding a peaceful meeting, first of all with the leaders and later on with my constituents. The police did set upon us by beating and physically assaulted us---

Hon. Members: Shame! Shame!

Mrs. Ngilu: I was with the Member of Parliament for Mutitu Mr. Kitonga and other councillors from the municipality and the county council. We were badly beaten by the police for no good reason. For this reason, I stand up to seek a Ministerial Statement from the Minister of State, Office of the President.

Hon. Members: Shame! Shame to the Government and KANU!

Speaker: The Minister of State, Maj. Madoka, would you like to respond today or tomorrow?

The Minister of State, Office of the President (Maj.) Madoka: Mr. Speaker, Sir, I will respond tomorrow.

DEATH OF KENYAN STUDENT IN USA

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. I beg the indulgence of the Chair as I request a Ministerial Statement from the Minister for Foreign Affairs regarding the disappearance of one Catherine Njeri Mutheki, a top class pharmacy student at the North Western Community College in Alabama on 9th August and the discovery of the said Mutheki's remains hanging on a tree on 13th August, 1998 and the treatment of the matter by the authorities in the USA, particularly the opening up of the body for a post-mortem and embalming it without closing, and a threat to the family that they should stop bothering them with other details.

What is the position of the Kenya Government? What representation has the Kenya Government made to the US, and how can we be secure in the knowledge that all our other children in the American colleges are exposed to such possibilities?

Mr. Speaker: I think, before I give a chance to Mr. Lotodo, Mr. Munyao can speak because he has a short question.

HARASSMENT BY PROVINCIAL ADMINISTRATION

Mr. Munyao: Mr. Speaker, Sir, in fact this is directed to the Minister of State, Office of the President. On the 9th of this month, when we held the funeral of the late hon. Prof. Sumbi, the chairman of the Makueni county council, Mr. Richard Kalembe, made a statement concerning land grabbing in Makueni, especially in Mbui Nzau. This statement touched on the Provincial Administration, and immediately on that same day, we had to save the chairman from being arrested even at the funeral service. On 11th of the same month, the same chairman was chased from Makindu by the DIO and two other police officers. All of them were sent by the Provincial Administration to embarrass the chairman of a full council. The Chairman had to go to court to secure a bond which will make him safe. But, even with that bond, he is still not safe because last Saturday, about six police officers went to his house and embarrassed him in front of his wife and the rest of his family. After they locked him in a cupboard, his wife was chased away and the police officers stole Kshs. 46,000 from his drawers. He could not come out of the cupboard, although he saw them stealing---

Mr. Speaker: Mr. Munyao, are you giving a statement or you are asking for a statement?

Mr. Munyao: Mr. Speaker, Sir, we have talked to the Minister. I would like the Minister to investigate this matter quickly because the life of this chairman of Makueni county council is in danger due to threats from the Provincial Administration.

(Applause)

MINISTERIAL STATEMENT ON CULTIVATION
IN FOREST AREAS

The Minister for Natural Resources (Mr. F.P.L. Lotodo): Mr. Speaker Sir, I wish to give a Ministerial Statement regarding cultivation in forests. In the exercise of the powers conferred to me by Section 15(a)(ii) of the Forest Act, Cap.385 of the Laws of Kenya, I issued a circular letter No. Conf. No.277 Vol.140 of 14th September, 1998, to forest field officers on the suspension of cultivation in forest areas. This was prompted by

abuse of the cultivation in certain areas leading to forest encroachment, illegal timber harvesting, squatting and in some areas illicit activities such as bhang growing. My Ministry has since reviewed this decision based on the current economic recession, Civil Service Retrenchment Programme and the contribution of forestry sector towards employment creation, poverty alleviation and food security.

The forest sector cannot effectively contribute its fair share of sustainable development in the face of the dwindling resources. Furthermore, experience has shown that there have been higher tree survival rate in areas where non-resident cultivation, commonly known as "shamba system" is being practised and adequately supervised. In fact, the shamba system adapted by the Forest Department allows forest adjacent communities to benefit from the forest resources and to participate in their management in line with the new forest policy. Land preparation and tree planting are the most expensive components of forest establishment.

The involvement of local communities in forestry management therefore, will greatly reduce operational costs and enhance performance. I wish to inform hon. Members and the Kenyan public that the said circular has been withdrawn. Nevertheless, cultivation in forest areas will be reviewed from time to time in order to determine its appropriateness in various ecological zones of this country and to rectify any anomalies that may be detected. Regulations governing these activities should be adhered to strictly by all stakeholders.

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE RETIREMENT BENEFITS (AMENDMENT) BILL

(Clauses 2 and 3 agreed to)

Clause 4

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 4 be amended in the proposed section 22 by renumbering subsection (3) thereof as subsection (4) and inserting the following new subsection (3)-

The Authority shall in consultation with the Minister, by notice in the Gazette and by public advertisement in at least two daily newspapers of wide circulation publish a list of registered managers and custodians once in every calendar year.

(Question of the amendment proposed)

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I would like to seek an explanation from the Minister as to why this amendment is necessary as proposed?

The Minister for Finance (Mr. Nyachae): The amendment is necessary because there is need for adequate consultation.

Prof. Anyang'-Nyong'o: If there is need for adequate consultation, then I am wondering whether the amendment does justice to adequate consultation because it says:-

"The Authority shall in consultation with the Minister by notice in the Gazette and by public advertisement in at least two daily newspapers of wide circulation, publish a list of registered managers and custodians once in every calendar year."

Once that is done, there is no specification in that amendment as to the period given to people to react to what is given adequate notice so that their reactions can be taken into account by the Minister. Once the thing is published, it is published to communicate with the public to get their reaction. There is no specification as to the time period within which the public should give their reactions to the Minister in case their input would lead into an alteration of what has been published.

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, the publication will specify the time within which the public can respond.

Prof. Anyang'-Nyong'o: Mr. Chairman, Sir, I am sorry this cannot be left to chance. The time period with in which this should be done should be in the law. This is exactly what usually happens. What has been happening, for example, with the de-gazettement of forests is that the notice is put in the Gazette and if there is no specific time period, then indeed, the Government gets away with the fact that it was in the Press, anyway. I think it must be specifically stated in law.

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, I do not see the need for doubting what the Minister will do.

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

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

(Clause 4 as amended agreed to)

Clause 5

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 5 be amended by deleting the proposed subsection (1) and inserting the following-

(1) A person proposing to establish a retirement benefits scheme or to act as a manager or custodian shall apply to the Authority for, and obtain, a certificate of registration before establishing the scheme or commencing the performance of any of the functions of a manager or custodian.

(Question of the amendment proposed)

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, I am sorry to be fastidious but I think law is very important in the words in which it is expressed and I would like this House to be very clear on what the Minister is amending here. What we had in the original proposal was that:

" A person proposing to establish a retirement benefits scheme or to act as a manager or a custodian shall, before establishing the scheme or commencing the performance of any of the functions of a manager or a custodian apply to the Authority for registration."

The amendment says:

"A person proposing to establish a retirement benefits scheme ought to act as a manager or custodian shall apply to the Authority for, and obtain a certificate of registration before establishing the scheme or commencing the performance of any of the functions of a manager or a custodian."

The Minister for Finance (Mr. Nyachae): Carry on!

Prof. Anyang'-Nyong'o: I carry on where? It has ended!

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, what the amendment means is that when the application has been made and even if the authority is given, the certificate must be there. That is all we are saying.

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

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

(Clause 5 as amended agreed)

(Clause 6 agreed to)

Clause 7

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 7 be amended by deleting the expression "a" appearing immediately before the word "scheme" and inserting "any".

(Question of the amendment proposed)

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

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

(Clause 7 as amended agreed to)

Clause 8

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 8 be amended by deleting the existing provision and inserting the following- 8. Section 28 of Principal Act is amended-

(a) In subsection (3) -

(i) by inserting the words "or custodian" immediately after the word "manager" wherever it occurs;

(ii) by deleting all the words appearing after the word "manage" in the subparagraph (b) and inserting the words "or provide custodial services to a scheme fund, as the case may be".

(iii) by inserting the expression "or custodian's" immediately after the expression "Manager's" appearing in subparagraph (c) thereof.

(b) In subsection (4) inserting the words "or Custodian" immediate after the word "Manager" wherever it occurs.

(Question of the amendment proposed)

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

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

(Clause 8 as amended agreed to)

Clause 9

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 9 be amended in subclause (3) and (4) by deleting the word "licence" wherever it occurs and inserting the words "certificate of registration".

(Question of the amendment proposed)

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

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

(Clause 9 as amended agreed to)

(Clauses 10 and 11 agreed to)

Clause 12

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 12 be amended by deleting the existing provision and inserting the following -
12 - Section 37 of the Principal Act is amended:-

(a) by deleting subsections (1) and (2) and substituting therefore the following new subsections -

(1) Every scheme shall have a prudent investment policy on the investment of the funds of the scheme so as to maintain the capital funds of the scheme and generally to secure market rates of return on such investment.

(2) Notwithstanding the provisions of any other written law, the investment policy of a scheme shall be implemented subject to any regulations the Minister may, in consultation with the Authority, make for that purpose.

(Question of the amendment proposed)

Prof Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I do not know why I have a sneaky feeling that in some of these amendments, something is not coming out very clearly. First, is the word "prudent" given a meaning in Section 2 in this Bill? This is very important because this is where this pension schemes go wrong. We know the Posts Office Pension Scheme lost billions of shillings by putting money in banks which collapsed and so on. Here, the Minister is trying to cover up this possibility by putting in a very weak law. In both, what is in the original clause and in the amended clause, I do not see any major improvement. The Bill says:- "(1) Every scheme shall have a prudent investment policy on the investment of the funds of the scheme so as to maintain the capital funds of the scheme and generally to secure market rates of return on such investment." I think the Minister thought that was weak and so he tried to improve on it and says:- "(1) Every scheme shall have a prudent investment policy on the investment of the funds of the scheme so as to maintain the capital funds of the scheme and generally to secure market rates of return on such investment." What are you amending? Are you really improving on anything? Secondly, the moment you use the words "prudent" and "generally", you make the law so vague, that again, this pension fund will be mis-invested. I strongly oppose both what is in the original Clause and in the amendment because it does not improve the situation at all.

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, I do not know whether the issue here is the word "prudent" or "generally"?

Prof. Anyang'-Nyong'o: Both!

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, any business that has to be done correctly must be done in a manner that can be considered prudent. Secondly, the word "generally" is brought in here because we do not want any agent or whoever is doing the work to go to one or two individuals or institutions and get rates. We want across the board information which can show that the rates he/she secured are the best rates.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I appreciate the fact the Minister is trying to bring up to the meaning they had in mind, but it does not come out in the law. I would have been satisfied if the Minister said that this particular provision will be amplified by further regulations or whatever might appear in the first, second or third schedule; then the things would be detailed. If this law is left the way it is, the way these pension funds are going to be managed, under the new law will not be any different from the way they have been managed so far in terms of investment. These words have appeared in previous Acts establishing these particular pension scheme. We have such words in the State Corporations Act and no parastatal observes them. I am only pleading with the Minister that the law should be so precise that its interpretation is not left to chance. I believe and I think I am correct, that its interpretation is being left to chance here, to the dire consequences on the part of investment that the pension funds will receive.

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, the hon. Member is assuming that we will operate with an Act without regulations. I think we should accept that we are dealing with an amendment to an Act now. Regulations will take care of what hon. Prof. Anyang'-Nyong'o is talking about.

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, I just want to amplify the argument of Prof. Anyang'-Nyong'o in one respect. When one leaves a manager to decide on where to deposit money and get high

interest--- There might be banks or financial institutions which give him very high interest but are almost collapsing. In such cases, the money will disappear like it has happened in many collapsing banks. In such cases, where we are still young and still developing an industry, we must be very careful and say: "Money shall be invested in financial institutions which the Minister may detail in a schedule." This will give the Minister powers to authorise where the money will be invested like in Treasury Bills, Cooperative Bank of Kenya and so on. The next day he can add to the schedule as he considers appropriate. If we leave it like this and I am a manager, I will deposit the money in a small bank which will collapse soon. Then, we will "eat" the rest of the money and escape as Maxwell did in Great Britain.

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, the hon. Member has a point, but he is ignoring the fact that this particular paragraph we are debating on is not only seeking the market rates, but also seeks to ensure that banking is done prudently.

(Clause 12 as amended agreed to)

*(Clauses 13, 14, 15, 16, 17, 18,
19, 20, 21 and 22 agreed to)*

New Clause

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, a new clause be inserted immediately after Clause 11:-

11A. Section 34 of the principal Act is amended by inserting the following subsection immediately after subsection (4):-

(5) Every scheme shall publish its annual accounts in such manner as the Minister may in consultation with the Authority prescribe.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be read
a Second Time, proposed)*

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added to
the Bill, put and agreed to)*

(Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Nyachae): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Retirement Benefits (Amendment) Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

(Mr. Deputy Speaker in the Chair)

REPORT AND THIRD READING

THE RETIREMENT BENEFITS (AMENDMENT) BILL

Mr. Musila: Mr. Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Retirement Benefits (Amendment) Bill and approved the same with amendments.

The Minister for Finance (Mr. Nyachae): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Local Authorities (Prof. Ongeri) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Nyachae): Mr. Deputy Speaker, Sir, I beg to move that The Retirement Benefits (Amendment) Bill be now read the Third Time.

The Assistant Minister For Transport and Communications (Mr. Obure) seconded.

(Question proposed)

Prof. Anyang'-Nyongo: Mr. Deputy Speaker, Sir, while I support the Third Reading of the Retirement Benefits (Amendment) Bill, I would like to register my very strong feeling to the Minister about the manner in which retirement benefits of Kenyans have been handled in the past. I would also like to register the feelings of this House that after we pass this Bill, we do hope that there will be a qualitative improvement in the manner in which retirement benefits are handled in this country. This is because people who have worked for almost the whole of their lives and have contributed handsomely to the development of this nation are really given what is called "the donkey's thank you." They are kicked on the back when they go to collect their retirement benefits. What happens to the pension schemes in the NSSF, the Kenya Posts and Telecommunication Corporation (KPTC) and the Kenya Railway Corporation (KR) is a disgrace to this country. I know that the KPTC pensions fund must have lost close to Kshs4.5 billion through investment in banks that collapsed with the money. The workers had no where to seek refuge. I do not know whether the Minister is going to take action retroactively to ensure that this money that has been misappropriated from pension schemes, is indeed, restored and paid to the workers. I hope that the new instrument which we will give to the Minister will be used for the interests of workers and those who have given their lives to the service of this country.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Odoyo: Thank you, Mr. Deputy Speaker, Sir. Though I am a Member of the Finance and Trade Committee, I believe that there are things in this Bill which will be circumvented. For example, the Bill separates the powers of the custodian and the investment.

Mr. Deputy Speaker: Hon. Odoyo, this is the Third reading of the Bill. You cannot really open debate on matters that have already been finalised before.

Mr. Odoyo: Mr. Deputy Speaker, Sir, I will make a general statement. My prayer is that the Minister, while implementing this Bill, will ensure that organisations like insurance companies do not circumvent this Act by trying to form separate organisations which will carry out investment so, that they will play the role of the custodian, while their brothers run investment firms. I am saying this because we passed an Act that provided that manufacturers shall not distribute their own products. There before, we had some companies in this country that manufactured products and at the same time distributed them. I know that the Minister is aware that this is going to happen.

In the case of NSSF, I believe it is going to be a big task to implement this particular Act and that it is important for the Minister to provide guidelines on how NSSF should disassociate itself from the demands of this particular Act. As long as NSSF is not streamlined, all that we shall be demanding from private bodies is going to look hollow in the face of liberalisation and the good intentions of this particular Act. Thank you, Sir.

Mr. Obwocha: Thank you, Mr Deputy Speaker, Sir. Mine is also a prayer. The issue of pension is

extremely sensitive. For many of us the issue that affects our constituents is on pending pensions. I would plead with the Minister as a person to do something about it. If you send a letter to hon. Nyachae, he will at least respond. I normally give him that credit. These people in the pensions department do not send letters to pensioners. They have not told the pensioners that: "We are at this stage, we do not have money and we cannot pay you now. Please wait for this." Or: "We are at this stage; do this. You are missing this document." This is what is missing. So, I am pleading with the Minister that those pensions that are outstanding should, indeed be paid immediately if there are funds. If there are no funds let the man in charge of the pensions write to these people so that he can resolve this issue.

Mr. Deputy Speaker: Order! Since all that there is to be said about this Bill has been said, I will now put the question.

(Question put and agreed to)

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

BILL

Second Reading

THE LOCAL AUTHORITIES TRANSFER FUND BILL

The Minister for Finance (Mr. Nyachae): Mr. Deputy Speaker, Sir, I beg to Move that the Local Authorities Transfer Fund Bill be read a second time.

As hon. Members are aware, we have made and are still making substantial progress in reforms at the central Government level. Unfortunately, at the local Government level reforms are lagging behind. Many local authorities are unable to provide satisfactory local public services to our homes and businesses. This lack of service delivery contributes to the unsatisfactory level of investment. To raise that growth, we urgently need investment in all areas of the country. While several initiatives to assist local government reforms were launched in the 1997 Budget, progress in implementing these reforms has been slower than we all desire. There is urgent need for commitment and effort by local authorities to mobilise revenue, improve service delivery and prepare their accounts and have them audited regularly. The general public is becoming impatient with poor performance, lack of transparency and accountability from all local authorities. As the public disillusionment with the local authorities grow, support to such authorities wane. This situation must be corrected.

Towards this end the Government will use various tools to support the revenue bases of local authorities and to induce improvement performance at all local levels. It is in this connection that the Local Authority Transfer Fund announced in the 1997 Budget has been developed culminating with Local Authorities Transfer Fund Bill that is now before the House. The Local Authorities Transfer Fund will be established initially with a share of a 5th of the income tax revenue when the legal and administrative machinery are completed. Establishment of this fund is consistent with common features in most economies in the world where a mechanism to transfer revenues from central to lower level of Government is put in place. As is common in all countries, central Governments have greater capacity to collect broad based efficient taxes while local Governments can be more responsive to local household and business services needs. So far, Kenya has lacked vehicle for such inter-Governmental transfer. The LATF is designed to fill this gap. In recent years, total expenditures by the Central Government have exceed 25 percent of gross domestic product while local authorities at current expenditures and revenues, account for only 1.3 percent of the GDP plus a further one percent of GDP in form of loan financed capital expenditures.

Over 80 percent of the total expenditure in local authorities are concentrated in the municipal area. The LATF will be our first attempt to address the problem of inter-Governmental physical imbalances. In future we will need to build on our experiences to improve the situation further. The LATF will serve a number of purposes. First, it will be used to replace the cumbersome local authorities service charge which is both costly to collect and puts an added compliance burden on business. Secondly, it will be used to encourage local authorities to mobilise local revenue, for example, by matching revenue collections at some specific ratio. Thirdly, it will to ensure that the local authorities are complying with their legal obligations such as contributing to Local Authorities Provident Fund or to NSSF. Transfers will be made conditional upon such payments being current. Fourthly, targeted priority expenditure can be fostered by providing matching grants. Fifthly, the maintenance of audited accounts

will be encouraged because audited accounts of the revenue received or expenditures underpinning any conditional transfers will be required. In short LATF will help local authorities to restore their credibility through improved services and accountability.

To ensure that the targets and bases of transferring funds to local authorities are responsive to the needs of local authorities and the promotion of good governance, an advisory committee will be appointed under the LATF Act to advise on allocation criteria and procedures as well as monitor the performance of the fund. This committee will have representatives from the Ministries of Finance and Local Authorities, private sector through the appointment of experts in local government financial affairs. As the Government takes the initiative to support local authorities, they too must initiate changes that will help them become financially viable. They need to re-examine manning levels and ensure that they have the appropriate levels of staffing. They also need to reform and modernise their operational system to make them user-friendly. To be economically viable they need to attract new investments into their jurisdiction. Therefore, they need to realise that in a liberalised economy, they have to offer efficient services which are needed by their investors. Regulations need to be more user-friendly and not obstructive, as has been the case before. If they do this and succeed, we shall all benefit.

Mr. Deputy Speaker, Sir, in summary, the local authorities Transfer Fund offers the mechanism to provide Local Authorities low cost funding for improved service delivery, while at the same time, encouraging them to improve their own revenue mobilisation and to strengthen their financial position. I appeal to the hon. Members to support the Bill and extend their similar support to the Local Authorities, both at national and constituency level.

With those few remarks, I beg to move.

The Minister for Local Authorities (Prof. Ongeru): Mr. Deputy Speaker, Sir, I stand here to second this Bill because for the first time, we are beginning to see a mechanism of transfer of funds for the support, and for the assistance of Local Authorities. Currently, as local authorities stand, they are in financial straits and, in fact, the financial viability and stability of Local Authorities currently as they stand, is not in tune with the demand by the citizens who are residents in those Local Authorities for goods and services. Therefore, there is, in fact, a major imbalance in the distribution of incomes. Therefore, in order to be able to impart financial viability and stability to Local Authorities, the establishment of the Local Authorities Transfer Fund Bill which is before this House, is not only timely, but I think it provides the way forward in the establishment of the governance and orderliness of the management of the Local Authorities. As hon. Members are aware, we are in the process of going through several processes of the Kenya Local Authorities Reform Programme. This will be at four levels.

At the administrative level, we must, at all costs, be able to ensure that the capacity of building and the manpower resources that are put to run the Local Authorities are of such standards that would ensure that the funds or resources being allocated to the Local Authorities are efficiently utilised for the support of these services. Therefore, the administrative restructuring and reforms package is on the way on a similar basis that the Central Government has done its reform package. I think it is important to have very well articulated local chief officers who understand the problems, needs and requirements of the Local Authorities, in order to be able to attract more investments and more involvement of the private sector in the management of the Local Authorities services. Therefore, the administrative reform sector is on course. Secondly and shortly, I will be tabling before this House, a sessional paper that will be touching basically on those areas, and other areas.

Mr. Deputy Speaker, Sir, the second part, which is so important and so crucial, is the management of the financial resources available within the Local Authorities. I know, for instance, that some of the funds available through the current mechanisms of the Service Charge is very expensive to collect. It is extremely cumbersome, time-consuming and inefficient. Therefore, the establishment of the Local Authorities Transfer Fund will provide an easy avenue of accessing the Local Authorities to the funds that will then be able to spark off development activities in our local councils. Therefore, it is well accepted that the Central Government is much more efficient in the collection of tax than the Local Authorities. But in terms of service delivery, the Local Authorities have a much bigger impact than the Central Government. Therefore, the sharing of these resources, in fact, will equitably be in a position to offer direct benefits and results at the local level. Therefore, this is a mechanism which I think is well in hand.

I would like to say that as we move forward to establishing this sort of mechanism, the local authorities Transfer Fund being one such mechanism, we believe and hope that this figure of five per cent of the Income Tax allocation to Local Authorities will be increased progressively, in order that the sharing of these resources are filtering through the local levels. As we discuss and grapple with the issues of political reforms which are on the way, one of the issues that I do see coming up, is the ability and the capacity of the Local Authorities to deliver services. Secondly, the ability and the capacity of Local Authorities to be able to inject or collect revenue. At the moment, the revenue collection is very haphazard and it is not to the liking that we would like to see as a Ministry.

Therefore, this mechanism which provides the Central Government avenue for collecting the revenue is much more efficient and will be realised much quickly, than ourselves having to require the Local Authorities to initiate by-laws to meet these requirements. I can only say one thing; that the transition between phasing out the local service charge and the Local Authority Transfer Fund should be such that at no stage, should the Local Authorities feel threatened with the financial shortages. Therefore, that transition may take a little longer. But we should be patient until we are able to put the mechanism of the LATF in place, so that we are sure and clear that the flow of funds is unheeded and, therefore, the services will not suffer in the Local Authorities. I think that is one point that is important in discussing this Bill.

Mr. Deputy Speaker, Sir, I also wanted to mention that there are several components of the Local Government Reform Programme which will fit in once the resource allocation is adequate. I must say that the current rates at which we are now sharing the Road Maintenance Levy Fund is yet another mechanism by the Government in sharing the Central Government resources to Local Authorities. It is another way of alleviating the shortages and the scarcity of the resources within the Local Authorities. The Road Maintenance Levy Fund currently in the last year's Budget, was 20 per cent. It was stipulated and expected to be 30 per cent in the Financial Year, 1998/99 and, gradually, increasing to 50 per cent by the year 2,002. We think this is a very useful portion in being able to tackle one of the essential elements of Local Authorities services, and that is the infrastructure. It is so important that we must get our infrastructure in the Local Authorities in shape and in place. While doing so, I must say that we do not want the Local Authorities to expect that there is going to be money coming from the Central Government, that is going to be spent lavishly and on issues that are unbudgeted for. We are saying that we now would like to see properly audited books of accounts. My Ministry has taken a pre-emptive action in ensuring that all the Local Authorities must have their funds audited before we can be able to disburse the funds. To that effect, we have requested the Auditor-General (Corporations) to give us the dispensation to allow the engagement of the private auditors in order to speed up this exercise. This is because it is one thing requiring that the Local Authorities funds should be audited and if it is going to take five years, then the desired effect of the Fund will not be felt.

Mr. Deputy Speaker, Sir, it is critical and important that we up-date our auditing system so that we are able to draw out those funds in order to support the services. That is a requirement that should not be seen as an ablation, but as an additive to the renovation and making sure that the fund is properly utilised and managed. The mood of the House, the Government and everybody is to ensure that resources within our command are well managed.

Let me also say that there is unaccepted fact that at the current circumstances, the rural-urban migration is going at such a rate that while in 1963, the rural-urban migration was hardly one to two per cent, currently it stands at eight per cent. This is in search of goods and services, water, health facilities, schools, job opportunities, wealth and investment opportunities.

Therefore, I see to the future that the local authority councils and towns as being the herb of our economic activities. They must be so because when you look at the overall GDP sharing, currently the resources made available to local authorities hardly match 1 to 1.5 per cent of our Gross Domestic Product (GDP), while the Central Government has close to 47 or 48 per cent of the GDP. It is important that the revenue sharing, the mechanism and the procedure being put in place by the Government are essential and important to ensure that local authorities become viable entities and are able to serve people very well.

As politics shift - I venture to say, that when we come to political reforms - we should also ditch out the prescriptions of the type and the calibre of the councillors that we want to have running these authorities. Sometimes, it becomes very difficult for us to be able to instruct councillors who have particular political beliefs that are very difficult to change. I think in a changing world, a global village like ours, an area where we want to transfer the power and authority to our people and in the devolution of power to our people, one of the major elements of reform certainly, will have to be the calibre and the type of the councillors that we want to entrust the running of the services and the setting of guidelines and policies for the management of local authorities. That is an important issue that we must consider.

Secondly, if these resources are going to flow in a manner that is expected and in an increasingly progressive manner, then we must put in place a mechanism that controls the use of these funds. I think the regulations that will be discussed between my Ministry and the Ministry of Finance should be supportive rather than destructive. That should enhance the flow of these funds to reach the people that are required. It is important that initially at this teething stage, lative may be used as a performance base to enable local authorities to improve their financial management, accounting and revenue mobilisation systems. Over time, it is expected that the lative funds will evolve into the full fledged inter-Governmental transfer system.

Finally, I would like to say that the lative funds policy and administrative conditions; that is, the

allocation criteria, the conditionalities, channelling mechanisms and financial and audit procedures will be based purely on objective criteria which will be gazetted by the Government to promote certainty, transparency and accountability. I must say at this stage, that as we proceed to provide the resources necessary to support the local authorities, the process of commercialisation and eventually---

Mr. Deputy Speaker: Order! Order, hon. Maore, will sit down! You cannot stand while another Member is contributing!

The Minister for Local Authorities (Prof. Ongeri): Thank you Mr. Deputy Speaker, Sir. As we move towards the provision of resources to support and secure the financial stability of local authorities, we must urge local authorities to be much more innovative and be in tandem with the current world standards, where they would be able to attract more investments and commercialise some of their services.

I am glad to report that this morning I was in Nyeri, but I did not see the hon. Member for Othaya. We were there to do a very useful function of commercialising the water and sanitation department. We believe that this commercialisation will in effect assist and help - that is with a light touch, hon. Kibaki - the Nyeri Municipality acquire sufficient funds to run that department much more efficiently and to the satisfaction of everybody. This is going to be the trend everywhere. I believe we have three pilot projects, one in Nyeri, Kericho and Eldoret. Eventually, this will work out.

I am saying this because we believe that we have reached a stage when commercialisation and privatisation of goods and services offered by local authorities are an integral part of our reform package. Without that being in place, we can hardly expect these funds, however hefty they may be, to be sufficient to support the local authority initiatives.

With those few remarks, I beg to second.

(Question proposed)

Mr. Kibaki: Mr. Deputy Speaker, Sir, the Bill is certainly very welcome. We are pleased that local authorities will be assisted, but what we need in this nation is not just creating new institutions. We want to make the existing institutions efficient.

In the field of Local Government, one of the great tragedies of this nation, is that every Minister of Local Authorities in the last so many Governments has sought to increase the number of local authorities. They forget that these local authorities are costly and are consumer institutions. They are not investment institutions. This creates more Mayors, Chairmen and more gowns and cars are bought. That is not development, yet, an illusion has been created with disguise that by creating more local authorities, brings development nearer to the people. That is bull-shit! It is not true.

The Minister for Local Authorities (Prof. Ongeri): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for a hon. Member of this House for many years to use a very unprintable and unmentioned word, "bull-shit"?

Mr. Deputy Speaker: Order! Order, bull-shit is not unprintable because it can be spelt. But it is most certainly unparliamentary. So, it is not in order to use that word.

Mr. Kibaki: Mr. Deputy Speaker, Sir, I am sorry to use a farmer's language, but we are farmers. What I mean is that an illusion is being propagated in this nation that by creating more local authorities, we are bringing development nearer to the people. Every Member here who is sensible knows that, that is not true. It is nowhere near the truth and it will never be true. What this nation requires is the money to be spent in bringing water near to the people. Kenyans do not need the Government to create new municipalities everywhere. If the Government can provide water to the people, electricity and repair the roads, it will have brought development.

But to tell people that we have given you 5 per cent, they will sing and say "hallelujah" and "KANU yajenga nchi". And they will sing that they enjoyed themselves and the next morning, they are told, "if you want to have a District Commissioner, build his house through harambee". Is that development? We should be ashamed that we can genuinely tell Kenyans that to collect their money from their meagre resources in order to build in DC's house and office, and that, that is development. Are we not telling them fictitious things? That is greater fiction than anything else. It is not development, that is consumption. You are drawing good money and throwing it away. What do we see around the country? Constructions have been standing uncompleted, therefore, they are not being used and they are not completed, but resources have been spent. So, all I am pleading is, we need a precise statement of policy from the Government regarding local authorities. What role does the Government see the local authorities playing? In my mind, local authorities should play the role of mobilising the local people for development. We do not want to create many more local authorities. We want to use the ones we have now. They are already excessive. Therefore, could the Minister for Local Authorities, restrict himself from the temptation---

The Assistant Minister for Finance (Mr. Keah): On a point of argument, Mr. Deputy Speaker, Sir. I appreciate what he meant. But you ruled that he was out of order to use this word "bull shit". He used it here and that is why hon. Prof. Ongeru stood on a point of order and but has not rescinded. Through you, Mr. Deputy Speaker, I ask that he withdraws the word, because it is unparliamentary, and apologize to the House. The rules of this House apply to each one of us, including the Leader of the Official Opposition.

Mr. Deputy Speaker: Order, hon. Keah! You did not stand on a point of order, you stood on a point of argument. But I believe hon. Kibaki did, in fact, withdraw the word---

Hon. Members: He has not!

Mr. Kibaki: Mr. Deputy Speaker, Sir, I think the hon. Member for Kaloleni---

Mr. Deputy Speaker: Order, hon. Kibaki! I believe you did withdraw, if you did not---

Hon. Members: He did!

Hon. Members: He did not?

Mr. Deputy Speaker: Order! Order! Hon. Kibaki is of mature age and can answer for himself.

Mr. Kibaki: Mr. Deputy Speaker, Sir, I will withdraw, I have withdrawn, I will withdraw again. But it is a very good farmer's language, if the hon. Member does not know. This is the manner in which a farmer says that something is a fictitious story. It is fiction. It is a worthless kind of a thing; a worthless kind of talk. It is worth nothing; that is the meaning when the farmers use it.

Mr. Deputy Speaker, Sir, what I have in mind is, the Government should come out clearly and say that this money shall not be used merely to increase the number of local authorities, mayors, deputy mayors and clerks to be paid salaries. But this money will be specifically used to improve services such as roads and water which is what should be made specific. I suppose it will be in the rules or regulations which should be made. I am sure that, that is what will please this House to know that this money will not be used to pay people's salaries. This is because one of the biggest problems facing our local authorities today, is that, they have been created by the Minister for Local Authorities and the President and then they are used as employment agencies.

When a local authority is created, it becomes an employment agency so that they employ very many people. All local authorities in Kenya are excessively overstaffed. All of them, starting with Nairobi and every one of them. They have employed too many people who are not effectively and usefully utilised. They are paying them salaries every month, that is why the service charge money is not available for development. It goes to paying people salaries for a job not done. Wherever you go around the local authorities you can see it. It employs people who are standing around carrying a few slashers, cutting one or two pieces of grass once a day, and they are paid salaries. It is a shame. We need local authorities that are efficient. We need a law which states that this money from income tax of the taxpayers of Kenya shall be used only for the essential services such as water and roads in particular, and not salaries for people who are not needed.

Mr. Deputy Speaker, Sir, the other point I want to raise is that, the criteria--- Local authorities are very many. I do not know how many they are, but they are very many. They must be about 1,000 in number. But we know that very many of them cover very small areas and, therefore, administer very few citizens.

The Minister for Local Authorities (Prof. Ongeru): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Kibaki: Okay, information, yes. All right.

The Minister for Local Authorities (Prof. Ongeru): Mr. Deputy Speaker, Sir, just in case the hon. Member gets away with a wrong idea, they are not 1,000, they are 167.

An hon. Member: How many?

The Minister for Local Authorities (Prof. Ongeru): They are 167, not 1000.

Mr. Kibaki: Mr. Deputy Speaker, Sir, he has 167 local authorities, many of these are in new districts which have been created. This is the problem I am raising. I am saying that this money, when it comes to be shared between 167 local authorities, the criteria should be mentioned in this Parliament for record purposes. I know that it will be discussed in an advisory committee and that, it will be discussed between the Ministry of Local Authorities and the Ministry of Finance. But in passing this Bill as a Parliament, we are entitled to be briefed a little bit, in broad terms, what will be the criteria generally. This is because we are representatives of actual people, not zebras, not wildlife! We are actual representatives of human being who elected us. We want to hear it from the mouth of the Minister who is going to supervise this money, that the criteria for the distribution of this money will be people based. How many people is a local authority administering? That is what we want to know. That is what the criteria should be. If we are going to say, a local authority is equal to another local authority that will be a mistake which is meaningless. I am not going to use the word I used, because it was ruled out of order. But to go and try to equalise local authorities just because each one of them has a mayor or a chairman is ridiculous because we have some districts which have a population close to one million. Others have

more than 500,000. While others have only 100,000. It is fictitious to pretend that, because each has a local authority, therefore, local authorities are equal. No, that is not acceptable and it is not going to be acceptable to this Parliament. Let the criteria relate to the people, the actual population of each area. So, we would like to hear what the criteria will be. It is not written here, we are told that it will be included in the rules and regulations, but let us be told now as preview, what it will be, then we can pass this Bill with a clear conscience.

Mr. Deputy Speaker, Sir, equally, could we appeal to the Minister for Local Authorities and to the President of the Republic of Kenya not to create new local authorities? We have already far too many and as a measure of KANU to create discipline in spending money, local authorities should not be increased any more. Stop creating new districts. Send those people the resource they need by giving them a road and water, wherever they are, they will be grateful. Giving them a mayor means zero to them, in their lives and in their development. In any case, if you want to sub-divide a particular district into two or three, usually a commission should be set up, review it, look at where the boundaries should be and establish that people indeed, want to be sub-divided in that manner and therefore, also listen to how or where the resources of running those particular new institutions will come from. But the way they are being done now, is a matter of a dream. One dream tonight, tomorrow you create three. Another dream the day after, you create five. Another dream the day after, you create six. I am saying that, that is not---

The Minister for Local Authorities (Prof. Ongeru): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Kibaki in order when he knows that the creation of local councils is done under Cap. 265 of Local Government Act and clearly specifies---

Mr. Deputy Speaker: Order! Order, hon. Ongeru! You really are arguing with hon. Kibaki. What Standing Order has hon. Kibaki breached by saying what he has said? If he has not breached any of our Standing Orders, then he is perfectly in order. Proceed!

Mr. Kibaki: Mr. Deputy Speaker, Sir---

The Assistant Minister for Transport and Communications (Mr. Obure): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Be sure it is a point of order, otherwise the consequences could be---

The Assistant Minister for Transport and Communications (Mr. Obure): On a point of order, Mr. Deputy Speaker, Sir. The hon. Kibaki is suggesting that local authorities in this country are created by dreams. Is he in order to suggest that when he knows very well that the majority of them are---

Mr. Deputy Speaker: Order! Order! Hon. Members, you stand on a point of order, under Standing Order No.58. Please, go and read it and understand it in all its ramifications. Do not stand on a point of order if you want to argue. Proceed, hon. Kibaki.

Mr. Kibaki: Mr. Deputy Speaker, Sir, some people need to be forgiven because, even if they are in Parliament for a thousand years, they will never understand our Standing Orders.

(Laughter)

I am telling you! They are not capable. So, you must forgive them. You must forgive people. They have a small capacity to learn.

Mr. Deputy Speaker, Sir, what I am saying is something which the hon. Member knows; how local authorities have been created in this nation. A small delegation of 10 people goes there and says: "We want this one sub-divided". There is no specific criteria used. So, I am saying, we do not need new ones. I have made that point.

Mr. Deputy Speaker, Sir, what I would like to comment on now, is the point that the Minister mentioned briefly. He is creating companies within each local authority, particularly in municipalities, to run water and sewage. And they will get some of this money. You and I know that water and sewage is one of the most profitable services provided by local authorities because, the users pay money on the use of the water and sewage. If that account is properly maintained, it should actually, earn excessive surpluses. In fact, once upon a time, the water and sewage account of Mombasa, Nairobi, Eldoret, Nyeri and all other municipalities had huge surpluses in their accounts which they were investing. But, the Ministry of Local Authorities under the previous Minister, authorised local authorities to breach their own by-laws and use the money from the account which was to be used exclusively for water and sewage, to pay salaries. So, the money was swindled and has been misused. It has been depleted. It is finished. We want to restore those by-laws. Otherwise, there is no point in saying that you are creating a new institution and employing new people; new chairman, managing director and everybody else and you pay them salaries, unless you restore these by-laws which stated that water money shall not be used for anything else other than development of water so that every local Authority will have a proper account which runs in excess all the

time. That is what the Minister must do. He should begin there, rather than giving us stories on what he is going to do next year, the year after and the year 2002. In the year 2002, we shall be in the field of elections. Where will he be? He will not be there at all. He should take action right now. Mr. Deputy Speaker, Sir, I am saying that water must be treated very specially in all these areas, even if it is going to be privatised. We know so many parastatals which have been led to more bankruptcy. The way the Minister has said now, that they are creating a water project in Eldoret, Kericho, Nyeri and other places, and that these are experimental, and it is going to spread. But, how will that management be supervised? That is actually what the councillors want to be explained. That is what they want to know. How is the board of directors of those particular companies going to be appointed? Will they be appointed by the council? Actually, they should be appointed by the council so that the property belongs to the council. So that the people feel that their responsibility is to the council and they are not entirely independent and they begin sharing the profits. Before you realise what is happening, they have shared out all the profits and have all married five wives because they want to enjoy their wealth. We want to be sure that the tax payer's money will be protected. So, although the water and sewage companies must be separated from the council, they should be made entirely independent. They must report on a daily basis to the council. That is essential and important.

Mr. Deputy Speaker, Sir, finally, let me say that now that we are strengthening the local authorities, one of the effective ways of strengthening them is to de-link them from the Provincial Administration. In fact, this was considered by the last Parliament during the IPPG package, but it was not implemented when the Minister came to gazetting the facts. We agreed that we would de-link local authorities from Provincial Administration so that you do not have PCs, DCs and DOs having effective positions in local authorities which are elected by people. Administrators cannot be effective there. The law should be like that. Even a Motion has been passed, everything has been agreed but now the Minister is dragging his feet. He should have gazetted that particular fact. Remove those people by amending the other issues. The Electoral Commission is hiding behind there, saying there is some doubt because the Minister has not taken action. We want the Provincial Administration to be completely de-linked from Local Government so that we do not have a DO walking into a town council to bully councillors or a DC going into a Local Government, pretending to be the Chairman of the Plots Allocation Committee. The PC, being the Chairman of Plots Allocation Committee, is participating in the looting of public utilities in the whole Republic. This is a great shame. Total shame. In any case, as a Parliament we had agreed to de-link the Provincial Administration from local authorities, so that local authorities become elected bodies responsible to the people and we know whom to deal with. The Provincial Administration is a safe channel for looting public property, hiding behind the Office of the President, where they claim they are protected. We wanted to remove them totally; and that should be done. This is the way to have a strong Local Authority responsible to the people. Not hiding behind the DC, DO or PC. It is essential if we are going to see change and development. We are expecting that the Minister will take some action fairly soon.

Mr. Deputy Speaker, Sir, all of us know that local authorities have never been audited. There are no available audit reports of local authorities. Therefore, when the Minister says that those local authorities which do not have audit reports will not get this money, what is he saying? Nothing. He is saying nothing because the local authorities have never been audited. If we pass this money now and the Minister makes his own commitment that until local authorities produce audited reports, no money will be passed over to them --- We are talking about the current Budget. Actually, the year will end before the local authorities get any money, and they need it. That is true. So, we want to hear in his reply, what is the programme of giving the local authorities some auditors to do this job as a crash programme, so that the audits are done. That is very important, because in any case, we want to see how they spend the money.

Mr. Deputy Speaker, Sir, the other important issue with local authorities is this. Local authorities today, almost all of them, particularly the townships have had houses built over the years by public money, or money borrowed from the National Housing Corporation and from other sources. Now, many local authorities are selling those publicly built houses, ostensibly in order to realise the money. We want to hear it from the Minister for Local Authorities and the Minister for Finance, that when you are going to salvage them through this channel; they will not be allowed to go on selling houses which were built by previous councils. This is disgraceful, shameful that, we pretend here that we are promoting some responsibility, accountability and yet, you have local authorities selling houses built with public money, and when the houses are sold, the benefit does not go to the public! I can assure the House of that. We have checked in so many places. There is utilisation of that money by individuals who have grown very wealthy on that account. It is not possible for us to believe that these changes will make a difference, unless this manner of siphoning public utilities, turning them into money going into private pockets is stopped. If that is not stopped, then what are we being told? Stories! Fiction stories like those told to children in order to sleep. They are scared. They are told outside there, liko Jini moja, jini lingine ziwani huko karibu, and I

think you probably got the story when you went to Mombasa. But this thing must be stopped, otherwise, we are being treated very badly. You talk to ordinary people from other parts of the world and they hear the Kenya Government is tolerating, indeed, authorising, the marketing of public houses, and there is a shortage of housing in all urban areas all over the world, even more so in Kenya than other parts of the World. But the Government is selling these houses, not to do anything with that money, but benefits going to individuals. It is a shameful aspect of what is happening right now. It really must be stopped; then, we shall be believed when we say we want to strengthen the local authorities. That is really shameful.

Mr. Deputy Speaker, Sir, once upon a time, the Municipal Councils of this country and the local councils used to budget and used to publish the budgets, just like the Central Government does. Now that we are going to vote the money from income tax, we want budgets of all the councils. It is disgraceful that we, as taxpayers; take taxpayers in Nairobi, Mombasa, Kisumu, Nakuru, Eldoret, Nyeri, Thika, anywhere, we are taxpayers. The tax rates have been increased by 500 per cent! Now, if you live in a town like this the house you live in, you are required to pay Kshs150,000 to Kshs200,000 as rates. It is your house. It is not a business. You know, if people refuse to pay, is the Minister for Local Authorities going to be surprised? I doubt whether he will be surprised. How can you pay rates for the house you live in? The house belongs to you, but you pay rates amounting to Kshs150,000 or Kshs200,000 for some people. It is not a business, it is your home! What are you paying for? Nothing! If the local authorities are not controllable as to the manner of raising rates, we shall have a breakdown. It has begun in Nairobi. People who are in some parts of Nairobi have organised their own local committees and they will refuse to pay rates at that high level and they will bank the money and service their own villages, but refuse to surrender that money to the council, because it is not illegal. Illegal or otherwise, I am saying that when people are taxed so heavily and they do not see where the money goes, they will take action, and they have begun to take action. It is a crisis we are building. We do not want to build a crisis, but we are saying the Minister, the Government has to take action to make sure that budgeting and the production of accounts is essential. If, as people who live here, and you are telling us to pay Kshs150,000 rates, and you do not show me where you are going to spend the money, you do not publish any budget, what kind of local authority is this? Is it an authority or a syndicate for looting? It is a syndicate for looting! A Government authority, local government or otherwise, must publish a budget, make it available to the taxpayer. It must become public and the audited accounts must also be public so that then, it is open, accountable and we know where the money has gone. Now, we do not know, but he money is still being demanded. So, that is one of the things we are asking for. Let the Minister insist on that budgeting to be re-introduced and be published and made available to all rate payers, tax payers, *et cetera*. Otherwise, he is going to face a crisis. It is coming; I can see it; it is already there. There is no other way we are going to agree with him in this matter.

Mr. Deputy Speaker, Sir, it is said in clause 5 that we start off this Fund with 5 per cent of the income tax yields; the money realised from income tax each year. Then it is left in the years to come, starting with the year 1998/99, and then in the years thereafter, the Minister will make that decision. That is all right. But if this particular source is going to be increased so that we are paying the local authorities more and more money. Is there any measure being taken so that local authorities getting this money become a relief. They do not have to go and continue raising other local rates at their own districts or townships. Because, if this is additional and they can still raise so much more money locally, do not tell us that they forget that the taxpayer is the same person. The same person is being taxed by Local Government and Central Government, but the income finally which you are taxing is the same income from the same person. So, let us have mercy on the taxpayer. He is not a limitless source of these resources. So, if we must give this money to local government, then it should be yielding something, and in particular, to assist the people in business. The number of licences that are to be paid to local authorities; so many variety of licenses--- The other day, there was somebody starting a business here; they were counting about 12 different licenses which you have to pay this, pay the other, and finally, you have no development because the fellow is frustrated. Can we consolidate them so that we are paying for any particular business one licence, and then you do business! Then, we shall know where we are on the collection. This will be very welcome, really, even for foreign investors. When you are talking about foreign investors, one of the things you and I know is that, a foreign investor will never invest in Kenya until Kenyans show the way by investing in their own country.

Mr. Deputy Speaker, Sir, if Kenyans are not investing, who is going to have faith in Kenya. So, let us not always dream of foreigners, tourists and foreign investors; treat the Kenyan taxpayers well first and then, they will create faith. They will convince the outsider. That is the way the game goes. Any foreign investor, when he comes to Kenya, talks to those who are already in business. Before he can even listen to the Government, he talks to people who are in business. They speak the same language. They ask the same question which is: "What is the cost of doing business in this country? And the cost of doing business in this country is an accumulation of all

those little taxes put together plus what you have to pay for *kitu kidogo* and for everything else. All those, for a businessmen, are taken as costs of doing business and he hears it from those who are already in business in Kenya. So, that is what I want to clean and that is why I am saying that, let us reduce those licences. Let us reduce everything and then we shall get to know investment from outside and from everywhere else that we want to have.

Mr. Deputy Speaker, Sir, finally I would like to say that when local authorities when employ staff, the staff must be willing to listen to the councillors. The local council is the governing body but the local authorities in Kenya now are being ruled by town clerks and by other people employed by the central Government; and we are getting people transferred. When a fellow goes and loots in one place and the local people complain, the fellow is only transferred. So, a fellow messes at Ruiru and then he is told to go to Murang'a. Kule Murang'a wanamkataa na anaambiwa apelekwe Kisumu na Kisumu inamkataa na anapelekwa pahali pengine. Why can he not be sacked when it has been established that this man has been robbing? How can he not be sacked or does he pay some money as we believe, to the headquarters of the Ministry of Local Authorities? Is that why he is not being sacked?

Mr. Ndicho: On a point of information, Mr. Deputy Speaker, Sir. I am very impressed by the contribution of hon. Kibaki. The information that I want to give him is that, a town clerk called Mr. Joseph Mwangi from Ruiru devastated the whole of that town---

Mr. Deputy Speaker: Order, hon. Ndicho. You know fully well that you are grossly out of order to start maligning somebody who is not in this House and who cannot therefore defend himself. If you want to talk about a specific town clerk, you must be prepared to produce evidence on the allegation that you wish to make and lay them here on the Table.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. You are protecting some people!

Mr. Deputy Speaker: Order! Hon. Ndicho, I am not protecting anybody. I am merely asking you to go by your rules. If you follow your rules, you can do anything under the sun but if you do not, then you will not.

Mr. Mutahi: On a point of order, Mr. Deputy Speaker, Sir. I just need a clarification here. There is nobody who has said that he would like hon. Ndicho to lay documents as evidence as to what he says. It is only the Chair that has found Mr. Ndicho having contravened the rules of the House. I seek your guidance whether that is in order?

Mr. Deputy Speaker: Of course it is in order.

Mr. Kibaki: Mr. Deputy Speaker, Sir, everybody will have a chance to speak. I want to conclude my own speech. I am making a very essential point. The whole principle of democratic self-government in the Local Government is that, we choose a council for our small township or for our district and that council elected by us is the one that is going to provide services, take our taxes and it is the one that we can criticise for not doing what we want to be done in that locality. But today, they are dominated by these civil servants who are protected by the Ministry of Local Authorities to the great shame of the Ministry because when they make any mistake or commit any crime, they are transferred all the time. You find a fellow is being transferred. If he commits a crime in one area, he is taken to another area to do similar things. What we are saying is that those servants who are town clerks or whatever else they are; that is, engineers, accountants *et cetera*, should be responsible to the council which has been elected by the people; they should know that they are responsible to those people who should be able to discipline him. Otherwise, we are never going to strengthen local authorities.

Mr. Deputy Speaker, Sir, it is very disgraceful. You may have heard of it; that, some circular letters can go to various councils trying to define when a mayor or a chairman of a county council may visit that council and how long he may sit in that office *et cetera*. Now, even that is destruction and sabotage of the local authority system because these are elected people and then, some letters come from some department of the Ministry of Local Authorities advising the town clerk who is then to tell the mayor or the chairman about how he may use his office as a chairman. That is sabotaging the development of local authorities. A chairman of a local authority should have the powers to chair the full council meetings and should have all the powers to discipline any of the staff. That is the only way that we are going to restore the dignity and the respect of the councils. Today, inside a council, you can go to a council anywhere and you hear that some committee chaired by the DC or PC has allocated some land in that council area and the chairman of the council and the council is not aware. We are destroying local authorities. So, these are the actions that we are calling upon the Central Government to stop because it is mischief. It is sabotaging development of democracy and they cannot on one hand pretend they like democracy and say that we are going to promote Local Government as a measure of self-government. There is no self-government when the centralised Local Authorities Ministry can keep giving instructions in writing as to how the councillors may do and sometimes give powers to committees chaired by the DC and PC to allocate land, even without the knowledge of the local council. Now, that really must stop, otherwise, we are sabotaging the local authorities and sabotage is a criminal act.

Mr. Deputy Speaker, Sir, we support this particular measure but to make it more meaningful, some of these proposals that we are asking have to be implemented.

I beg to support.

The Minister for Co-operative Development (Dr. Anangwe): Thank you, Mr. Deputy Speaker, Sir for giving me this opportunity and let me say from the onset that, I support this Bill and I hope that it will be passed of course, subject to the amendments which the Minister may propose at the latter stage.

Mr. Deputy Speaker, Sir, I think the objectives of this particular Bill are very clear but may I make certain suggestions at some latter stage but before I do so, let me make some comments by way of response on some of the remarks that have been made, particularly by the Leader of the Official Opposition. It is true that lack of funds is the Achilles heel of local authorities. Many of them are in the red. Their resource bases are very weak but this is not by accident. It was by design. Many of you will remember that, local governments in 1960s were viable entities until about 1969 with the transfer of The Local Government Functions Act and particularly, with the introduction of free education and other measures that were meant of course, to help our people; then, the resource base of local authorities did shrink.

In other countries, local authorities have not only been the vehicles for local communities' development, but also for national development. Local authorities can dispense all the services that are being provided by the Central Government, including education, water supply and road maintenance. Of course we know the history of all these changes. However, time has come for us to bestow responsibility and authority on local authorities so that they can dispense some of these services.

Mr. Deputy Speaker, Sir, there are comparative advantages of local authorities dispensing certain services as opposed to Central Government. Local authorities can easily adapt their services to suit the local environments. They can offer speedy responses to the constraints and problems of the local people. These are not the advantages one can readily find in the Central Government. Central Governments the world over are remote to the people. By the time the local person finds an opportunity to seek redress from Central Government institutions, he will have spent resources. He may even get lost in the web of hierarchies, procedures and institutions, given that many of the people may not be literate.

So, this is a unique opportunity to provide local authorities with a greater role in dispensing certain services to the people. Some people have said that local authorities should not have a role to play. I am particularly intrigued by the remarks of the Leader of the Official Opposition, that we do not need them since they are too many. Even if we go by his estimate of 100,000 people in the smallest local authority and put the country's population at 30 million people, simple mathematics suggests that we can still create up to 300 local authorities. There is need to continue expanding existing local authorities and creating new ones. Doing so is part of development.

Mr. Deputy Speaker, Sir, I know that sometimes people perceive the concept of development narrowly. In conventional terms, development refers to desirable change in economic, social and political structures and, of course, distribution of benefits to various income groups and individuals. Creating local authorities is a process in political development because it creates more opportunities and more avenues for political participation. So, hon. Members should not leave this House with the erroneous impression that creating local authorities in a political system like ours is in itself negative. In deed, it has been suggested that it is a panacea to problems of instability.

Of course, by narrowing the arena for competition within the Central Government, one marginalises many people. These people may resort to all sorts of tricks in order to survive within this particular kind of political system. This has been observed where there are many strong local authorities. Central Governments are neither centres for political competition, nor are they arenas where people have to conflict and kill one another. In fact, some local authorities are able to attract the best skills and the best political elites, including those who are as qualified as ourselves here. One way of removing political tension in some of the developing societies, particularly in Africa, is the creation of more arenas for competition, and the creation of more opportunities, so that people can seek offices. They may not be lucrative but when people get the chance to participate, they get some sense of satisfaction.

Mr. Deputy Speaker, Sir, it is legitimate that local authorities should be created. As it has already been mentioned, local authorities in this country are not created at the behest of the Government. The procedure involves the setting up of commissions to which people present their views and say whether they want the establishment of a local authority. In most cases, many people indicate that more local authorities should be created. So, as we go about the constitutional review process, I hope that we will define very explicitly, the role of the Local Government in this country. It is an integral part of the constitutional review process and political development and, therefore, a desirable reform that we should all pursue.

Coming back to this Bill, which has provided many interesting things, I would like to make suggestions

on two or three aspects which the Minister for Finance may consider. This Bill seeks to redress the shortcomings of the finances of the Local Government by hiving off about five per cent of Income Tax and dispensing it to local authorities. May I say that this is not enough? Given the state of affairs in the local authorities, there is still opportunity to create more resources and dispense them to local authorities. Let us have this for a start but, in future, let us consider including VAT and all other avenues of resources from which the Government can collect revenue. We should not only consider hiving more of those resources to local authorities but, also, increase the percentage. Most of the country's population stays in the rural areas, and not in the cities. In most African countries and particularly in Kenya, 80 per cent of the population lives in the rural areas. By creating viable local authorities with adequate resource base, we shall be creating an opportunity for the people to access the Government easily.

I have noticed that it has been stated in Clause Six that the Minister may decide the criteria against which these particular resources will be dispensed. For now, I do not have any problem with that provision, but I have one particular fear. Given the history of this country, we may have to be very explicit on the criteria for dispensing the resources. In my view, this particular criteria must include equity considerations. Local authorities should be allocated these resources according to their capacities. Also, there should be regional balances in the dispensing of the resources. We do not want these resources to end up in local authorities in one region. Dispensing of the resources should also be based on the ability of individual local authorities to absorb them. Some local authorities may end up being swamped with more resources than they can utilise.

Mr. Deputy Speaker, Sir, I am saying this along the lines proposed by the Leader of the Official Opposition but, of course, for different reasons. The history of this country's Local Government expenditure since 1963 shows that resources have been going to very few places. For example, 30 per cent of the total Local Government expenditure in 1977 shows that resources went to five local authorities in one province. The rest of the provinces had nothing.

An hon. Member: Which province is that?

The Minister for Co-operative Development (Dr. Anangwe): I do not want to comment on that because it is very controversial. I leave it to your own guessing.

Mr. Deputy Speaker, Sir, 42 per cent of Local Government expenditure in 1978 also shows that resources went to one province. Local authorities in other provinces, of course, got peanuts. It is very easy to argue that those local authorities collected their own taxes through the laws that were then in existence. In designing a law, of course, one advances certain ends. Those laws were deliberately enacted to give advantage unfairly to local authorities in those regions. I have always argued that the idea of the courts removing certain sources of Local Government revenue in the 1960s was deliberate. This was done to undermine local authorities in a very unbalanced manner for causes we may not be able to argue against.

Mr. Kariuki: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to talk of events that have no bearing at all to the Bill and making assertions that indicate that there were certain decisions that were made by the Government in ages that some of us were not in this House? Is it in order?

Hon. Members: Repeat it! Use the microphone, we did not hear you.

Mr. Kariuki: I was through the Chair asking the hon. Minister there whether it is in order for him to bring past history into this House by mentioning times that are not relevant to us? We are debating a Bill that has been tabled here and some of us are not even aware of what he is talking about, we were in primary school at that particular time? What has that got to do with us today?

The Minister for Co-operative Development (Dr. Anangwe): Mr. Deputy Speaker, Sir, I think I was agreeing with what the Leader of Government Opposition said. He had said that we needed to have a criteria and I was only justifying and strengthening his point by stating what the record is like. History always repeats itself. If you do not take care of what history has provided, I think we will always come to the same problem.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. You have heard the hon. Minister referring now and again to the Leader of Government Opposition. Who is this Leader of Government Opposition? Do we have such a position in this House?

(Laughter)

Mr. Deputy Speaker: Order! Order! I suppose, the Minister means that if you are the Leader of the Opposition, you are holding opposition to the Government.

Mr. Anyona: Mr. Deputy Speaker, Sir, terms are defined in our Standing Orders. I do not think we can ascribe any meaning we want to any of these terms; either they mean what they are meant to mean or they do not

exist. I thought the proper title is the Leader of the Official Opposition not Leader of Government Opposition.

The Minister for Co-operative Development (Dr. Anangwe): Mr. Deputy Speaker, Sir, it was the slip of the tongue. I accept and I stand to be corrected; he is the Leader of the Official Opposition to the Government. In Clause 8, I think that particular clause does provide for an advisory committee and the kind of membership that is needed. I would like to suggest that, if we are talking about local authorities, we must create representation for local authorities themselves. So far, there is no provision for local authorities themselves to be represented in this particular advisory committee. If we embrace the principle of beneficiary participation in policy making, we need to give them an opportunity. May I suggest that given that local authorities in this country are diverse, some are rural and others urban; even amongst the urban ones, some are poor and others rich, we should create a representation that does take cognisance of this particular reality. I am suggesting that that particular clause should be re-examined particularly at the Committee Stage when the time comes so that we create more opportunities for representation of the local authorities.

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

Mr. Raila: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to speak on what I consider to be a very important Bill. The importance of local authorities in our national lives cannot be over-emphasized. In fact, we say that local authorities are the building blocks of our nation. We have said that until such a time that we have properly empowered local authorities, our development will continue to be distorted. We, in my party, believe that the best route to solving the perennial problems of local authorities is by empowering them to be able to plan, organise and manage development in their areas of operation. The word "local" should be really local and the people at the local level should be given the opportunity to manage local authorities. At the moment what we have are extensions of the Central Government. These authorities have become mere departments of the Central Government through the famous Transfer of Local Authority Act (1969) so that these authorities have no authority, they are mere shells. They are controlled from Nairobi by the Central Government and therein lies the actual problem. So, we need to give them actual powers.

Mr. Deputy Speaker, Sir, we are saying that this is an aspect that can be handled within the context of our constitutional reform. We need to examine deeply what kind of authorities we will require because, if you go down into the history and look at the Local Native Authorities, Local Native Councils; then, you count the African District Councils before Independence, you would find that there was a criteria that was used in creating those authorities and that most of these authorities were actually viable economic entities. After Independence, we resulted to *ad hoc* creations of these authorities without due regard to their economic viability and this itself has created some problems. So, we need to address this. With the abolition of the GPT, we also denied these authorities a very major source of their revenue. The Government decided that it was going to use grants to augment or to supplement their incomes, but experience has shown that this is inadequate and has not worked. We said that there has been discrimination in the provision of grants to these authorities to the extent that some of them have been starved while others have received more funding. While I do agree with what the Leader of the Official Opposition said here, that the major criteria in disbursing funds to these authorities should be population rather than tracks of land or wild animals that live on those lands; I think to address a very crucial factor in relation to these allocations which is equity, we must also look at the ability of some of these authorities. There are some authorities which are better endowed in terms of resources than other authorities. So, while we should take cognisance of the population living in those areas, we should also take cognisance of the hardships that exist in some areas.

Mr. Deputy Speaker, Sir, I now come specifically to the Bill itself. There is one thing that I consider to be a misnomer in this Bill and that is, we are creating a potential area of conflict because we have the Ministry of Local Authorities which is responsible for the running of the local authorities and we have a Permanent Secretary in the Ministry of Local Authorities who is the Accounting Officer for the Ministry of Local Authorities, yet, now we are creating a fund which is not going to be administered by the Ministry of Local Authorities, a fund which is going to be administered by the Treasury. I see that this is a potential area of conflict because while the Fund is dispensed to the local authorities; it will form part of their expenditure. It will be in their budget and that when the accounts will be audited; they will be audited in full. According to this Bill, the local authorities will be required to account to the Treasury for that small percent which is going to go to them whereas the rest of their expenditure is going to go through the Ministry of Local Authorities. I think that is a potential area of conflict; we should not create two accounting officers. This is a potential area of conflict where we have two accounting officers. This money should be given to the local authorities through the Ministry of Local Authorities. We should change the definition that, "The Minister means the Minister for the time being responsible for matters relating to finance---" We should replace the word "finance" with "Local Authorities".

Mr. Deputy Speaker, Sir, when you come to the second one which is clause 3, again, I would like us to

look at the words, "the Permanent Secretary in the Ministry of Local Authorities". I think this is very important otherwise there is going to be insubordination. You are going to have a situation where these local authorities are running to the Treasury and the Ministry of Local Authorities. Imagine somebody coming all the way from Manderu to Nairobi and "for this he has to go to the Treasury, and for that to Jogoo House." I think this is going to create a lot of managerial problems.

Mr. Deputy Speaker, Sir, with regard to section 4 which talks about objects; "to supplement to the financing of the services and facilities they are required to provide under the Local Government Act---", I think the Leader of the Official Opposition made a point here: That some of the services like water, sewerage and so on provided by these local authorities can be self-financing. So, I think I can see another area where the local Authorities really need funding, and that is paying of allowances of the councillors. If councillors can be paid their allowances out of this Fund, it will relieve the pressure from the other revenue being collected. That revenue can now be used properly in provision of other services.

Mr. Deputy Speaker, Sir, I intend at the Committee stage to move an amendment to this clause to include "operations, services and facilities ". Section 6 talks about the accounting matters which I have already mentioned. But then the Minister talked about the local authorities being allowed to hire private auditors. While that point is appreciated, experience has shown that all those other organisations that have been exempted, for example, from the State Corporations Act or the Exchequer and Audit Act have not fared any better. We have actually established in the Public Investments Committee that the private auditing firms themselves are not doing as good a job as that which is done by the Controller and Auditor-General and the Auditor-General (Corporations). So, I think we should strengthen the auditing system; we should try to remain with the Controller and Auditor-General.

Mr. Deputy Speaker, Sir, the question of how this Fund is going to be distributed, if passed, is vague. A lot is being left to discretion. Whereas I do also agree that there will be a Board which is going to look into this matter, I think we run the danger of leaving too much power to discretion on how this is going to be done. This is likely to be abused by the concerned people. I would have loved to see a formula placed somewhere there to say, for example, "that this Fund is going to be disbursed in this and that manner" so that the Board itself gets some kind of a guide.

Mr. Deputy Speaker, Sir, Section 6(2) says: "There shall form a charge against the respective Vote of the Ministry for the time being responsible for matters relating to local authorities."

That actually underlines the point that I made earlier on, the Ministry of Local Government should be the accounting Ministry.

Section 8 creates the advisory committee. Here, again, I do share the views of the hon. Minister for Co-operative Development who said that the local authorities themselves should be involved and should be represented here. I would like to suggest that under Section 8(f), that instead of the three persons not being public officers, appointed by the Minister, that ALGAG be made to nominate those three persons for appointment by the Minister.

Mr. Deputy Speaker, Sir, under Section 10(a) which says that the criteria for the disbursement of monies from the Fund to the various local authorities; that the Minister is going to prepare those regulations, I would like to say that this is the area where we run into a lot of problems because we are again giving the Minister for Local Authorities powers to do certain things and this is one area where other authorities may suffer while others may benefit immensely. We would like him to introduce here more details on how this is going to be done.

With those few remarks, I beg to support.

ADJOURNMENT

Mr. Deputy Speaker: Order, hon. Members! It is now time for us to interrupt our business. The House is, therefore, adjourned until tomorrow 28th October, 1998 at 9.00 a.m.

The House rose at 6.30 p.m.