

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 7th May, 1997

The House met at 9.00 a.m.

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

PRAYERS

NOTICES OF MOTIONS

Mr. Murungi: I beg leave to give notices of the following Motions:-

AMENDMENT OF THE CONSTITUTION

THAT, this House urges the Government to urgently introduce a Bill to:-

- (1) Amend the Constitution of Kenya to suspend operations of Section 59(a) of the Constitution from 1st June, 1997 to the 2nd of January, 2000.
- (2) Postpone the General Elections from the year 1997 to the year 2000; and,
- (3) Set up a broad based constituency assembly to collect views of Kenyans and to draft a new Constitution to be adopted through a referendum in December, 1999.

SECURITY FOR MEMBERS OF PARLIAMENT

THAT, this House urges the Government to provide security for all hon. Members of Parliament and leaders of political parties, who request such services.

Mr. Nthenge: Mr. Temporary Deputy Speaker, Sir, I beg to give notices of the following two Motions:-

DEMOLITION OF ILLEGAL STRUCTURES

THAT, in view of the fact that there are so many illegal structures mushrooming in almost all the urban centres in the country due to irregular land allocation and authorization of shoddy physical plans; aware that these structures do not conform with the official physical development plan, and aware that these structures have interfered with public utilities and envisaged urban residences, this House calls upon the Government to order the demolition of all illegal structures in urban centres and to take disciplinary action against officers who abated these irregularities.

CONSTRUCTION OF DUAL CARRIAGE-WAY

THAT, while appreciating the Government plan to do construction work on Nairobi-Mombasa road; considering there is an increase in traffic by both heavy and light vehicles, on this road, and since there is need to reduce accidents and time wastage on our roads, this House urges the Government to construct, if necessary in phases, a dual carriage-way from Nairobi to Mombasa.

CONSTRUCTION OF THE SECOND MZIMA SPRING PIPELINE

Mr. Mcharo: Mr. Temporary Deputy Speaker, Sir, I wish to give notice of the following Motion:- THAT, since Mombasa and its environs have been experiencing acute water shortages due to frequent breakdown of the old Mzima Springs pipeline, which as built in 1949-50; and

considering the adverse effects of the frequent shortages of water supply in the tourist industry, and for the general development of the Coast area; and considering that the World Bank undertook to built the second Mzima Springs pipeline to alleviate the above mentioned difficulties, the House calls upon the Government to implement this long overdue project within the current Development Plan, that is, 1997-2001.

ESTABLISHMENT OF SOYA BEANS PROCESSING PLANT

Mr. D.D. Mbela: Mr. Temporary Deputy Speaker, Sir, I beg to give notice of the following Motion:- THAT, considering the dire need to develop and expand the livestock industry in Kenya, being aware that soya beans extract additive is an invaluable component in the protein enrichment of animal feed; also being aware that soya beans can be grown in many areas of Kenya including the Coast, Nyanza and Western Provinces; and considering that other components of animal feed like wheat, maize, millet, *etcetera*, are readily available in the grain sector of this country, this house urges the Government to establish, as a matter of great national importance, a soya beans processing plant, preferably in the Coast Province to facilitate availability of appropriate, cheap and adequate animal feed to livestock farmers.

FORMULATION OF WATER RESOURCES HARVESTING MASTER PLAN

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, I beg to give notice of the following Motion:- THAT, considering that the failure of rains for two consecutive seasons has resulted in the current famine which has caused the Government to spend over Kshs7 billion in the importation of famine relief supplies; knowing that most of our rivers and water resources traverse highly fertile land in Eastern, North-Eastern and Coast Provinces and end up going to waste in the Indian Ocean, this House urges the Government to urgently formulate a ten-year water resource harvesting masterplan, which should include desilting of dams, opening up of access roads, provision of electricity and other related infrastructure; and further, introduce legislation which will make irrigation of the opened up land by the land owners compulsory.

ORAL ANSWERS TO QUESTIONS

Question No.069

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

- (a) whether he is aware that the Kenyans of European/Asian origins who fought in the 1st and 2nd World Wars were compensated and that the Kenyans of African origin who fought in the same wars have never been compensated; and,
- (b) what measures the Government is taking to compensate those who fought in the 1st and 2nd World Wars and are still alive.

The Assistant Minister, Office of the President (Mr. Manga): Mr. Temporary Deputy Speaker, Sir, we wish to apologize because we do not have an answer now.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Manga, Mr. Sunkuli passed here and indicated that he had an answer but now he has gone behind the scene.

The Assistant Minister, Office of the President (Mr. Manga): Mr. Temporary Deputy Speaker, Sir, no, not that answer. He does have the answer to that Question.

The Temporary Deputy Speaker (Mr. Wetangula): So, what are you asking for?

The Assistant Minister, Office of the President (Mr. Manga): We are asking for more time so that we can bring a correct answer next week.

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. We have heard through the grapevine that this Government wants us to go home next week. Since this is not a very difficult Question, this information should not be difficult to collect.

Can the Assistant Minister agree to bring the answer tomorrow?

The Assistant Minister, Office of the President (Mr. Manga). Mr. Temporary Deputy Speaker, Sir, the hon. Member is saying that the Question is not difficult. He has asked a Question and we are trying to answer it by

getting the correct information and we are digging it out. We will be able to bring the answer next week.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Manga, are you able to bring the answer tomorrow or not?

The Assistant Minister, Office of President (Mr. Manga): I have said that we will be able to bring it next week on Tuesday.

The Temporary Deputy Speaker (Mr. Wetangula): Is that all right, Mr. Muite?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I have no alternative. I do hope that by Tuesday next week the information will be here.

Thank you.

(Question deferred)

Question No.107

BEEF EXPORT QUOTAS TO EEC

Dr. Otieno-Kopiyo asked the Minister for Agriculture, Livestock Development and Marketing:-

(a) how many abattoirs are approved in Kenya to produce fresh and processed Bovine Beef for export into the European Economic Community (EEC) countries; and,

(b) what the current beef export quota for Kenya into the EEC is, and if this Quota has been fully utilised.

The Temporary Deputy Speaker (Mr. Wetangula): Anybody from the Ministry of Agriculture, Livestock Development and Marketing?

Mr. Owino Achola's Question.

Question No.051

GRANTS TO UNIVERSITY ENGINEERING DEPARTMENT

Mr. Achola asked the Minister for Education:-

(a) how much money the Government has spent on grants to the University of Nairobi's Engineering Department for research projects since 1993; and,

(b) what benefits, if any, the country has enjoyed from such projects.

The Assistant Minister for Education (Mr. Komora): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The Government, through usage of the Public Funds from the Exchequer and the International Donor Organisations, has spent a total of Kshs12.6 million since 1993.

(b) The benefits for the country from these resources are many, but can be summarised as follows:-

1. Better quality of teaching in our universities subsequently leading to better human capital investment and resources, specifically, within the manufacturing industries where engineering is utilised.

2. The country, especially the industries utilise the new technology discovered from research activities in the Engineering Faculty for improved or better productivity in our industries.

Mr. Achola: Mr. Temporary Deputy Speaker, Sir, I do not know whether you listened to what the Assistant Minister was saying, but as far as I am concerned, he has not said much. He has not answered my Question. That answer is very general; that is not what I had requested. Nevertheless, can he tell us what happened to, for example, the Nyayo Pioneer Car? Can he give specific examples of what the researchers have brought into this country?

Mr. Komora: Mr. Temporary Deputy Speaker, Sir, when you come to specifics, then you would divert the answer to the relevant Ministry which is the Ministry of Research, Technical Training and Technology in relation to the Nyayo Pioneer Car or Nyayo Bus Company.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, if you listened to what the hon. Assistant Minister was saying, he is totally displaying absence of any concrete knowledge of what goes on in the Faculty of Engineering at Nairobi University. You cannot purport to justify the level of public funding of that faculty on the basis of invention when you are not capable of enumerating a single invention by that faculty. Could you tell us, whether or not the Government knows what goes on in the faculty of engineering? Have the public monies invested in

that faculty yielded anything tangible?

Mr. Komora: Mr. Temporary Deputy Speaker, Sir, it is impossible to explain everything that happens in that faculty to this particular House. Otherwise, you would have to spend the whole day with all the professors coming here to give

exposition on what happens in that faculty. As far as the Ministry's concerned, I have---

Dr. Kituyi: On a point order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Assistant Minister in order to create a stray question and proceed to answer it purporting to answer that I have claimed that I want to be told everything that goes on in the Faculty of Engineering, when my question is very specific? Since he has told us that the faculty has been important for the inventions in technology, could he tell us just one invention from the Faculty of Engineering, Nairobi University, over the past 30 years, without enumerating everything?

Mr. Komora: Mr. Temporary Deputy Speaker, Sir, I would like to take time and provide more than one if given that time. For the time being, in relation to this particular question, I think, I have satisfactorily answered the question.

Prof. Ouma: Mr. Temporary Deputy Speaker, Sir, research, inventions and discoveries are the life blood of a university. If we are going to have meaningful universities and retain top quality professors and lecturers, we must provide the means of doing that research. It is also known that in the 1960s, 1970s and 1980s, Kenya lost some of its top professionals, especially from faculties of engineering and medicine due to lack of enough material for meaningful research. As a result of this knowledge, what is his Ministry going to do to ensure that we do not lose professionals through brain drain? For example, can he tell us that there is enough money and facilities to maintain the life blood of the Nairobi University through research so that we do not lose such people to other countries? Can he stop the brain drain?

Mr. Komora: Mr. Temporary Deputy Speaker, Sir, as a matter of public policy, we are providing everything available within our resources to ensure that we have the best education services in this country, including research findings. The fact that we have already spent Kshs12.6 on this matter indicates our intention to continue providing adequate funds for the educational requirements of this country.

Prof. Ouma: On a point of order, Mr. Temporary Deputy Speaker, Sir. What we are saying is for the benefit of the Government, the Opposition and the whole nation. We want frank talk, and I am asking the Assistant Minister to give us a specific reply to a specific question. Are they sure that they will stop the brain drain? He should say yes or no. What are the plans for stopping it?

Mr. Komora: Mr. Temporary Deputy Speaker, Sir, the brain drain business is not limited to Kenya alone. It is known that the third world countries have lost a lot of their top brains to the west.

Mr. Mulusya: On a point of order, Temporary Deputy Speaker, Sir. Can the Assistant Minister tell this House and the country at large whether his Ministry has put any system in place to find out what each faculty in the University is doing in terms of research, and also, to monitor the findings and discoveries by each particular faculty in the Kenyan universities?

Mr. Komora: Mr. Temporary Deputy Speaker, Sir, I am sure that the hon. Member knows that the universities are under our responsibility and, therefore, we have a record of everything of that is happening in the Ministry.

Question No.016

SETTLEMENT OF THE LANDLESS
AND RECLAIMED LAND

Mr. Mak'Onyango asked the Minister for Land Reclamation, Regional and Water Development:-

- (a) when the stalled reclamation of Yala Swamp will resume; and,
- (b) how advanced, if any, are the plans to settle the local landless people in the already reclaimed parts of the swamp to end water reclaiming the land back.

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

(a) The reclamation of Yala Swamp will resume as soon as Kshs400 million required for the construction or diversion of canal dykes on the 9,400 hectares of land in area 2 of the project is surveyed by financiers who have been approached for support by the Government. My Ministry, the National Irrigation Board and the Lake Basin Development Authority are working out modalities for the local landless community to commence the

reclamation of the swamp by providing them with technical advice, tools and implements.

(b) Although my Ministry, through the Lake Basin Development Authority, has allowed the local landless people to utilise 560 hectares of the reclaimed 2,600 hectares and 2,300 hectares in area 1 of the Swamp on agricultural activities, there are no plans to settle them on the land. Area 1 of the swamp is a gazetted trustland and, as such, my Ministry's plans are to settle the landless from the local community on area 2 of the swamp, once and when reclaimed.

Mr. Mak'Onyango: Mr. Temporary

Deputy Speaker, Sir, does the Assistant Minister want to be taken seriously when he says that they are actively looking for Kshs400 million to finance the diversion of the dyke that leads to Area II of the dam when it is a known fact that a donor had at one stage availed to this country Kshs850 million to finance these reclamations? How come the Assistant Minister is now talking of only Kshs400 million when a generous donor had at one stage agreed to provide Kshs850 million?

Mr. Ligale: Mr. Temporary Deputy Speaker, Sir, I am not aware of that generous offer.

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, it appears that the Minister is not quite up-to-date on what is happening on the ground in Yala Swamp. Just last month, at the DDC meeting, the Government presented a request to the DDC to approve a private developer for Area II and there is no intention at all by the Government to allow people to settle in Area II because they are already asking us to give this chunk to one private developer. It is also not true that the Lake Basin Development Authority has allowed people to use a certain portion of that land. The Lake Basin Authority is a competitor of the people and it only gives them small portions and shift them every now and then. So, can the Assistant Minister tell us whether he is really going to look into this matter and give us a correct answer because even the Trustland is a trust on behalf of the people? I am requesting the Assistant Minister to investigate this matter and give us a proper answer because the answer he has given us is not correct and I can see that it is signed by hon. Nyachae who left that Ministry long ago. So it is not up-to-date.

Mr. Ligale: Mr. Temporary Deputy Speaker, Sir, I really do not know what I am required to do. I have stated the Government's position in this matter. If, indeed, the Government is considering allowing a private developer to undertake part of the reclamation, that is in keeping with the current practice of allowing private initiative. There is no land grabbing involved.

Dr. Lwali-Oyondi: Mr. Temporary Deputy Speaker, Sir, may I ask the Assistant Minister whether he is aware that when that swamp is completely reclaimed, there is a possibility that there will be increased silting of Lake Victoria? Is he taking into consideration that sort of eventuality?

Mr. Ligale: That is a matter that our technical staff can go into.

Mr. Mak'Onyango: Mr. Temporary Deputy Speaker, Sir, in his reply, the Assistant Minister spoke of Area I being Trustland. Land is held in trust on behalf of the stake holders. In this case, the stake holders who are the owners of that land are there. Why is the Assistant Minister saying that the land owners cannot be allowed to resettle in this particular land and yet it belongs to them? Can the Assistant Minister tell the House what arrangements he has to, at least, to the traditional owners of this land to go back to their land?

Mr. Ligale: Mr. Temporary Deputy Speaker, Sir, I have stated that the Government did use colossal sums of money in reclaiming this land and it was actually useless to the original owners. That capital investment has to be recovered first, but we have, in consideration of their inalienable rights, agreed that they will be resettled in Area II and given their land rights.

Question No.021

REHABILITATION OF STREET
LIGHTS ON KILIFI BRIDGE

The Temporary Deputy Speaker (Mr. Wetangula): Is Mr. Mumba not in? We will come back to that Question.

Mr. Ojode's Question!

Question No.167

CONSTRUCTION OF PUNDO-ALUOR ROAD

Mr. Ojode asked the Minister for Public Works and Housing what he is doing to construct

Pundo-Kodek-Marram-Aluor Nyangu Road in Central Kabuoch Location within Ndhiwa Division.

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

The Ministry has no plans to construct Pundo-Kodek-Marram-Aluor Nyangu Road because it is unclassified and the responsibility of the Ministry is on classified roads.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, it is quite unfortunate that all roads in Ndhiwa Constituency are similar to those leading to Heaven. These roads are impassable and the Assistant Minister is also giving a misleading answer because the road had already been classified. There is no way he could classify a non-existent road. Could the Assistant Minister confirm to this House that he will avail some funding for the construction of this road because the road has already been classified as EI06?

Mr. Mwamzandi: Mr. Temporary Deputy Speaker, Sir, the road is unclassified and if the hon. Member would like to have it classified, he should liaise with the DDC in his area.

Mr. Ojode: I am the Member of Parliament for the area and I am telling the Assistant Minister that the road has already been classified as E106. Could he make some funds available for the construction of this road? Since when did he become a Member of Parliament for Ndhiwa Constituency?

Mr. Mwamzandi: Mr. Temporary Deputy Speaker, Sir, according to the records that I have, from the headquarters and the district, the road is not yet classified. That is the reply that I can give.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, the hon. Member for the area is giving the number of the road and there is no way the road could have been given a number without being classified. Is the Assistant Minister in order to persist in saying that the road is not classified? Could it not be more in order for the Minister to ask for time to go and get a better briefing so that he can come back and give a satisfactory answer to this House?

Mr. Mwamzandi: Mr. Temporary Deputy Speaker, Sir, it is my Ministry which classifies roads. If the hon. Member insists that the road has been classified, I am prepared to come and clarify this matter later, by Tuesday. If the road is not classified, he shall have to apologise.

The Temporary Deputy Speaker (Mr. Wetangula): We shall not put the Question on the Order Paper. You will bring a short Ministerial Statement to clarify that point.

Next Question.

Question No. 083

PAYMENT OF COMPENSATION TO ACCIDENT VICTIMS

Bishop Kimani asked the Minister for Transport and Communications:-

(a) whether he is aware that 21 workers of Kenya Posts and Telecommunications Corporation, Nakuru Branch, had an accident on May 15th, 1991, at 11.00 a.m. along Nakuru-Eldoret Road while on duty, and the vehicles involved were KYF 595, Isuzu mini-lorry; GK,183K, and KWE 194, lorry;

(b) whether he is further aware that some people died and Mr. Danson Mwangi Ngahu, P/No.57261, and others were seriously injured and they have not been compensated to date; and,

(c) when they will be compensated.

The Temporary Deputy Speaker (Mr. Wetangula): Is the Minister for Transport and Communications here?

We will go back to the Question by hon. Dr. Otieno-Kopiyo.

Question No. 107

BEEF EXPORT QUOTAS TO EEC

Dr. Otieno-Kopiyo asked the Minister for Agriculture, Livestock Development and Marketing:-

(a) how many abattoirs are approved in Kenya to produce fresh and processed bovine beef for export into the European Economic Community; and,

(b) what is the current beef export quota for Kenya into the EEC and whether this quota has been fully utilised.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, I seek the indulgence of this House that the answer to this Question is not ready.

Dr. Otieno-Kopiyo: Mr. Temporary Deputy Speaker, Sir, may I inform the House that I have a written reply from the Ministry of Agriculture, Livestock Development and Marketing signed by the Minister, hon. Darius Mbela. I have it here and if he wants to borrow the copy I have for his use, I am quite willing to oblige. Could he apologise for misleading the House?

Mr. Osogo: Mr. Temporary Deputy Speaker, Sir, I am not misleading the House. The only thing is that there are a few issues in that written reply that are not correct and the Minister is trying to correct them.

The Temporary Deputy Speaker (Mr. Wetangula): So, is it the answer which is incorrect or it is not ready?

Mr. Osogo: Mr. Temporary Deputy Speaker, Sir, if it is incorrect, it is not ready. The written reply he has is not correct.

Dr. Otieno-Kopiyo: Mr. Temporary Deputy Speaker, Sir, he has misled the House. He told you that there was no answer, yet I have an answer. If he wants to alter it he should say so. But the first point is that, he has misled the House by claiming that there is no answer which is ready when I have a copy of the answer.

Mr. Osogo: Mr. Speaker, Sir, what I said is that the Minister has found out that the written reply he signed is not perfectly correct; there is an element to be added and that is why I said the answer is not ready.

The Temporary Deputy Speaker (Mr. Wetangula): Obviously, hon. Osogo, you did not originally say that. Be that as it may, we shall defer the Question to Wednesday next week.

Dr. Otieno-Kopiyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. You are aware that a Member of Parliament gets a slot a week to ask a Question. Since I have already lost mine, could you, direct that the answer is given tomorrow? Since they know that they want to make alterations, they must be having the facts.

The Temporary Deputy Speaker (Mr. Wetangula): It will come up on Wednesday, Dr. Otieno-Kopiyo. Next Question, Mr. Mumba!

(Question deferred)

Question No.021

REHABILITATION OF STREET LIGHTS ON KILIFI BRIDGE

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Mumba still not here? The Question is dropped.

(Question dropped)

The Temporary Deputy Speaker (Mr. Wetangula): Bishop Kimani's Question for the second time.

Question No.083

PAYMENT OF COMPENSATION TO ACCIDENT VICTIMS

Bishop Kimani asked the Minister for Transport and Communications:-

(a) whether he is aware that 21 workers of Kenya Posts and Telecommunications Corporation, Nakuru branch, had an accident on May 15th, 1991, at 11.00 a.m. along Nakuru-Eldoret Road, while on duty, and the vehicles involved were KYF 595, Isuzu mini lorry, GK.183K and KWE 194 lorry;

(b) is he further aware that some people died and Mr. Danson Mwangi Ngahu, P/No.57261 and others were seriously injured and they have not been compensated to date; and,

(c) when they will be compensated.

The Assistant Minister for Transport and Communications (Mr. Morogo): Mr. Temporary Deputy Speaker, Sir, I apologise I was not in when the Question was first called.

I beg to reply.

(a) The accident occurred as stated in the Question.

(b) It is true that one member of Kenya Posts and Telecommunications Corporation staff died and the

family has been duly compensated including two others out of the 21 persons involved in the accident. The insurance company has rejected three cases forwarded to it as there were no permanent or total disabilities as anticipated in the policy. The names of the claimants whose claims were rejected are as follows:-

1. J. Mukanwa
2. C. Borogi
3. Ahmad

The following claims were settled:-

1. F. Sikote
2. J. Omaiyo
3. A. Sande

Other claims being processed, because they have not furnished the insurance company with a medical report to show disability including their X-Ray reports, are:-

1. B.M. Gichuku
2. B.M. Gahu
3. J.O. Ojuka
4. I.T. Kipkai
5. R.O. Ogunde
6. P.K. Solit
7. S.O. Muchemi
8. J. Gagoto
9. J. Chepsergon
10. A. Olweny
11. J.O. Chwanya
12. W.K. Yatich
13. H. Abdalla
14. H.K. Mungai
15. P.O. Okech

(c) The remaining prospective claimants will be compensated as soon as they produce the required documents which they have been asked to provide.

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to declare an interest in this Question. First of all, the vehicle that they have named here, registration number KWE 194, is supposed to be registration number KWG 194 which used to be my lorry.

Mr. Temporary Deputy Speaker, Sir, secondly, this issue is in the High Court in Nakuru, so I would like to know whether the Assistant Minister is talking about compensation from KPTC or compensation from the insurance companies which we are still chasing.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Assistant Minister, is this matter in court?

Mr. Morogo: Mr. Temporary Deputy Speaker, Sir, I am not aware that this matter is in court.

Mr. Temporary Deputy Speaker (Mr. Wetangula): Mr. Obwocha, do you have the case number, and are you a party to the case in court?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, yes, I am a party. He is evading the question. Is he referring to compensation of employees of KPTC from the KPTC's insurance or from the three parties involved in this case? This is because there was a KPTC lorry, a Government lorry and my own lorry.

The Temporary Deputy Speaker (Mr. Wetangula): That is an issue which Bishop Kimani should clarify to us. Bishop Kimani are you aware that the matter is in court?

Bishop Kimani: Mr. Temporary Deputy Speaker, Sir, I am aware but I am not talking about that insurance, I am talking about the compensation at work; this is insurance for KPTC. The answer the Assistant Minister has given, that some of them have been paid, I think, deserves a bit of research to assist these people. Because, the office to which they are sending their papers, for example, the X-Ray and hospital documents, is a very corrupt office within the KPTC. The three who have been paid, were paid with a lot of hardship. In fact, the 15 persons that have not been paid have sent their medical documents including the X-Rays and when they go to that office, they are told that these documents are lost until they produce "something little" in the name of "wacha watoto wasome".

Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister investigate this issue because these workers are suffering? Some have been maimed, they are not able to do their job well and cannot be paid because the documents are lost.

The Temporary Deputy Speaker (Mr. Wetangula): Bishop Kimani, you are making a very good speech, but what is your question?

Bishop Kimani: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister ensure that these people are paid by investigating the auditors who are handling these documents in the office?

Mr. Morogo: Mr. Temporary Deputy Speaker, Sir, I undertake to take a deeper look into this whole matter, because I feel there is total confusion in the two issues. Let me seek indulgence of the House to come back with a better answer for the House.

The Assistant Minister for Home Affairs and National Heritage (Mr. Mutiso): On a point of order, Mr. Temporary Deputy Speaker, Sir. For the sake of records, I do not know whether I heard hon. Obwocha correctly. Because he says, the vehicle in question which is this lorry has registration No. KWG 194 and here we have KWE 194. Now which one are we really dealing with?

The Temporary Deputy Speaker (Mr. Wetangula): We are dealing with what is on the Order Paper.

The Assistant Minister for Home Affairs and National Heritage (Mr. Mutiso): Mr. Temporary Deputy Speaker, Sir, then it is the wrong one.

The Temporary Deputy Speaker (Mr. Wetangula): How do you know it is wrong?

Mr. Morogo: Mr. Temporary Deputy Speaker, Sir, in any case I have asked to be given time to take a deeper look into the whole issue. I would urge hon. Members to be patient and I will come back with a better answer.

The Temporary Deputy Speaker (Mr. Wetangula): When do you want to bring the full details?

Mr. Morogo: Mr. Temporary Deputy Speaker, Sir, let me do it on Tuesday.

The Temporary Deputy Speaker (Mr. Wetangula): The Assistant Minister will bring a detailed reply on Tuesday. So, you wait to ask your questions then.

Prof. Ouma: On a point of order, Mr. Temporary Deputy Speaker, Sir. I know that the Assistant Minister is going to bring an answer, but there is something related to that which the Assistant Minister should clarify to us. Here is a question in which people are being compensated; families are being compensated for deaths. It is a very sad thing when one hears a comment from overseas that Kenya has the worst road death record in the world.

Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell us whether the local police and the Ministry of Transport and Communications are unable to stop the road carnage? Could we also ask the Assistant Minister if they could hire, for example the Oxford Road Transport specialists to help us know how to stop the road deaths? Only two days ago we had 45 people dead in a road accident. Many more will die in hospitals and the next day, it may be the Assistant Minister or ourselves. What are they doing to make sure that these road deaths are reduced? Compensating the dead will not return them to life.

QUESTIONS BY PRIVATE NOTICE

IMPLEMENTATION OF SOCIAL DIMENSION PROGRAMME

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

(a) In view of the famine which has hit most of the northern Kenya districts, resulting in great loss of livestock, which is the economic backbone of those areas, could the Minister state how much has been allocated to Samburu District to alleviate general poverty, under the Social Dimension Programme?

(b) Could he further state the on-going and/or intended projects under the same programme and the cost of each project in Samburu East Constituency?

The Assistant Minister, Office of the President (Mr. Manga): Mr. Temporary Deputy Speaker, Sir, I have explained to the Member that the answers that I have are not satisfactory as far as I am concerned. Therefore, I have asked him to give us time until next week.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Leshore, are you in agreement?

Mr. Leshore: Mr. Temporary Deputy Speaker, Sir, I have got no objection so long as the Assistant Minister promises to bring the answers by Tuesday next week.

Dr. Otieno-Kopiyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is the third time we are hearing of this kind of reply. We are aware that a Minister has an office with a PS and some deputies to look into such matters. How come Ministers discover on the Floor of the House that the answers they have are

inadequate? This is not acceptable to both the Chair and the House!

The Temporary Deputy Speaker (Mr. Wetangula): That Question is deferred to next Tuesday.

(Question deferred)

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, before I ask my Question, I want to raise a matter of great importance.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Anyona, you should ask Question No. 2 by Private Notice and not a point of order!

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I am raising a point of order with regard to this Question.

The Temporary Deputy Speaker (Mr. Wetangula): Ask the Question first, then I can give you an opportunity to rise on a point of order thereafter. You have not even asked the Question!

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, how do I ask the Question if the Standing Orders have been breached? I want to put things in order first before I can ask the Question.

Mr. Temporary Deputy Speaker, Sir, it has become a tendency in this House for Ministers either to come and rise on their feet here and claim that the answers that they have been given by the Ministry are not adequate, or to come and say that they do not have written answers, copies of which should be given to Members. This morning I have no written answer to this Question. Under Standing Order No.36, Paragraphs 5 and 6, this is a serious breach of the rules of the House. Paragraph 5 requires that a question to which an oral reply is given has to be answered within 10 days and within those 10 days, the Ministry must supply 15 copies of the answer to the Clerk of the National Assembly. Is it right that the Chair and the House should accept this serious breach of the rules of the House? In that regard, I would like the Chair to make some ruling.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Anyona, Questions by Private Notice only require 24 hours' notice and ideally, they are Questions that ought to be answered orally by the Ministers. If it is an ordinary Question, then we can compel the Minister to bring you a written reply but the urgency with which Questions by Private Notice are asked, is such that we can give the Ministers a latitude to bring the facts orally to the House.

RE-ALLOCATION OF PUBLIC UTILITY PLOTS

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

(a) Is the Minister aware that the following land parcels in Manga Settlement Scheme (No.88) in Borabu Division of Nyamira District allocated for public utilities have been re-allocated to private developers: P.I.No.319, allocated to the local community in 1993 for the development of Mebeno Primary School and P.I.No.821 (337), set aside for a water dam for animals and domestic use by the local community?

(b) Who authorised the re-allocation of the said land parcels to the private developers?

(c) Could the Minister give the names of the private allottees and cancel the re-allocation?

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): Mr. Temporary Deputy Speaker, Sir, I would like to request that I be allowed more time in order to be able to answer this Question because we do not have the finer details. The answer is being prepared now in the office and I expected to have it here before the end of Question Time.

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

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order, Prof. Mzee. Let me finish with Mr. Anyona first. Let Mr. Anyona have a fair share of asking about his Question.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I do not think that the Chair should allow anybody, from both sides of the House, leeway to breach the rules of the House. If the Ministry knew that they were not going to be ready with the answer, they should have consulted the Clerk's Office or the Speaker's Office and request that the Question should not be put on the Order Paper. The Question is on the Order Paper and the Assistant Minister has not even come to tell me that they do not have an answer. They have not even told the Chair, which means they do not take the House, the Chair and the country seriously. What do we do?

The Temporary Deputy Speaker (Mr. Wetangula): As a matter of fact, the Assistant Minister did mention it to me but I told him that it is a matter for the House to decide.

Prof. Mzee: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am very disappointed with the

quality of the Ministers we have in this House. They do not seem to be able to stand and speak on their own. As you have just pointed out, they are supposed to answer Questions orally. These Questions are directed to the Ministers and not to anybody else. It is a big shame for a Minister to come to this House and say "I am not satisfied with the answer given." He is supposed to look at these Questions and answer them right away! We need the ruling of the Chair on this issue. How can a Minister defer a Question and yet when a Question is asked, it becomes property of the House? How can he simply stand up and say "I am not satisfied with the answer I have been given?" The Questions are directed to him and the answers are supposed to come from him and should reflect the policy of the Government and not an individual in this place. What quality of Ministers are we given in this country? Bogus!

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Anyona's Question will be deferred to the earliest time possible. Mr. Sumbeiywo, can you answer it tomorrow in the afternoon?

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): That is okay, Mr. Temporary Deputy Speaker, Sir.

(Question deferred)

CANCELLATION OF IRREGULAR PLOT ALLOCATION

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

(a) Is the Minister aware that due to the irregular allocation of plots at Emali Market of Makueni Constituency, area residents have forcefully moved into these plots and created a dangerous situation of imminent violence?

(b) Would the Minister take urgent steps to cancel these irregular allocations?

(c) Could he consider area residents for plot allocation to stem this explosive situation?

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): Mr. Temporary Deputy Speaker, Sir, I now have the answer to the Question asked by hon. Maundu and I beg to reply.

(a) I am not aware that due to irregular allocation of plots at Emali Market of Makueni Constituency, area residents have forcefully moved into the plots and created a dangerous situation of imminent violence.

(b) I am carrying out investigations to confirm what transpired before I consider appropriate actions to take.

(c) The residents of the area will be considered once the truth is established as to what transpired during the allocations by the District Plots Allocation Committee.

Mr. Maundu: Mr. Temporary Deputy Speaker, Sir, that answer by the Assistant Minister amounts to no answer at all. I do not have a written answer to this Question but be that as it may, the District Commissioner who is the Chairman of the Plots Allocation Committee and other people involved in this allocation have taken it upon themselves to allocate plots even at night or even in the streets. This situation has deprived local residents an opportunity to be allocated those plots. Two weeks ago, area residents numbering about 1,000 moved into these plots and as we speak now, several of them have been arrested for trespass. Will the Minister move quickly to stop all plots allocations at Emali Market, so that a situation of violence does not arise? Currently, the DC is allocating plots only to the rich and the beautiful. Will the Minister move and make sure that these allocations are stopped immediately?

Dr. Otieno-Kopiyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Maundu has made a very serious allegation; that the DC, Makueni District, is allocating plots to the rich and the beautiful. Could he be kind enough to inform the House, who these rich and beautiful people in Makueni are?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, I am sure hon. Maundu will be able to tell us who these rich and beautiful allottees are.

However, plots at Emali Township were advertised vide the Kenya Gazette Notice No. 1003 of 18th March, 1994. A copy is hereby attached. A total of 339 plots were advertised for different purposes; that is, business, residential and workshops. The vacant plots were allocated by the Makueni District Plots Allocation Committee on 20th July, 1994, under the chairmanship of the District Commissioner (DC). The Committee was properly constituted.

There were some reports that some councillors were not happy with the way the plots were allocated by the Committee. The Ministry, however, has no evidence of the alleged irregularities. The Ministry approved the Minutes of the Committee which were submitted sometime in 1995, and letters of allotment are now being

prepared for issuance to the successful applicants.

If the hon. Member has more evidence, I would be glad to receive the same so that we can carry on with further investigations. The list of the allottees is here and I wish to lay it on the Table.

(Mr. Sumbeiywo laid the list on the Table)

Mr. Ndilinge: Mr. Temporary Deputy Speaker, Sir, this is a very serious issue. This is because as we are talking here, there are 20 residents of Emali who are in police cells. Can the Assistant Minister tell us whether he is going to intervene and see to it that these Emali residents are set free? This is because they are fighting for their plots which have been allocated to foreigners.

The Assistant Minister has told this House that the plots were advertised at Emali. Over 1,000 applicants applied for these plots and paid Kshs1,000 which was refundable. None of them has been allocated a plot. Can he tell us who were allocated the 339 plots? Who allocated the plots? When did the Committee meet over the issue? Where did this Committee meet?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, I do not know the people who are being called foreigners. Apparently, the names on the list are of Kenyans who applied for these plots and they were allocated these plots on 20th July, 1994. I have laid the list on the Table here.

Mr. Maundu: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a very serious matter and the Assistant Minister is taking it very lightly. Recently, a fight erupted at Emali Market, where the DC was chased by residents, because he was coming to give plots clandestinely to a group of his friends. The plots which were advertised in 1994 have yet to be allocated. I have a list of people who applied for them but they have never been allocated, neither has their money been refunded. At the same time, the area that was set aside for allocation is already mushrooming with buildings. Who is putting up these buildings if the Assistant Minister is not aware?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, it is true that there were very many applicants for the advertised plots. But only 339 people were given these plots, which were available for them.

Mr. Obure: The Assistant Minister says that very many applicants applied for the plots, and few were given. What were the conditions for qualification that were met by the 339 people who were allocated the plots? This is because the Questioner is saying that the rich and the beautiful were given. Was that one of the qualifications?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, I think the qualifications were that these people were landless. Those who were lucky were allocated the plots.

Mr. Mulusya: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is misleading the House in that the advertisement he is talking about did not specify that it is only the landless who were supposed to apply. It did not mention the landless and it is in the Kenya Gazette Notice. The Notice only says that those who are able to develop should apply, together with those who have business interests at Emali.

Can he tell this House why he is misleading the House that people of Emali, Makuani and Machakos were allocated plots, when the people who were allocated come from other districts? Some of them are very close to the DC himself! Even the DC's girlfriend is involved!

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, as far as I am concerned, and noting from the list of the allottees, they are all Kenyans and they come from Makuani and Emali area.

Mr. Maundu: On a point of order, Mr. Temporary Deputy Speaker, Sir. In this case, where there are glaring irregularities, could the Assistant Minister move and nullify all irregularly allocated plots, and stop any mushrooming buildings there until his investigations are over?

At the same time, will he make sure that leaders, Members of Parliament and elected leaders in Makuani are involved in the Plot Allocation Committee to make sure that these DCs do not burst their appendixes and buttocks?

Mr. Sumbeiywo: That will be done.

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Mulusya has made a very serious allegation, that the DC's girlfriend has been allocated a plot at Emali. Could he name the particular girlfriend who has been allocated the plot?

Mr. Mulusya: Mr. Temporary Deputy Speaker, Sir, they are Ms. Susan Muli and Paulina, all of Box number 30165, Nairobi.

The Temporary Deputy Speaker (Mr. Wetangula): Order! That is the end of Question Time. I have three requests for Points of Order, and I will start with hon. Karan.

POINTS OF ORDER

MINISTERIAL STATEMENT: TOWN CLERK'S REFUSAL OF TRANSFER

Mr. Karan: Mr. Temporary Deputy Speaker, Sir, I rise on a Point of Order to seek a Ministerial Statement from the Minister for Local Government on the position of Kisumu County Council, where the old Town Clerk who was transferred has adamantly refused to move on transfer.

Yesterday, he was still in office saying that he was not going to move on transfer. As I am speaking now, Kisumu County Council offices have suffered blockage by the in-coming Town Clerk and the out-going Town Clerk. The records of this County Council are not safe because it is being alleged that the out-going Town Clerk is destroying the documents.

I want the Minister, in his statement, to confirm that the records of Kisumu County Council are safe; that the Kshs10 million which was raised as a result of the sale of 87 plots at Migosi is banked and safe. He should also clarify why the Provincial Administration is constantly partisan in this case and has refused to offer security to the in-coming Town Clerk, and it is even planning a visit for the new Town Clerk and defiant councillors, to go and see His Excellency the President.

I further want the Minister to clarify to the people of Kisumu District, whether the local authorities in Nyanza Province are under the administration of the Nyanza Provincial Commissioner, or under his Ministry. He should also confirm to this House that the old Town Clerk will, with speed, move out of Kisumu County Council, and proper handing-over of the Kisumu County Council properties and assets to the new Town Clerk will be done.

DELAY IN "TODAY IN PARLIAMENT" PROGRAMME

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I am rising on a point of order under Standing Order No.170 which for the convenience of the hon. Members, states as follows:-

"Any newspaper whose representative infringes these Standing Orders or any rules made by Mr. Speaker for the regulation of the admittance of strangers or persistently misreporting proceedings of the House, or neglects or refuses on request from the Clerk to correct any wrong report thereof to the satisfaction of Mr. Speaker, may be excluded from representation in the Press gallery for such term as the House shall direct."

Mr. Temporary Deputy Speaker, Sir, I am not proposing that any of the Press be excluded from the Press Gallery, but in the recent times, there has been a tendency by the Press, and particularly KBC to "blackout" certain hon. Members and their speeches in the House.

I do not want to complain for other hon. Members, but at least, yesterday, KBC for one, delayed the report on Parliamentary proceedings from 9.30 p.m. to about 10.30 p.m. which Kenyans anxiously wait for. So, there must be a reason why that took place yesterday. I would like the Minister to explain why the programme on "Today in Parliament" was delayed yesterday for one hour.

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

[Mr. Speaker took the Chair]

Mr. Speaker, Sir, however, when the programme eventually went on the air, there was not a word about the proceedings on the Appropriation Bill. There was only a report on the Questions that were answered in the House.

Mr. Speaker, Sir, it is clear that some "invisible" hand is controlling the proceedings of Parliament. The proceedings of the Parliament are privileged and it is a breach of privilege to misreport or to refuse to report or anything of the kind.

Mr. Speaker, Sir, as a general guide, could we have some guidance from the Chair as to what---

(Loud consultations)

Mr. Speaker: Order, hon. Members! When an hon. Member is on a point of order complaining about

something to do with your own welfare and privileges, that hon. Member must be given due hearing.

Mr. Anyona, proceed!

Mr. Anyona: Thank you, Mr. Speaker, Sir. As I was saying, the proceedings of the House are privileged and to act contrary to the rules of the House, would be a breach of privilege. In this particular case, as I was saying, the main part of the proceedings of yesterday were not reported at all on KBC and the programme was delayed for an hour. It was quite clear that there was some "invisible" hand somewhere controlling what to go on the air regarding Parliamentary proceedings. I am sure, it was not Mr. Speaker.

Mr. Speaker: Well, I am sure, Mr. Anyona, you know I am not a magician!

(Laughter)

Mr. Anyona: Mr. Speaker, Sir, can the Chair help us in ensuring that the proceedings of Parliament are given treatment and dignity they deserve because what goes on here is on behalf of this nation?

Secondly, is it right that anybody other than this House itself, in accordance with its own rules, should determine what is to be reported about the Parliamentary proceedings? If there is a matter regarded as sensitive in the House, we know what to do. Is there anybody else who can censure what goes on in this House as happened yesterday?

Mr. Speaker: Well, I am sorry, Mr. Anyona. The last job I would want to take after this very sensitive one of being Mr. Speaker, is to be the censor of the media. That job, I am not capable of doing! Nevertheless, I do not think the House is also interested in censoring the media. The media must be free. They can refuse to report what we are saying, if in their opinion, we are saying nothing!

(Applause)

Mr. Mulusya: On a point of order, Mr. Speaker, Sir. My point of order is to seek further clarification from the Chair---

Mr. Speaker: Where are you?

Mr. Mulusya: Mr. Speaker, Sir, I am now in KANU temporarily!

(Laughter)

Mr. Speaker: Proceed!

Mr. Mulusya: Mr. Speaker, Sir, would it not be in order for that point of order raised by hon. Anyona to be addressed to by the Minister for Information and Broadcasting since the media concerned is a Government institution which falls under this Ministry?

Mr. Speaker: Very well. I have no objection, but the only thing I refuse is to be the judge of the media. Where is the Minister? Well, him not being there, let us proceed!

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I would also like to rise on a point of order on the report of yesterday's debate in Parliament that has appeared in the *Daily Nation*. We were, indeed, in the Opposition, disappointed that the debate came to a close before many hon. Members contributed to the Appropriation Bill. But, I am reported in the *Daily Nation*, as having reacted angrily at the closure of the debate. We were disappointed, but I did not react "angrily" and I would like that to go on record.

Thank you.

Mr. Speaker: Order! The only thing I would like to say, of course, I have already said in response to Mr. Anyona. I cannot direct what the media can refuse to, but under the Standing Orders, they are enjoined to report accurately what is said, not done in the House. They are there to hear what the hon. Members say, not what they do. I suppose they understand.

Mr. Nthenge: On a point of order, Mr. Speaker, Sir. My point of order is on the general conduct of this House. Our hon. Ministers depend on the civil servants. When Questions are asked here the Ministers, quite often, are briefed wrongly that they are ashamed of answering them in the House and they ask for indulgence of the Chair to give them more time. Can we, through the Chair, ask the Leader of Government Business to let civil servants treat this House with dignity it deserves? This morning, most of the Questions were deferred because a Minister is "fed" with stuff that if he read to the House, he himself would be ashamed of the House and his Ministry. Can the civil servants treat this House with the dignity it deserves?

Mr. Speaker: I will go a step further, Mr. Nthenge. The civil servants are not responsible to this

House, but Ministers are responsible to this House. Therefore, Ministers are enjoined to come to this House and discharge their responsibilities to the Kenyan people by answering the Questions brought before them.

I can also add, I want the Ministers also, I am not their leader, but as the Chair, I think, the primary duty of a Minister is to Parliament. His Ministerial responsibility is taken to Parliament---. So, can we take that very seriously. In the future, I do not think I will accept the very lame excuse of any Minister coming to say in this House that he does not have a satisfactory answer because the answer should come from him, not from the civil servants.

(Applause)

Very well. Next Order, Mr. Komora.

MINISTERIAL STATEMENTS

ASSAULT OF STUDENTS BY TEACHERS

The Assistant Minister for Education (Mr. Komora): Mr. Speaker, Sir, I rise to issue a Ministerial Statement of reported cases of alleged physical abuse or assault on pupils by teachers through caning, some of which have resulted in deaths.

Mr. Speaker, Sir, the specific cases for which hon. Members of this House sought a Ministerial Statement are as follows:

(a) Master Eric M. Nyambane on whose case I gave a Ministerial Statement in this august House on the 8th of April 1997, was a pupil in Standard Five at Nyasore Primary School in Kisii District. He was caned by a teacher in the school by the name of Mr. George Osano, TSC No. 355713, on the 25th of March this year. Two days later, on the 27th March 1997, Master Nyambane was reported ill. An advice was given for him to be taken to Nyambane SDA Health Centre from where he was transferred to Kisii Hospital where he died on 28th March 1997. My Ministry interdicted Mr. Osano on 7th April 1997. Mr. Osano was also arrested but later released on bond after the post-mortem revealed that the cause of the student's death was malaria. However, the Teachers Service Commission of my Ministry will determine Mr. Osano's case, independent of whether the crime was committed or not.

(b) Miss Josephine Wambui (deceased): Miss Wambui was a pupil in Standard Eight at Githungichu Primary School in Kiambu District. She and her classmates were caned on the 17th July 1996 by three teachers in that school whose names are Mr. Joseph N. Mwangi, Mr. Samwel G. Katiba and Miss Tabitha W. Mbugua who was the last to cane Miss Wambui before she collapsed. She was taken to Limuru Nursing Home after the incident where she was pronounced dead.

My Ministry took the necessary action on the three teachers who were also later arrested and charged with murder. However, on 27th March 1997, the Senior Principal Magistrate's Court sitting at Kiambu ruled that there was no evidence to commit the three to the High Court to stand trial for murder and they were thus acquitted. The Teachers Service Commission in my Ministry will however determine their cases independent of the court proceedings.

(c) Miss Kalekye Muthama (deceased): Miss Muthama was caned along with her classmates on the 20th September 1996 at Matinyani AIC Primary School in Kitui District by the second Deputy Headmaster Mr. L. Mwaniki, TSC No. 222052. After this incident and the further punishment of planting a euphorbia fence, Miss Muthama fell down on the way back to the classrooms and became unconscious. First aid was administered after which she was taken to Matinyani Government Dispensary and later referred to Kitui General Hospital where she died on 20th September 1996. Mr. Mwaniki was arrested but later released when the post-mortem revealed that Miss Muthama died of causes other than the caning. An inquest is yet to be held. Meanwhile, I have directed that Mr. Mwaniki be interdicted pending the result of the inquest.

(d) Miss Florence Wangui is a Standard Eight student at Mihuti Primary School. Miss Wangui is currently repeating Standard Eight class at Mihuti Primary School in Nyeri District. One of Florence's eyes, a pupil in Standard Eight then, was pierced by a splinter of split cane while she was being caned by a teacher in the school, a Mr. Geoffrey M. Wanjohi TSC No. 123730 on 2nd September 1996. Although she was treated, Florence lost the sight of her left eye. My Ministry immediately interdicted Mr. Wanjohi whose case is yet to be heard and determined by the Teachers Service Commission.

(e) Miss Mboze Mohammed a Standard Eight student at Waa Boarding Primary School. Miss Mohammed was currently a pupil in Standard Eight at Waa Boarding Primary School in Kwale District. On the

28th of August 1996 during the holiday remedial class session, Miss Mohammed was caned by the headmistress of the school for an offence. She bled a little but the incident was not serious. Since the headmistress acted within the limits of the provision of the Education Act Cap 211, Revised in 1980, Legal Notice No. 40 of 1972 Section 12 of the Education School Discipline Rule Regulations, my Ministry through the District Education Officer Kwale, counselled her as well the parents of the pupil and the matter was put to rest while the pupil continued learning in the same school.

Mr. Speaker, Sir, I would like to assure hon. Members that immediately an alleged incident concerning assault of a pupil through caning which is not consistent with the provision of Legal Notice No.40 of 1972 is reported, my Ministry through the Teachers Service Commission and its agents immediately interdicts the teacher concerned pending investigations. My Ministry has taken the necessary steps to remind all teachers, field education officers and teachers colleges of the contents of Legal Notice No.40 1972 on Education School Discipline Regulations. I have further directed that any teacher who canes a student without strictly adhering to Legal Notice No.40 of 1972 be disciplined immediately.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. The Assistant Minister has raised a very sad issue and I would like a clarification on at least one point. If you listened to him, about four out of five of those cases were actually girls. Now, as far as I know even under the Penal Code women are not subject to corporal punishment. How come the Ministry of Education breaks the law by allowing teachers to cane girls contrary to the law? Secondly, since clearly the schools and the teachers are not following the regulations on corporal punishment, would the Ministry cancel any authority from the Ministry to teachers to cane pupils? In any case, even under the Penal Code you cannot apply corporal punishment without the recommendations of a medical practitioner. So, we are breaking the law and we are killing our young people and this Parliament does nothing about it. Could the Assistant Minister clarify those points?

The Assistant Minister for Education (Mr. Komora): Mr. Speaker, Sir, it is specified in the Legal Notice No.40 of 1972, the method by which the final need of corporal punishment is specified there as extremely final resort and there is no reason why teachers cannot follow it, and, if they do, there would be very few cases that would come to the attention of the nation because the intention of punishment is certainly not death.

Mr. Ndicho: Thank you very much, Mr. Speaker, Sir, for giving me the last chance. This schoolgirl of Githunguchu Primary School in Limuru---

Mr. Speaker: Is she still alive?

Mr. Ndicho: No, she is dead, Mr. Speaker, Sir. I want further clarification because the late schoolgirl left her parents in the morning in very high spirits to go to school and they were expecting her back home in the evening, which she did not because she was caned by her three teachers and subsequently died. The Assistant Minister has told us that the court at Kiambu has set free these three teachers, but he has not told us what compensation the Government is going to pay to the family of the deceased or what action the Government is going to take to appease the parents of the deceased schoolgirl. They have been waiting for that report from the Ministry. Can the Assistant Minister tell us what action the Government is going to take as far as compensating the parents of the deceased schoolgirl is concerned because KANU is seeking votes in Kiambu, and definitely, that is going to affect the votes of KANU? If the schoolgirl is dead and then you say that the three teachers have been released and that, that is final it is going to affect your policy. So, what is the Government doing about that issue?

Mr. Speaker: Mr. Komora, do you want to respond?

The Assistant Minister for Education (Mr. Komora): Yes, Mr. Speaker, Sir. Irrespective of votes, it is the policy of the Government to protect the rights of the citizens of this country and justice must be done to every individual wherever he is in this Republic. If the parents of the deceased schoolgirl are interested in claiming further compensation, there is legal procedure to that effect because if the court has thrown out a case, it is difficult for educational authorities to take action in relation to what has not been determined by the court.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, it is apparent from the list that the Assistant Minister has just read out, that it is mostly schoolgirls who are affected by corporal punishment and most of them, as we know, get shocked when there is mass punishment being meted out. Could the Assistant Minister consider doing away with corporal punishment altogether, particularly for schoolgirls and invent another method of punishment?

The Assistant Minister for Education (Mr. Komora): Mr. Speaker, Sir, this matter will be considered in relation to the whole aspect and it is being reviewed.

Mr. Speaker: First, before I come to Mr. Karan, Mr. Makau indicated to me that he wanted to answer Mr. Anyona on the point of order he raised on KBC.Proceed, Mr. Makau.

DELAY IN "TODAY IN PARLIAMENT" PROGRAMME

The Minister for Information and Broadcasting (Mr. Makau): Mr. Speaker, Sir, I have not got the full details about the complaints that hon. Anyona raised about KBC. But I would like to say that the reason why I came to this House late this morning is because of that concern of the Parliamentary Proceedings. If hon. Shikuku is here, he would bear me witness that we discussed with him on the basis of the late reporting of Parliamentary Proceedings, especially in Kiswahili. "Today in Parliament" Programme comes exactly at 9.30 p.m. and there has never been a time of bringing it late. But the one in Kiswahili, I noticed and I had informed them that it should be at 9.30 p.m. because in the countryside, most of the people are not awake at 10.00 o'clock. I have already instructed the newly appointed Managing Director, that the reporting of Today in Parliament should come exactly at 9.30 p.m. for both Kiswahili and English, and those adverts and funeral announcements that made the Kiswahili news to come late should be screened after Parliamentary reports.

I want to give an undertaking in this House that Parliamentary reports would come on time and, as I said earlier, they are verbatim. That is why I went to KBC's House to find out what delayed the reports last night because I had given strict instructions and I have already given that, today.

Hon. Members: Mr. Minister, you have not told us what caused the delay last night!

(Loud consultations)

Mr. Speaker: Order! Order! Mr. Makau, you can see why I am in trouble. You said you have been to KBC and you said you wanted to inquire why the reporting was late, naturally the hon. Members want to know what you were told. If you can finish, then you would take away the burden!

(Applause)

The Minister for Information and Broadcasting (Mr. Makau): Mr. Speaker, Sir, first of all, I would like this House to know that I monitor what comes through KBC and last night, Parliamentary reports in Kiswahili came late. So, I had to go and find out what brought that delay even after giving instructions when hon. Shikuku complained here. I went and gave instructions and I have repeated the same instructions to the new Managing Director that by 9.30 p.m.--- It was delayed because of the funeral announcements and business adverts from the Marketing Department---

Mr. Anyona: On a point of order, Mr. Speaker, Sir. While for once I would like to accept the Minister's explanation, when the report finally came on the air, he has not explained why the main business of the Parliamentary proceedings yesterday was blacked out. They only covered some of the Questions, but there was nothing on the Appropriation Bill. Why and who was censoring Parliamentary proceedings?

The Minister for Information and Broadcasting (Mr. Makau): Mr. Speaker, Sir, I would like to let the House know that there was no censoring. It was the time factor that because of the programmes that had been put which caused that problem. I have given an undertaking and I would like to assure this House that there would be no repeat of that. That is why I personally was disturbed about that and I had to go there to find out exactly why that happened.

Mr. Ndicho: Mr. Speaker, Sir, the Minister has repeatedly told us that he went to KBC to inquire what happened and yet he is not telling us what he was told in relation to what happened.

Mr. Speaker: Can I tell you what he said? He said the report of Parliament was delayed because there were funeral announcements!

Mr. Ndicho: Mr. Speaker, Sir, I was coming to that. I listened to the whole programme, there was reggae music and some Kikamba music. Mr. Minister, is that what is supposed to be funeral announcements?

Mr. Speaker: Order! Order, hon. Members! I think to finish all this because we have to go to other business, maybe Mr. Makau can tell the House which is more important, the proceedings of the House or funeral announcements?

The Minister for Information and Broadcasting (Mr. Makau): Mr. Speaker, Sir, there are two issues here; the funeral announcements start before the Parliamentary report. What had happened is that the Marketing Department--- And this is one of the things as I said earlier, I had just gone to discuss with them that they got so many funeral announcements. I had earlier instructed them that if the announcements are very many, because obviously with funerals they are paid-up announcements, they should be interrupted to allow the Parliamentary Proceedings to be aired. As you are aware, there have been changes in the Corporation, but I have given a serious

undertaking to this House that, that will never be repeated.

Mr. Speaker: Next Order.

MOTION

SELECT COMMITTEE TO PROBE DR. OUKO'S MURDER

THAT, being disturbed by the manner in which the late Member for Kusumu Town Constituency and Minister for Foreign Affairs and International Co-operation, Dr. Ouko, disappeared and was subsequently found murdered; aware that both the investigations and inquiries by the New Scotland Yard team and the Ouko Commission of Inquiry respectively were terminated prematurely without a definite conclusion; knowing that the investigations by the Kenya Police have not ended up in the trial and conviction of Dr. Ouko's murderers; this House resolves to appoint a Select Committee to conduct investigations on the circumstances of the said disappearance and subsequent murder and to report to the House its findings with a view to securing and preserving evidence relevant to bringing to justice those concerned before such evidence is destroyed.

(Mr. Orengo on 30.4.97)

(Resumption of Debate interrupted on 30.4.97)

Mr. Speaker: The question was proposed and now debate on the Motion is open. Yes, Mr. Sankori.

Mr. Sankori: Thank you, Mr. Speaker, Sir. This is a very serious Motion, which we should give a lot of thought to. I am saying that because the late Dr. Ouko was one of the best Ministers that Kenya has ever had. He was a man who everybody who knew him, either privately or officially, admired. He was a man whom every Kenyan, who wishes to see a good country, would like to see alive and not dead. Death, as it is, is bad. Whether it comes from disease, assassination or accident, it is always bad. It is more so if it happens the way it happened to the late Dr. Ouko.

The Motion is very good but I am sorry to say that its timing is very wrong. Why am I saying this? I am saying this because it is eight years since we lost the late Dr. Ouko. It has taken eight years for hon. Orengo to bring this Motion to the House. It is wrong for hon. Orengo to bring this Motion to the House, because we are approaching elections. Some people might see the Motion as a political agenda which is being used by some people. All politically selected committees have never succeeded. I do not know of any select parliamentary committee that succeeded in this country. None of the select committees on the death of the late J.M. Kariuki and the Kiliku Committee on ethnic clashes succeeded. And I do not foresee this one succeeding, even if we pass this Motion. We must not be theoretical; we must be very serious in this House, and ensure that what we approve can be implemented.

Mr. Speaker, Sir, the arm of the law is long. The police are there and the country has done---

Mr. Mak'Onyango: On a point of order, Mr. Speaker, Sir. Is hon. Sankori not misleading the House by implying that in the case of the late J.M. Kariuki the whole process was a failure, when, to the best of my recollection, it was a great success? This House appointed a Select Committee which did its work and even named names. In this Motion, we are seeking to do the same. To imply otherwise is to mislead the House!

Mr. Speaker: Is that not a point of argument, Mr. Mak'Onyango?

Mr. Sankori: Mr. Speaker, Sir, I am only saying that when we discuss matters in this House we should be very serious. We should ensure that if we appoint a select committee it will succeed. But I am saying that I have not known - and I stand to be told otherwise - of any parliamentary select committee that has succeeded. Why do they not succeed? It is because we are not capable of doing the work such committees are given to do. Before you send a politician to go and investigate something you should know that he has no experience in certain matters. We can talk politics but when it comes to the actual investigations none of us can claim---

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. Is it in order for hon. Sankori to claim that this House cannot achieve anything through its select committees when the Public Accounts and the Public Investments Committees have achieved a lot?

Mr. Speaker: Dr. Lwali-Oyondi, as I have always advised you, Members must have a little patience.

That was actually not a point of order. Even those Committees recommend for further investigations by the Government.

Mr. Sankori: Mr. Speaker, Sir, I was saying that the arm of the law is very long. We have the police who are continuing with some investigations into this matter. If anybody, not only in this House but also in the entire Republic, has any clue as far as the late Dr. Ouko's death is concerned, he is free to make a statement to the police. I know people like to mention names for the sake of it, but that will not solve the problem. Let us be serious and talk about this death the way we would like death of any of us to be talked about. We should not talk for the sake of talking. I was saying that this Motion was brought at this time purely for some people to make political capital out of it.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member to make such innuendo on his fellow colleagues here?

Mr. Speaker: I think he is wrong! In my view all hon. Members bring matters to this House genuinely and without any ulterior motives.

Mr. Shikuku: He thinks we are in a Manyatta!

Mr. Sankori: Being in a Manyatta and being in this House is the same. I do not regret my association with a Manyatta. I am lucky I have a Manyatta to go to.

Mr. Speaker: What is a Manyatta?

Mr. Sankori: Mr. Speaker, Sir, it is hon. Shikuku who has said I think I am in a Manyatta. I am telling him that I am proud that I have a Manyatta to go to.

Mr. Speaker: What is a Manyatta, Mr. Sankori?

Mr. Sankori: I would like to ask hon. Shikuku to tell you what a Manyatta is. It is always good for us not to open wounds that we cannot heal. Dr. Ouko's death is a wound that I think any of us cannot boast of having a solution to. All of us are looking for medicine to treat this bad "disease" called assassination. I am saying this because it is not proper for us to spend tax payers' money on something which is not going to succeed. I know that even if we appoint a parliamentary committee, we will not succeed. I have said earlier, and I want to repeat it, that the "late hon. Shikuku"---

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

(Laughter)

Mr. Speaker: Order! Hon. Shikuku, not the late Shikuku, is on the Floor. Can we hear what he has to say?

Mr. Shikuku: Mr. Speaker, Sir, you heard hon. Sankori referring to me as "the late." You can see me here standing, very much alive. Or is my death in advance? I will be the next late. Could he expound on that?

Mr. Speaker: Order, hon. Sankori! Why do you wish Mr. Shikuku ill? Can you withdraw the words lest I consider Mr. Shikuku dead?

Mr. Sankori: Mr. Speaker, Sir, that was a slip of the tongue. Although Mr. Shikuku is my friend, he has been interrupting me a lot. That is why I mentioned his name by mistake. But I meant to say the late hon. Dr. Robert Ouko. I said earlier that the late hon. Ouko is a man that all Kenyans loved, and I would like the hon. Members on both sides of the House to know that nobody, not even the Luo community have got a right to claim Shikuku as their own person.

(Laughter)

Mr. Speaker, Sir, I am sorry, I meant to say the late hon. Dr. Robert Ouko.

Mr. Shikuku: Mr. Speaker, Sir, do you still believe that, that could be a slip of the tongue again?

Mr. Speaker: Mr. Shikuku, I understand you were born in Magadi, which is in Kajiado. So, may be he has that particular interest.

Proceed, Mr. Sankori.

Mr. Sankori: Pole hon. Shikuku. With those remarks, I beg to oppose.

Mr. Speaker,: I am sorry, your time is up.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I rise to support the Motion that was so---

Mr. Speaker: By the way, can I give a general direction because I know you are going to move an amendment? There may not be time for you to come back to the main Motion. So, I allow you to talk on the amendment and on the main Motion because you may not come back to it.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I thank you for that and I will do exactly what you said. I will rise to speak on the Motion, and to move an amendment and I will do both at the same time. The amendment I would like to move is that the Motion be amended by adding the following words at the end:

"and that the following be the members of the Committee: hon. J.A. Orengo, MP, hon. J.M. Shikuku, MP, hon. F. Cheserek, MP, hon. S. Leshore, MP, hon. H. Ruhii, MP, hon. P. Maundu, MP, hon. Prof. Mzee, MP, hon. S.G. Rai, MP, hon. P.K. Muite, MP, hon. G.M. Anyona, MP, hon. J.J. Fallana, MP, hon. J. Mulusya, MP, hon. J.A. Ogeka, MP, hon. Dr. Ombaka, MP, and hon. Prof. Anyang'-Nyong'o, MP."

Mr. Speaker: Prof. Anyang'-Nyong'o, you are already in trouble. The amendment that you presented to Mr. Speaker and which was approved by him is not exactly the one you are moving. Three of the names you have just mentioned are not in the amendment previously referred by you to me and duly approved. Hon. Leshore, hon. Rai and hon. Ogeka were not in that initial amendment. The hon. Members who were in the amendment approved were: hon. Magwaga in place of hon. Leshore, hon. Shidie, in place of hon. Rai and hon. Karua in place of hon. Ogeka. Are you amending your amendment without the leave of the Speaker?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I had already informed Mr. Tsola about those changes early, and he said it was okay and that he would communicate them to you. The individuals concerned---

Mr. Speaker: Are we right?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, we are right.

Mr. Speaker: You think you are right?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I beg you that these are hon. Members and the others were not willing to be in the Committee, and we cannot force them.

Mr. Speaker: I am just worried about the process. Are you sure you are right that you can amend your amendment without my leave?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I took it that the request had been communicated to you. I did not realise that it had not.

Mr. Speaker: I will communicate to the House about it.

Proceed.

Prof. Anyang'-Nyong'o: Thank you, Mr. Speaker, Sir. I will continue. "And that the Committee do report to the House within four months on appointment."

Mr. Speaker, Sir, the hon. Dr. Robert Ouko was my hon. Member of Parliament in Kisumu Rural before he became Member of Parliament for Kisumu Town. He was a man that was respected in this nation and who was highly revered. He was a Member of this House for many years and a Cabinet Minister.

In this House calling for a Select Committee to inquire into the death of Dr. Ouko and put facts before this nation, this House is conscious of the following:-

First, that the Commission of Inquiry that was established by the Kenyan Government to look into the death of Dr. Ouko was actually disbanded before it finished its work, and hence it went out of duty prematurely. This nation never knew or never received what that Commission was inquiring into. It would only be good for the people of Kenya to get a report from this House that would, among other things, finish that work that was never finished. I know that, that Commission was a Judicial Commission of Inquiry. But nonetheless, the job that it was supposed to do, was to ventilate the facts behind the sudden disappearance and, indeed, assassination of Dr. Ouko. Hence, it is in the interest of both the Government of Kenya and the Opposition as two parts of this House, to support a Motion like this one so that the Select Committee can do a job that the people of Kenya take to be extremely important.

Mr. Speaker, Sir, secondly, since the death of Dr. Ouko, we have had similar such experiences in this nation, which are indeed, very unfortunate. It would be very unfortunate for the Government to assume that it is responsible for such disappearances without a Select Committee such as the one we are proposing, coming up and establishing the facts. We on the side of this House can only go by reports that have so far been made regarding what happened. We, as hon. Members of this House, would like to be privy to that information so that when we speak about it, we do so from the position of authority. So, the Motion that hon. Orengo has brought before the Floor of this House and supported ably by hon. Shikuku is in good spirit. It is in good spirit in the sense that it wants this nation, before we move on to the next millennium, to put behind us such unfortunate experiences as the assassination of Dr. Ouko.

Mr. Speaker, Sir, further, it would be good precedent for this House that, following a Select Committee that was established when hon. J.M. Kariuki disappeared in similar circumstances, when it comes to the case of the late Dr. Ouko, that a similar this is done. That an hon. Member of this House, having died so suddenly and so

mysteriously, that this House itself, comes up with an inquiry and satisfies itself of all the relevant facts surrounding the death. Further, given that some names of hon. Members of this House were associated with the incident, it would be important for us to feel that our colleagues have a clean bill of health regarding the issue. Our colleagues cannot have a clean bill of health regarding the issue unless we ourselves get involved in that process of establishing that their health is indeed clean. Hence, I would like the other side of the House to engage with us in a constructive process of discussion to support this Select Committee so that in the end, we have a positive and, indeed, a useful inquiry that will put this matter to rest. That is why in proposing the members of the Committee, we have made sure that we have membership from all political parties in the House so that this is, indeed, a property of this House.

Mr. Speaker, Sir, further, we have requested that the Select Committee of the House does its work in four months so that, before this House is finally dissolved for the next General Elections, this Parliament would have finished its work within this Session. Therefore, we have made all necessary constructive suggestions to ensure that what we are about to do is something that is in the interest of the House and the nation.

I would again like to appeal to the Government that, when I watched the interview that the late Dr. Ouko gave on television after his visit to the Scandinavian countries, I was struck that the late Dr. Ouko was, perhaps one of the most able apologist for the Government. He was the person who could articulate some of the most difficult issues this Government faced then. Indeed, there were very thorny issues then and they still remain to be thorny. It was very unfortunate that the person who was such a good apologist should, indeed, pass away so suddenly under circumstance that implicated our Government. These are things that, if the Government wanted to turn over a new leaf, it would be important to support a Select Committee like this so that all the necessary facts surrounding that incident are brought out.

It is also important in this regard, to ensure that the family of the late Dr. Robert Ouko finally knows what actually happened. The family must have been tormented for so long.

Mr. Speaker, Sir, I beg to move the amendment.

Dr. Kituyi: Thank you, Mr. Speaker, Sir. I want to thank hon. Prof. Peter Anyang'-Nyong'o for a very dispassionate, very calm and sober moving of that amendment.

Mr. Speaker, Sir, in seconding this amendment, I wish to say the following:

First of all, the desire of the National Assembly of Kenya to reach the bottom of the matter of a national concern about the death of a Member of this august Assembly should not just driven by the reality that this was a great apologist of the Government and a senior Cabinet Minister. It should be the collective responsibility and interest of every Member of this august House that if a mysterious death is vested on any of the Members of this House, we have a collective sense of outrage, insecurity and a collective responsibility to the electorate and population of this country to find out under what circumstance one of our own has disappeared or has died.

Mr. Speaker, Sir, I listened to a contribution hon. Sankori made here, and it was very sad. It is sad for a Member of the National Assembly to say that we should not have a Select Committee of Parliament on a serious matter of national concern because select committees have never succeeded. We have an obligation and a challenge as Members of this Parliament that where committees have not performed as well as we would have liked them to do, we should try to improve upon them and should not abandon the committee system. The world is moving towards the use of committees as the main engine for Parliamentary business. We should see where we have been wrong in the past and strengthen on that. We have a challenge that, if under one party system, the Parliamentary select committees never attained the results we expected them to attain or intimidation made Members of Parliamentary select committee recommended one thing in Committee and vote against it in plenary that now we want to see the strengthening of the institution of Parliamentary Select Committee in such way that a matter discussed seriously in committee faces all of us regardless of which side of the House we are in. This is an opportunity and a challenge.

Mr. Speaker, Sir, there is a strange fetish in this House about an electoral timetable because important matters of national concern come here and you listen to a hon. Member saying that we have time because we are going towards an election. It is as if the future of this country is tied down to some date of an election. Given that the amendment and the importance of the original Motion are such that this deliberation can be completed in a period of not more than four months, it stands to sense that such a committee, if set up today, can move very speedily and complete its work in good time before the current session of Parliament comes to an end.

Mr. Speaker, Sir, I wish to say something very personal at this stage of the deliberations on the Select Committee matter. After his death---

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, sorry for interrupting the hon. Member. I think, listening to Prof. Anyang'-Nyong'o and also the Secunder of this amendment, it looks to me like we are debating basically the original Motion. I am seeking your

guidance, if we could confine ourselves to the amendment which has been moved or are we talking about the whole thing as a package?

Mr. Speaker: What I know because of the limitation of time is that it is most unlikely that Prof. Anyang'-Nyong'o or his Secunder will get time again to speak on the original Motion. I allowed them to talk on both the amendment and the main Motion and, I think, I would do the same to the Government responder on the amendment. I will also allow the Government responder to speak on the amendment and the main Motion. There is no possibility that I would call them again.

So, proceed, Dr Kituyi.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I did not intend to interrupt the hon. friend, but I think, this is an important procedural issue which crops up from time to time. I think, your initial ruling is correct. In our Standing Orders, apart from Standing Order No.21, there is no provision to say that when you are debating an amendment of this kind, you necessarily restrict yourself to the amendment. In fact, if you check Erskine May you will see that with regard to amendments such as these ones where you insert or remove words, one is in order to debate the general Motion and, I think, your original ruling was correct.

Mr. Speaker: Order! I think, it is superfluous to stand on a point of order to tell Mr. Speaker, that: "Mr. Speaker, you are right".

Proceed.

Dr. Kituyi: Thank you, Mr. Speaker, Sir. I was about to say the following:

The last time the late Dr. Robert Ouko is reported to have been spotted in public, he had a dinner at the Tea Hotel in Kericho and I had the privilege - me alone - to have that dinner with him. At that dinner, I asked him if it was not strange to him that at the time when the President was in the different part of the country, he happened to be alone at a Tea Hotel Kericho Town. The late Dr. Robert Ouko told me that he had been told to take some time and rest. I was working for the Norwegian Embassy at the time, and he had just come out of the only successful Press conference held by a Kenyan Minister in Oslo. I asked him if he believed in the things he had said. He told me that:

"We are trying to give this country a good image. We think about the long-term interests of the country. But there are people who are still beholding into short-term gains that they are ready to compromise the long-term future of this country."

Unfortunately, I never had the confidence in him or he never had in me for us to stretch out the details about who these people were.

Mr. Speaker, Sir, years after the late Dr. Ouko's death, I find it necessary and a responsibility that---

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

(Hon. Achola interjected)

Mr. Speaker: Order! Hon. Achola, "thou shall not be the Speaker". Will you sit quietly? I may exclude you from these proceedings if you continue interrupting the speaker on the Floor. You may listen to the proceedings of this House from outside if you continue doing that.

What was your point of order, hon. Shamalla?

The Assistant Minister, Office of the President (Mr. Shamalla): Hon. Dr. Kituyi has the audacity to stand up in this House and try to recount a meeting he had with the late hon. Dr. Ouko. Why has hon. Dr. Kituyi not ever appeared whenever we have had an inquest on Dr. Ouko? Is this the only time he finds---

Mr. Speaker: I am sorry, Mr. Shamalla, that is not a point of order.

Proceed.

Dr. Kituyi: Mr. Speaker, Sir, I requested my hon. colleague to read the book of Job Chapter 13:5, but apparently he has not done it. It can help in parliamentary business, but that is not what I want to---

Mr. Speaker: Order! Order! I have hon. Members in this House. I do not have priests. Even when I have bishops, they are honourable. So, can you stop moralising on others.

Proceed.

Dr. Kituyi: Mr. Speaker, Sir, I think that it is only a parliamentary select committee that can pose questions to some of the key players who are mentioned in the Troon Report and who apparently are scaring off police officers in carrying out inquests about the Ouko matter. We know names and persons. The Vice-President and Minister for Planning and National Development of this country said that the person who killed Dr. Ouko had poisoned him. He only said that after hon. Biwott had been arrested. Had there been any relationship between the willingness of hon. Prof. Saitoti to say that the person who poisoned him killed Ouko and the arrest of hon.

Biwott? Only a parliamentary committee can ask those people. We are saying that the police are comprised. Some of the people who are mentioned like Lagat have been promoted to---

Mr. Speaker: Order! Order! One thing I would like to bring to the attention of the House, are the terms of the Motion. I want to bring to the attention of the House the terms of the Motion as brought by the hon. Orengo and, of course, the relevant Standing Orders that bar any member from discussing another without a Substantive Motion. So, keep to the terms of the Motion as brought forward by hon. James Orengo and the amendments as brought forward by the hon. Prof. Anyang'-Nyong'o. No Member is allowed to depart from the terms of the Motion.

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): On a point of order, Mr. Speaker, Sir. I want to state quite categorically that hon. Dr. Kituyi has completely distorted whatever I said regarding my illness. I have never categorically stated that - and it should be checked- that those who killed Dr. Ouko had anything to do with my illness.

Dr. Kituyi: Mr. Speaker, Sir, I just want to finish seconding this Motion.

Mr. Speaker: Order! That was not a point of order. Your time is up, hon. Kituyi.

*(Question, that the words to
be added be added, proposed)*

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I beg to respond on behalf of the Government. Before I respond to the substance of the Motion, I would, first of all, like to dwell on some of the assumptions that have been made by the Motion as drafted with a view of giving the correct position.

The first assumption that has been made by this Motion is that the investigations by the Scotland Yard on the death of the former Minister for Foreign Affairs Dr. Robert John Ouko were prematurely terminated without a conclusion. This is not true. The truth is that the Government invited the New Scotland Yard who conducted investigations and submitted a report to the Government. It was on the basis of this report that some of the suspects were arrested and interrogated by the Kenya Police with the view to establishing whether they were in any way connected with the murder of Dr. John Robert Ouko. One person was later arraigned in court for this murder, but was later acquitted for lack of evidence connecting him to the death of the late Ouko.

The second assumption that I would like to dispel is that an attempt is made to destroy the evidence collected on the death of Dr. Ouko. The Government is not aware of any such attempts and this insinuation is, therefore, misleading. I would like to assure this House that every piece of evidence collected with regard to the death of the said John Ouko is secure like all other information on unsolved murder cases. Having said this, therefore, I would like to respond to the substance of the Motion.

The late Dr. Ouko's death grieved the whole nation. Kenyans were perturbed by the circumstances in which he disappeared and in which subsequently his body was discovered. All the evidence known to Kenyans and the Government is that Dr. Ouko had a cruel and painful death and Kenyans recall that Dr. Ouko was one of their most illustrious sons, one of the most resourceful Ministers that the Government has ever had and it is with great emotion that the Government does recount these circumstances.

The late Dr. Ouko had contribute immensely to the development of this nation, particularly in advocating for Kenya's position and respect in international area. It is with this regard that the Government immediately solicited the assistance of the New Scotland Yard to team up with the local police to conduct investigations with the view to bringing to justice the killers of Dr. John Robert Ouko. **Dr. Lwali-Oyondi:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to read to us what he has written down?

Mr. Speaker: As I have constantly said, you can refer to notes, but not read them.

The Assistant Minister, Office of the President (Mr. Sunkuli): So, as I mentioned, the Scotland Yard provided information and on which basis the Government took the measures.

Mr. Speaker: I have said, Mr. Sunkuli, you have to debate.

Proceed!

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I have taken your point.

Mr. Speaker, Sir, although Kenyans have not known who killed Dr. Ouko---

Hon. Members: We know!

[Mr. Speaker left the Chair]

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

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, although Kenyans have so far not yet known who killed Dr. Ouko, as in the case of this nature, the police file is still open. I would like to say that the Government is anxious to receive reports and information that will lead to the arrest of those who killed Dr. Ouko.

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

[Mr. Speaker resumed the Chair]

Mr. Speaker, Sir, there is no point making wild allegations. There is no point in attempting to give evidence to the effect that anybody had a dying declaration like the hon. Dr. Kituyi has attempted to state here. I would like to reiterate the statements made by another hon. Member that, if indeed the hon. Dr. Kituyi, any other hon. Member or any person in this Republic has evidence that will lead to the arrest of the murderers of Dr. Ouko, that evidence should be given to a body that is called the Kenya Police for investigations. The hon. Dr. Kituyi has stated here that he had a dying declaration of Dr. Ouko. That a few days before Dr. Ouko died, he had some information from him.

Mr. Speaker, Sir, that is a novel issue that has never been heard or recorded anywhere apart from today.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Is it in order for hon. Sunkuli, instead of giving a Government response, to go out of his way all the time talking about not having heard of what I am talking about? The fact that I had dinner with the late Dr. Ouko was mentioned in the Ouko Commission of Inquiry and is on the record with this Government.

Mr. Speaker: I am sorry, Dr. Kituyi, you have made yourself an issue, so you are irrelevant. Proceed!

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I am sure he knows that it is a criminal offence to withhold evidence.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. We have been following this debate very keenly. The Assistant Minister said that he had not heard of this story Dr. Kituyi was referring to and now Dr. Kituyi tells him that it is now in the report. Is he in order to say that it is not anywhere when Dr. Kituyi says, it is in the report?

Mr. Speaker: Well, I think, Mr. Shikuku you are now with me. I have said that Dr. Kituyi has made himself an issue so that he can be talked about.

Proceed!

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, however, I will not spend much time talking about him. The country has been treated to a lot of speculation with respect to this matter; a lot of rumours and untruths have been peddled about the death of Dr. Ouko. Even from the contributions made so far, you can see that there is an attempt to politicise a very grave matter. Some hon. Members have been made scape goats for everything that our opponents would like to raise in this House.

Mr. Speaker, Sir, there is no use in order to lend credence to any story to mention hon. Members. I know that hon. Kituyi and other hon. Members---

Mr. Speaker: Mr. Sunkuli, thou shalt not debate Dr. Kituyi. Debate the Motion!

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, some hon. Members have been used as scape goats, but the Government would like to call upon hon. Members not to politicise a very grave matter like this. There is no use throwing the name of hon. Biwott here and there.

Mr. Speaker, Sir, there is no use attempting to make a hon. Member a scape goat just to make your story credible.

Mr. Achola: On a point of order, Mr. Speaker, Sir. Is hon. Sunkuli in order to say that we should not politicise this issue when we know that this was a political murder and therefore, the issue is political?

Mr. Speaker: Well, I had already warned them that every Member must comply with the terms of the Motion. Mr. Sunkuli, you have no business to bring the name of Mr. Biwott into this Motion. He is not the subject

of this Motion and you have no right to mention his name.

Proceed!

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I just wanted to make sure that what has been said does not go unanswered because it will cause the wrong impression on a matter that is being treated seriously by the Government.

Mr. Speaker: By the way, Mr. Sunkuli, you have no business again to overrule me.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, it is therefore, my submission that this House does continue to preserve its dignity and refuse to be used as a forum through which mere allegations are made either for cheap publicity or to malign certain individuals or promote hatred.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to call the contributions made by hon. Members "cheap" and only seeking publicity?

Mr. Speaker: He is totally out of order, and he is now ordered to withdraw and apologise.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I wish to withdraw, apologise and replace with the following words: "That, we should not conduct our debate in such a manner that the result will be to malign other hon. Members and promote hatred". This is not what we are here for and, therefore, a Select Parliamentary Committee will not help us reach the bottom of this matter; instead, this will be a Committee of us politicians here.

Mr. Speaker, Sir, I personally would like to share the view that because a select Parliamentary Committee on a matter like this will not be composed of experts on matters of investigation, we will not be able to reach the bottom line of this problem. We have invited the British experts to investigate this matter and still we have not got to the bottom line. Therefore, such a Committee is only likely to be used to create propaganda and spreading untruths.

Mr. Speaker, Sir, in a Parliamentary Select Committee, the degree of proof is very low. The burden of proof on those persons who come to give information is not as rigorous as is required by the law, as in the cases of a court of law. People will come and make statements that they do not necessarily have to prove and, therefore, it will be a basis for nothing else but propaganda. I therefore, wish to say at this juncture that, if anybody inside this House or outside this House has useful information, I wish to repeat that, that information should be given to the Government and it will be able to act on that.

Mr. Speaker, Sir, in law, a police investigation file is never closed until somebody has successfully been prosecuted for an offence which is the subject of police inquiry. The file is still open and there is no limitation of time with respect to criminal cases. A person can be prosecuted at any time even after a long time has expired. The murder file of Dr. Ouko is still open and the police are still willing to receive any evidence with respect thereof.

Mr. Speaker, Sir, investigations of such an intricate and complicated case as the murder of Dr. Ouko is in the province - again as I said - of the trained experts like the Kenya Police and the Scotland Yard and not a group of politicians from this House. We have the right but we must acknowledge we do not have the ability to dig into the evidence and know where the truth is.

Mr. Speaker, Sir, in view of the foregoing, it is our submission that this matter does not need the appointment of a Parliamentary Select Committee to investigate the death of Dr. Ouko. Those who claim to have information that may lead us to know who the killers are should be patriotic and brave enough to come forth and given the evidence. The Government - and I wish to reiterate again - is willing to prosecute those who killed Dr. Ouko. What we require is the evidence.

Mr. Speaker, Sir, what we require is evidence because the law requires that before a person is prosecuted, there must be sufficient evidence to do so. We must go to the bottom of the truth and we must be lovers of the truth. Let us not use a matter like this to raise a lot of dust that may not enable us eventually to reach to the bottom of the problem.

With these few remarks, I oppose both the Motion and the amendment.

Mr. Speaker: Order, hon. Members. I think we have some 40 minutes to debate this. I do not know whether I should now dispose of the amendment or I should hear a different party other than FORD(K). Well, I think I must hear another party other than FORD(K) before I go on.

Mr. Anyona: Mr. Speaker, Sir, I think this is such a serious matter and the House must reflect that seriousness. The late Dr. Ouko was not just an ordinary Kenyan. He was a great Minister of this great Republic.

Even an ordinary Kenyan is entitled to the protection of his right to life under the provisions of our Constitution. The late Dr. Ouko was entitled to that protection, but it was not availed to him. He was let down by this nation which he had served with distinction. He was murdered in the most foul and ghastly manner. The murder of the

late Dr. Ouko was one of a string of political murders that have taken place in this country since Independence.

Mr. Speaker, Sir, prominent Kenyans have died in mysterious circumstances and these include the late Pinto, Mboya, George Morara, Ujamaa Ujamong, Ngala, J.M. Kariuki, Bishop Muge and the late Muruli. These murders have not been fully resolved to this day and as such, the conscience of this nation is stained with the innocent blood of these people. It is the responsibility of this nation to remove that stain from its conscience. This nation is still haunted by this ghastly murder and until they are solved and the souls of these noble innocent Kenyans are allowed to rest in eternal peace, this nation cannot be at peace with itself. This Motion seeks to exorcise, cleanse and clear the conscience of this great nation from the sins of this murder. It sounds very well to praise the late Dr. Ouko to the skies and at the end of that address, you say you oppose any move to reveal, discover and find out who murdered Dr. Ouko. If it were not unparliamentary, I would say that is the height of hypocrisy in any system of Government.

Mr. Speaker: By the way, it is unparliamentary. So, can you keep away from it?

Mr. Anyona: Mr. Speaker, Sir, to vote for this Motion is to set the conscience of this nation free because, at the moment, the conscience of the nation is not free until the murder of the late Dr. Ouko is resolved. So, this Motion is seeking to free the conscience of this nation both in the present and in the future. Equally, to vote against this Motion, as apparently that side of the House intends to do, is tantamount to condoning political murders and assassinations. I cannot imagine of any system of Government anywhere in the world that is charged with the duty of protecting human life, civil Government seeking to thwart efforts to do justice to a matter of grave importance.

Mr. Speaker, Sir, I listened to hon. Sunkuli whom I respect very much and he was very eloquent, but eloquent in a vacuum. What this House and the nation are seeking is to be told by this Government while they have time - they may not have time - the time is very short - we want to be told what this Government has done to find out who killed the late Dr. Ouko. What is this Government doing to find out who killed the late Dr. Ouko? Is it enough for this Government to ask us on this side of the House and those Kenyans to tell them who killed the late Dr. Ouko and to go and take evidence? They were not there when the late Dr. Ouko was killed. He was in some hands of this Government. He was a Minister and he must have had security. I can see a lot of security detail here surrounding people whom I would regard as very insignificant. What happened? Where were the security detail attached to the late Dr. Ouko?

Mr. Speaker, Sir, I am not maligning anybody here, but it is a fact that at some stage, certain people were arrested. The only difference is that they were not brought to Kamiti where I was. If you want to know where they were, they were in a guest house in the Prisons Training College with their wives. It is quite clear that this Government has not told this nation the truth and the day of reckoning has come. It is such issues as the murder of the late Dr. Ouko that will determine who will rule this country after the next General Elections. The Government has fallen in Great Britain after 18 years of this type of leadership, where you cover events of this kind. The Vice-President and Minister for Planning and National Development is telling us now that he never said that the people who killed the late Dr. Ouko are the same people who poisoned him. It has been said quite clearly by this Government, in more than one occasion, both here and outside, that after all, the people who poisoned the hon. Vice-President are the same people who killed the late Dr. Ouko. This means that the Government knows who these people are. Why is the Government not telling us the truth?

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): On a point of order, Mr. Speaker, Sir. I am sure you heard what hon. Anyona said. He has said that the person who killed the late Vice-President is the same person who killed Dr. Ouko. It appears to be his wish.

Mr. Speaker: Order! Order, hon. Members. That makes the two of you, Mr. Shikuku and you. But I can assure the House that neither the Vice-President nor Mr. Shikuku is late. They are all here.

Mr. Anyona: I would not like to say Prof. Saitoti is dead because I can see him there. It is very fortunate that he did not die. The truth of the matter is that he was poisoned. When a system goes to the extent of poisoning its own Vice-President, what kind of system is that? Why has Prof. Saitoti never told this nation openly that he was poisoned? We have killers amongst us and in our midst.

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

(Loud consultations)

Hon. Members: What about the "late"?

Mr. Speaker: Order! Order, hon. Members! I do not understand what this new fashion of calling

everybody "late" is all about. Shall we all hope that we shall have a lively House? What was it, hon. Shamalla?

The Assistant Minister, Office of the President (Mr. Shamalla): Thank you, Mr. Speaker, Sir. Hon. Anyona made a remark that it was unfortunate that Prof. Saitoti did not die! I heard the word, "unfortunate". Could he confirm whether he used that word? Was it fortunate or unfortunate?

Mr. Speaker: Hon. Anyona, did you say unfortunate or fortunate? What is the truth of the matter?

Mr. Anyona: Mr. Speaker, Sir, as you have rightly said, the spirit of the late hon. Dr. Ouko is even haunting this House. I said that it was fortunate that the Vice-President and Minister for Planning and National Development did not die. I also said that a Government that even poisons its own Vice-President is not fit to govern.

With those few remarks, I beg to support.

Mr. Speaker: I think I should now dispose off this amendment. There are only 20 minutes of debate time left because ten minutes are for the Mover to reply.

*(Question, that the words to be added
be added, put and negated)*

(Debate on the original Motion resumed)

(Hon. Achola interjected)

Mr. Speaker: Order, hon. Achola! Thou shall behave in the House. Thou shall not interject on Mr. Speaker! As warned previously, you may follow the proceedings of this House outside Parliament premises where there are no loud speakers. Let us have hon. Biwott to contribute.

The Minister of State, Office of the President (Mr. Biwott): Mr. Speaker, Sir, I was told to declare my interests, and I will declare them.

I would like to contribute to this Motion and say that from the outset, that every decent and normal citizen places the highest credibility in the principle of the sanctity of life and property. Therefore, every attempt that can be made to get to the bottom of this matter is welcome.

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. Is it in order for one who was mentioned, as the prime suspect in this particular murder to begin contribution to this particular debate without declaring his interest?

Mr. Speaker: Order, hon. Munyasia! The mere fact that you were mentioned--- In fact, what you are trying to say is that you are guilty by mob justice! There is no law known to me, and to this House, that you are guilty unless proven otherwise. You are not guilty until you are convicted. That is the law in Kenya. I am sorry, hon. Munyasia, but there cannot be a law for Kenya and a law for hon. Munyasia. Can we proceed on that basis?

The Minister of State, Office of the President (Mr. Biwott): Thank you, Mr. Speaker, Sir. That is the sort of thing which should be avoided in Select Committees. If we are going to have people like hon. Munyasia---

Mr. Speaker: Can you address the Chair?

The Minister of State, Office of the President (Mr. Biwott): Mr. Speaker, Sir, I am saying that if we are going to have people who make up their minds before they look into an issue, then I think God will forbid.

As I said earlier on, we believe in the sanctity of property and life---

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member to refer to hon. Members as "people"? We are hon. Members!

Mr. Speaker: I thought he was referring to God!

The Minister of State, Office of the President (Mr. Biwott): Mr. Speaker, Sir, I think hon. Members are also people. Hon. Members are human beings and they are also people. I can see that their target is to interrupt me. So, I will go straight to the point.

Mr. Anyona: On a point of order, Mr. Speaker, Sir---

Mr. Speaker: Order! Unless there is a serious point of order, I will not entertain it. I think on a matter like this, hon. Members ought to be a little tolerant and hear each other. Unless there is a serious breach of order, I will not entertain it.

The Minister of State, Office of the President (Mr. Biwott): Mr. Speaker, Sir, as I said earlier on, I will go straight to the point because these people are afraid of the truth.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. As you said, it is a serious matter and it is a fact

that the hon. Member on the Floor was mentioned in the Report and was actually arrested. How do we interpret Standing Order No.75? What will be your guidance on declaration of interest? He has a personal interest. He was implicated. Obviously, he wants to cover up something.

Mr. Speaker: Order, hon. Anyona! My rudimentary understanding of the law of the natural justice, and the hon. Paul Muite will bear me out as a lawyer, is that "thou shall not be condemned unheard". If ever, we were to interpret Standing Order No.75 in the way you want us to interpret it, it would mean that any minute you stand there, condemn any hon. Member, that hon. Member because you have condemned him has no right to reply. That would be the most ridiculous proposition ever heard on the face of the earth and this Speaker will not accept it!

(Applause)

The Minister of State, Office of the President (Mr. Biwott): Mr. Speaker, Sir, because these people are afraid of the truth, I will go--

Mr. Speaker: Order! Mr. Biwott, I think you are making hon. Members take your time reasonably because hon. Members are not people as you understand. They are Members and they are honourable! So, will you refer to them as hon. Members? They are not people!

The Minister of State, Office of the President (Mr. Biwott) Mr. Speaker, Sir, these are hon. friends. I will go straight to the point. The truth is known by hon. Orengo himself who perused every single document in the Commission bundle. If he has any thread of any evidence that link me to this heinous murder, I would like him to table it on the Table now so that action can be taken. I am a man who believes in truth and the law!

Mr. Speaker: Order, hon. Biwott! I had, in fact, made a ruling much earlier that all hon. Members shall direct themselves to the terms of the Motion as drafted by hon. Orengo. This Motion is not against any individual. So, can you keep out the name of Mr. Biwott, Mr. Biwott?

(Laughter)

The Minister of State, Office of the President (Mr. Biwott): Mr. Speaker, Sir, the problem arose because the hon. Members of the opposite side kept on interrupting.

Mr. Speaker, Sir, as I said earlier on, I believe in law, truth and I believe that every evidence that pertains to this matter must be preserved and has to be preserved meticulously so that it can be used as endlessly, and it is not only this one, but it is every evidence that link to any murder.

Mr. Speaker, Sir, this is why it is not necessary to have a Select Committee. It is necessary to report every information to the Attorney-General and to the police immediately so that action can be taken.

As hon. Sunkuli mentioned earlier on, it is an offence to withhold any information that is likely to lead into prosecution. Therefore, if anybody has got any information should report to the Attorney-General as opposed to this one.

An hon. Member: You know everything about this murder!

The Minister of State, Office of the President (Mr. Biwott): Mr. Speaker, Sir, how can a very clean man like Nicholas Biwott know anything about this?

(Laughter)

The Attorney-General is here and if he has any information whatsoever regarding anything, he should say so.

Mr. Speaker, Sir, with these few remarks, I would like to give my remaining few minutes to the Attorney-General.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I thought I would have ten minutes, but only two minutes.

Mr. Speaker, Sir, questions have been asked in this debate as what to the Government has done. Also questions have been asked as to why certain persons were arrested. Further questions have been asked why hon. Members of this House have been associated with the murder of the late Ouko and so on. The late Ouko was also a friend of mine and as Prof. Anyang'-Nyong'o did say that he was an apologist for the Government. That too was at a time when I was very active in the human rights field within the United Nations and I know he stood in for me during those times.

Now, what has the Government done? I think it is clear, the Government has brought in the Scotland Yard people to investigate and compile the Troon Report. The Government through the Commission of Inquiry appointed by the President made that Troon Report public. In other words, the Government shared the information in the Troon Report through the Commission with the public. As soon as the report was made public, the Government then, in accordance with the recommendations of the Troon report, ordered further investigations.

Mr. Speaker: Your time is up! I have only four minutes before I call Mr. Orengo to reply. **Hon.**

Members: Let him continue!

Mr. Speaker: I have no discretion to allow him to continue. Maybe I can give you two minutes.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, the Troon Report did mention a number of names as suspects, but in very general terms. Amongst the many names were two hon. Members of Parliament; hon. Biwott and hon. Omino.

At paragraph 217, as far as the allegations on the two were concerned, the Troon report did say that there must be further investigations. But what they had at that time under paragraph 217 was all hearsay. At paragraph 274, the Troon Report stated that they had only very tenuous evidence. "Tenuous" means that there was very insignificant and very flimsy evidence against the two. That is what "tenuous" means according to the Collins Oxford Dictionary.

Mr. Speaker, Sir, they were arrested because they had been mentioned for further investigations. The further investigations were ordered at a very high level; Mr. C.W. Ongolo led the delegation, Deputy Commissioner of Police, Mr. Ombati, Senior Assistant Commissioner of Police, Mr. Mutungi, Senior Assistant Commissioner of Police, Mr. Mbuvi, Senior Assistant Commissioner of Police and Mr. Marete, Assistant Commissioner of Police. They concluded that they have investigated all those further investigations by Mr. Troon and that they had found that there was no evidence whatsoever.

Mr. Speaker: Hon. Members, when I say "time up", it is time up. Two minutes to Professor Ouma.

Prof. Ouma: Mr. Speaker, Sir, in two minutes there is very little I can say except to summarise. This was one of the biggest people that ever lived in this country when he fought Mwakenya. There is a cycle of murders in this country. I have just analyzed that since 1963, every five to six years, a very significant Kenyan politician or public figure is murdered. One is due now to be murdered since 1990 and if I include the late Muruli, his murder has already occurred, but there is management behind all these murders and the people who were murdered were all KANU members at that time. So, we are not speaking of those who are going to murder the members of the Opposition. We are speaking of those who murder significant and top quality Kenyans in political management. If Mboya were alive, this could be a different country. If J.M. Kariuki lived, this could be a different country. If Ouko lived, it would be a different country. Today, we do not want Ouko's murder to be probed. Tomorrow it is your murder that will not be probed. Tomorrow it will be Mr. Biwott's murder that will not be probed. Tomorrow it will be Mr. Sunkuli's murder that will not be probed. What I am saying is that let us close this millennium of murders by ensuring that we unearth who the murderers are. Let us finish with this!

Mr. Speaker: Order! When your time is up you sit down. It is time for Mr. Orengo to reply.

Mr. Orengo: Mr. Speaker, Sir, before replying I will give hon. Paul Muite three minutes and then I will continue.

Mr. Speaker: How much time are you giving him?

Mr. Orengo: Only three minutes.

Mr. Speaker: Okay.

Mr. Muite: Mr. Speaker, Sir, the reason why this Motion should be supported is because the conduct of this KANU Government from the time that Ouko was murdered points to Government complicity and attempts to cover-up. When the body was discovered, we were promised that no stone would be left unturned. Scotland Yard was called in and that sent a signal to the Kenyan people that, perhaps, the Government meant business. When the Scotland Yard was being brought in we were told that the Report by the Scotland Yard would be made public. When they completed the Report, that Report was not made public. Instead, a commission of inquiry was appointed. Again the Kenyan people were misled. When the commission of inquiry was about to come to the grip of the murderers---

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

Mr. Speaker: What is it Mr. Sunkuli? Make it very brief since Mr. Muite has no time.

The Assistant Minister, Office of the President (Mr. Sunkuli): My point of order is that the hon. Member for Kikuyu is misleading the House. Is he in order to mislead the House that the Troon Report was not made public when the hon. Attorney-General has just said that the Troon Report was made public during the

commission of inquiry hearing?

Mr. Muite: Mr. Speaker, Sir, when the commission of inquiry came very close to identifying the murderers there was even an attempt to appoint another commission of inquiry in order to stop the Gicheru Commission of Inquiry from inquiring about corruption. Another commission was appointed which we have forgotten. Then when the commission of inquiry came very close to telling us the truth, it was disbanded. One day we are going to appoint a truth commission and we are going to get the people who were behind this murder.

Mr. Speaker: Order, Members! I am afraid that one thing that Members should accept is that when their time is up, it is time up and give Mr. Orenge his time.

Mr. Orenge: Mr. Speaker, Sir, I beg to respond to the arguments that have been presented to the House, but first I want to say this: That, if the murderer of Dr. Ouko is in this House then potentially the lives of all of us are in danger. It is not only the life of the late Dr. Ouko that was in danger. If the murderer of Dr. Ouko is out there in the public, at large, then every Kenyan citizen's life is in danger. It is the responsibility of this Government to ensure that, that person is arrested, charged and tried in accordance with the law. It is the responsibility of this Government. It is no use saying that a file has been opened. In legal terms, if I ask the Attorney-General what does he mean that the file has been open? A file has been opened! What kind of lame excuse can the Chief Legal Adviser make before this honourable House! He should have told us concretely that "since Anguka was acquitted, the Government has taken the following steps to ensure that the murderer of Dr. Ouko is going to be arrested or investigations and we are making progress." But in the presentation that we heard today, from the side opposite, not one person that contributed to this Motion from the Government told us what the Government is doing about the murder of Dr. Ouko.

Mr. Speaker, Sir, I have been reading a book called *The Schindlers List* and it says that:

"Destiny is not like a long rope. It is an elastic rope. You can pull it very far, but eventually it will jerk you to where you started. Even Napoleon who pushed destiny as far as any human being could, ended up in an island growing and eating potatoes."

When the late Kwame Nkrumah was overthrown, his own Foreign Minister, when they were flying to China, wanted to get out of that plane. It became very bad for him to be associated with Nkrumah's Government. I want to say without fear of contradiction that the moment that this country will identify the murderer of Dr. Ouko, many people sitting on the side opposite will say "when I voted, it was not my conscience, but I was voting because that was the directive".

(Applause)

But it will be too late. Today that you can demonstrate to the Kenyan nation that law and order is something that we believe firmly in and to show that you believe in law and order---

When there is a brutal murder of an important person or any other Kenyan and all the other avenues have failed and we have tried the police and the Scotland Yard and the Gicheru Commission was terminated-- They were not even in a position to write a report and the Attorney-General knows this. They did not write a report. They were told that "you must write a report" and the judges said "you have extinguished our lives in law and so we do not exist and we cannot write a report" and that is the position.

Mr. Speaker, Sir, so this is a serious issue and I am not bringing this Motion on the basis of making any political mileage. I have brought a similar Motion two to three years ago, but at the end of the day when all is said and done, and hon. Sunkuli said that in criminal law there is no limitation, even those who slaughtered Jews in Germany are being chased today. So, the murderer of Dr. Ouko, if the current Government is not willing to arrest you, the coming Government will chase you to every little hiding hole that you are going to get into. Unlike before, when I had pieces of evidence which I tried to present to the Attorney-General through the House to follow, and I did mention some names, I am not going to do that today. I am not going to do it because I do not want some people to prejudge this Motion that we are trying to target somebody. But we can also not disregard some of the evidence which is in the Troon Report and I have met Mr. Troon in London on two occasions and the story that he tells is that his work was blocked and interfered with by the police and the Government and up to now there are two people he was supposed to interview and he was able to get to those people. He was not. There are eyes on the other side when they look at you, you would need to have strong eyes to look back at them.

Mr. Speaker, Sir, a Parliamentary Select Committee is a normal process of carrying out an inquiry. Under the Powers and Privileges Act, when there is a Parliamentary Select Committee, they receive evidence similar to the way evidence is received in court, a select committee is *quasi* tribunal. If you lie before a select committee of the House, you can be prosecuted. So, a select committee of the House is not something that we can debate about. It is a serious committee of the House and to show that a select committee actually can help, when

the Kenya Police could not get any clues about the murder of the late J.M. Kariuki, it was the Parliamentary Select Committee which found his watch in police lines at Makongeni. Also, it was the Select Committee which identified several persons who then ran out of the jurisdiction. Some of them went to Ethiopia and Tanzania until it was safe to come back.

So, Mr. Speaker, Sir---

The Assistant Minister, Office of the President (Mr. Shamalla): On a point of order, Mr. Speaker, Sir. Is hon. Orenge telling us that by having had a Select Committee to look into J.M. Kariuki murder, that murder has been solved?

Mr. Speaker: Well, that is a question and not a point of order.

Mr. Orenge: Mr. Speaker, Sir, every trained lawyer who has been in a court of law and who has got experience, knows that when you talk about the report you should, please, read it. I ask, Mr. Shamalla, to, please, that read that report. He is not an expert in criminal law, but if you read it, you would get---

The Assistant Minister, Office of the President (Mr. Shamalla): On a point of order, Mr. Speaker, Sir. I want to inform hon. Orenge that I am the MP for Shinyalu, an hon. Member, not Mr. Shamalla.

Mr. Orenge: I am sorry, hon. Shamalla.

Mr. Speaker: Order! Order, hon. Orenge and hon. Shamalla! If you really want to know between the two of you as to who is a better lawyer, go to the court and argue your case and bring the report to me as to who has won.

Proceed, Mr. Orenge.

Mr. Orenge: Mr. Speaker, Sir, this is the day of reckoning and Kenyans would know whether they would stand to the truth or not.

Mr. Speaker, Sir, I beg to move.

(Question put and negatived)

Hon. Members: Division!

(A number of hon. Members stood up)

Mr. Speaker: Can you tell me whether there are 20 Members on the Floor demanding for a Division?

Hon. Members: Yes!

Mr. Speaker: Order! Order, hon. Members! Order means that you sit down. It is quite apparent, even without counting that the Members demanding a Division are beyond the requisite 20 and, therefore, as demanded, I do order that there shall be a Division. I now order the Division Bell to be rung for five minutes.

(The Division Bell was rung)

DIVISION

(Question put and the House divided)

(Question defeated by 60 votes to 39)

AYES: Messrs. Achola, Aluoch, Angwenyi, Prof. Anyang'-Nyong'o, Mr. Anyona, Mrs. Asiyo, Messrs. Busolo, Gichuki, Githiomi, Kamuyu, Karan, Kimani, Dr. Kituyi, Dr. Lwali-Oyondi, Messrs. Mak'Onyango, Manoti, Maore, Mathenge, Mbeo, Muite, Mungai J.N., Munyasia, Murungi, Mutahi, Mutere, Mwavumo, Mwiraria, Prof. Mzee, Messrs. Ndicho, Ndwiga P.N., Mr. Nthenge, Dr. Obure, Messrs. Obwocha, Ojode, Ogeka, Opere, Orenge, Prof. Ouma, and Mr. Shikuku

Tellers of the Ayes: Messrs. Obwocha and Wetangula.

NOES: Messrs. Abdi, Ali, Awori, Angatia, Barmasai, Biwott, Boy, Criticos, Ekidor, Kamotho, Kamuren, Kariuki, Keah, Khaniri, Kirima, Kisiero, Kochalle, Kofa, Komora, Kosgey, Lengees, Leshore, Ligale, Magwaga, Makau, Dr. Manduku, Messrs. Manga, Masinde, Mbela D.D., Mbela D.M., Mcharo, M'Mukindia, Mohamed A., Momanyi, Moiben, Mudavadi, Mrs. Mwendwa, Messrs. Mokku, Morogo, Muchilwa, Munyi,

Musyoka, Nang'ole, Ndotto, Ngala, Mrs. Nyamato, Mr. Ntimama, Rev. Ommami, Messrs. Otieno, Oyondi R.O., Rai, Shidie, Shamalla, Sumbeiywo, Prof. Saitoti, Messrs. Sing'aru, Sunkuli, Bishop Tanui and Mr. Wetangula.

Tellers of the Noes: Messrs. Mcharo and Kamuyu.

ADJOURNMENT

Mr. Speaker: Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 2.35 p.m.