

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 10th June, 1997

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

DEATH OF HON. GETHENJI

Mr. Speaker: Hon. Members, I want to bring it to the attention of the House that there was a communication from the Chair that I intended to make before we proceeded with our business, but I inadvertently left it in my Chamber.

I will thus deliver it immediately after Question Time.

PAPER LAID

The following Paper was laid on the Table:-

Government Guarantee of a Loan amounting to Kshs4,591,580,000 between the Government of Japan and the Kenya Posts and Telecommunications Corporation for purchase of telecommunications equipment in accordance with the provisions of the Guarantee (Loans) Act, Cap. 461 of the Laws of Kenya.

(By the Assistant Minister for Finance (Mr. Keah) on behalf of the Minister for Finance)

ORAL ANSWERS TO QUESTIONS

Question No.153

NUMBER OF SUSPECTS SHOT BY POLICE

Mr. Gatabaki not here? We will leave his Question for now. Mr. Muite's Question.

Question No.070

CANCELLATION OF HARAMBEE PERMITS

Mr. Speaker: Mr. Muite is also not here? We will move on to Mr. Kamuyu's Question.

Mr. Kamuyu: Mr. Speaker, Sir, before I ask my Question I wish to complain that I have not yet been given a written answer.

Question No.077

ISSUANCE OF DIPLOMATIC PASSPORTS

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

(a) how a Kenyan citizen qualifies for a diplomatic passport;

(b) how many sitting Members of Parliament have been issued with diplomatic passports; and,

(c) whether he could table a list of persons issued with diplomatic passports.

The Assistant Minister, Office of the President (Mr. Awori): Mr. Speaker, Sir, first of all I wish to apologise for not having passed on the written answer to hon. Kamuyu. I also apologise because I have a sore throat. I hope I will be understood.

Mr. Speaker, Sir, I beg to reply.

(a) For one to qualify to be issued with a diplomatic passport one has to be a Cabinet Minister, Assistant Minister, civil servants working in Kenyan missions abroad and any high-ranking Kenyan citizen that the Government deems entitled to be issued with one.

(b) Sixty-eight sitting Members of Parliament, who include Cabinet Ministers, Assistant Ministers and backbenchers, have been issued with the diplomatic passports.

(c) Yes.

Mr. Kamuyu: Mr. Speaker, Sir, you can see that there is a lot of contradiction between parts (a) and (b) of the answer. The Assistant Minister says that only Cabinet Ministers and Assistant Ministers get diplomatic passports. Part (c) of my Question asks whether the Assistant Minister could table a list of persons issued with diplomatic passports. Could the Assistant Minister tell the House who among the backbenchers have diplomatic passports, how they qualified to get them and why some of us in the Opposition Back-Benches have not been issued with diplomatic passports? Why are we not qualified for them?

Mr. Awori: Mr. Speaker, Sir, I have the list of names which I am going to table. It is headed by Hon. Lawrence Simiyu Sifuna, who has got diplomatic passport No.D001923. It was issued on 5.3.87. Hon. Sifuna is not only a Back-Bencher, but is one from the Opposition side.

(Mr. Awori laid the list of names on the Table)

Mr. Nthenge: Mr. Speaker, Sir, since there are many senior Kenyan citizens, a good number of them being Members of Parliament, would the Assistant Minister consider giving such citizens diplomatic passports?

Mr. Awori: Mr. Speaker, Sir, let the senior citizens make applications and we will consider them.

Mr. Icharia: Mr. Speaker, Sir, could the Assistant Minister confirm that all Members of Parliament and senior citizens of this country qualify automatically for issue with diplomatic passports?

Mr. Awori: Mr. Speaker, Sir, I cannot confirm that.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, could the Assistant Minister consider the issuance of diplomatic passports as a serious matter? We have seen situations where just a mere enthusiastic support of a particular KANU activist qualifies him for a diplomatic passport.

Why do we not have a certain standard or criterion upon which all individuals who are Kenyan citizens and who qualify could then be considered for diplomatic passports? But more importantly, we have a Shadow Cabinet on this side of the House and if being in the Cabinet is the qualification, and since we have a recognised Opposition, why are the Opposition Members of Parliament, who are in the Shadow Cabinet, not given diplomatic passports?

Mr. Awori: Mr. Speaker, Sir, to my knowledge, the current Constitution has not made any allowance for a Shadow Cabinet.

Mr. Kamuyu: Mr. Speaker, Sir, noting that Members of Parliament are indeed invariably more senior than senior civil servants who have been given diplomatic passports, could the Assistant Minister confirm that every Member of Parliament indeed qualifies automatically to be given a diplomatic passport so that this apparent discrimination ceases?

Mr. Awori: Mr. Speaker, Sir, I cannot confirm that.

Mr. Kamuyu: On a point of order, Mr. Speaker, Sir. I did not hear the answer from the Assistant Minister. I asked him a specific supplementary question and he mumbled something. I know he is sick, but he mumbled something that I did not understand at all. I will repeat my question: Since all the Sitting Members of Parliament do qualify irrespective of whether they are Front-Benchers or Back-Benchers, could he confirm that they will all be issued with diplomatic passports?

Mr. Awori: My "mumble" was "no."

Mr. Michuki: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to omit answers to the basic Question which was that he should explain the basis of qualification because that was the issue? Is it in order that this matter should be left hanging in the air?

Mr. Awori: Mr. Speaker, Sir, while my voice is a little hoarse, my hearing is quite clear, and the last question was for me to confirm whether every sitting Member qualifies and I said no.

Question No.035

UNDERSTAFFING OF PRIMARY SCHOOLS

Mr. Onyango asked the Minister for Education:-

- (a) if he could explain why primary schools in Nyatike are understaffed; and,
 (b) whether he could consider declaring Nyatike a hardship area.

[Mr. Speaker left the Chair]

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

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

It is true that some of the primary schools in Nyatike Constituency are understaffed. However, this understaffing problem affects the whole of Migori District although it is more prevalent in Nyatike Constituency. This problem has been caused by: one, an increase in the number of streams in Nyatike Constituency, two, improper distribution and balancing by the District Education Officer (DEO) of the primary school teachers posted to the district by the Teachers Service Commission (TSC) and three, the current shortage of trained primary school teachers resulting in the TSC not able to satisfy the demand in all the districts, Migori District included.

Mr. Temporary Deputy Speaker, Sir, as an immediate remedy, my Ministry has already advised the local DEO to distribute teachers in the district equitably. Also, my Ministry will in the near future, address the problem by posting more new graduates from primary teacher colleges to Migori District to alleviate understaffing in Nyatike Constituency in particular.

Mr. Onyango: Mr. Temporary Deputy Speaker, Sir, it is very unfortunate to get such a reply from the Assistant Minister. It is a well known fact that the understaffing in Nyatike Constituency is because the teachers---

Dr. Otieno-Kopiyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The answer from that Assistant Minister is incomplete. Part "b" which was asking whether the Minister could consider declaring Nyatike a hardship area was not answered.

The Temporary Deputy Speaker (Mr. Wetangula): Mrs. Ndeti, did you answer part "b"?

The Assistant Minister for Education (Mrs. Ndeti): Mr. Temporary Deputy Speaker, Sir, I overlooked that particular section because the business of declaring hardship areas is not under our Ministry purview.

Mr. Onyango: Mr. Temporary Deputy Speaker, Sir, it is unfortunate to get that reply from the Assistant Minister for Education because it is a known fact that the understaffing in Nyatike has arisen due to the fact most teachers posted to Nyatike from the teacher training colleges are always taken from outside the constituency and after a short period they ask for transfers and they go to other areas. Could the Assistant Minister declare that from now onwards, the trainees who are taken to the teachers training colleges will be recruited from Nyatike Constituency only?

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

[Mr. Speaker resumed the Chair]

Mrs. Ndeti: Mr. Speaker, Sir, I cannot make that declaration, but the Ministry has taken note of that and it is addressing itself to that particular issue.

Mr. Otieno: Mr. Speaker, Sir, the Assistant Minister did mention that there is a shortage of trained teachers, but we have over 800 fully trained and qualified graduates of Kamagambo Teachers College who have not been employed and there are similar such graduates from so many other private teachers colleges which the Ministry has refused to absorb. Is it not ridiculous for the Assistant Minister to say here that there is a shortage of trained teachers, when the Ministry stubbornly refuses to employ Kenyans who have been trained at a great expense to teach in our primary schools and they come from the areas where the shortages are?

Mrs. Ndeti: Mr. Speaker, Sir, employment of teachers has got very serious financial implications in the Government and particularly so in the Ministry of Education whose 89 per cent of its Budget goes to the payment of teachers. It will be impossible to let private teacher colleges train randomly---

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. The Assistant Minister is contradicting herself. She was talking about the shortage teachers being as a result of trained manpower. Now they have been offered manpower and she has brought in the issue of money. Which of these two positions is the correct one?

Mrs. Ndetei: Hon. Dr. Otieno-Kopiyo could wait and listen then understand something, but so long as he is chewing his own ideas, then he may not hear anything. What I am saying is that the private teacher colleges cannot be left to train wildly for the Government. The Government will not have the capacity to absorb all these teachers into primary and secondary schools. However, the Government has got its own teacher training colleges which must continue to train for Government and we must continue to have teachers trained by the Government absorbed within available financial resources of the Government.

Mr. Magwaga: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead the House? The private teacher training colleges were given charters by the Government to train teachers. She is not telling the truth when she says that the Government has its own teacher training colleges. Where do they get the charters to train the teachers?

Mrs. Ndetei: Mr. Speaker, Sir, there are also very many other institutions training Kenyans for various other jobs and the Government is not bound to absorb them; like in tourism and many others.

Mr. Onyango: Mr. Speaker, Sir, I would request the Assistant Minister to declare Nyatike a hardship area because teachers from that particular area seek transfers out of that area due to its climatic conditions. Apart from that, there are problems of water shortage and transportation and that is why the teachers move away. So, I am requesting the Ministry do something so as to induce teachers to stay in that particular area instead of moving to better areas.

Mrs. Ndetei: Mr. Speaker, Sir, if the hon. Member had been listening, I said the question of declaring hardship areas does not fall under the ambit of the Ministry of Education, it falls under another Ministry, not ours.

Question No. 075

SURRENDER OF UN-UTILISED LAND

Mr. P.N. Ndwiga, on behalf of **Mr. Nyagah**, asked the Minister for Energy:-

- (a) when the land given out by Embu County Council to Tana and Athi River Development Authority during Masinga Dam construction will be reverted to the Local Authority;
- (b) whether he is aware that un-utilised land by the said Authority through an agreement with Embu County Council, was supposed to be surrendered back to the Council; and,
- (c) if he could inform the House as to the total acreage due to be surrendered back to Embu County Council.

The Assistant Minister for Energy (Mr. Nang'ole): Mr. Speaker, Sir, I beg to reply.

(a) The Kenya Government compulsorily acquired land as provided in the law on behalf of Tana and Athi River Development Authority (TARDA) and mandated TARDA to undertake the construction of the other Tana catchment reservoir, Masinga.

(b) I am not aware of any agreement between Tana and TARDA and Embu County Council or any other local authority on the surrender of any un-utilised land.

(c) In view of (b) above, no land is due to be surrendered back to Embu County Council and issue of the acreage for surrender does not, therefore, arise.

Mr. P.N. Ndwiga: Mr. Speaker, Sir, it is pathetic that Ministers come to this House without proper answers. The truth of the matter is that there was an agreement between TARDA, and Embu County Council. Embu County Council ceded 1,000 acres of their land to TARDA while they were building Masinga Dam. After the completion of the dam, seven Kenyans were allocated 50 acres each of the balance of the land. We have been hearing that 17 other Kenyans have been allocated this land which belongs to Embu County Council, while we have so many landless people. In view of this information, could the Minister, because now it is obvious he does not have the correct answer, perhaps, undertake to go and do some more research?

Mr. Nang'ole: Mr. Speaker, Sir, regarding part (a) of the Question, I repeat we are not aware, as a Ministry, of any agreement between the Embu County Council and TARDA. If the hon. Member has such information in writing, we shall be willing to work on that. As for part (b) of this question, we are only aware of 15 people who were allocated a total acreage of 774.

Mr. P.N. Ndwiga: Mr. Speaker, Sir, first the Assistant Minister says he is not aware, and that this land was compulsorily acquired by the Government. Who is now allocating this land? If the land was acquired and given to TARDA, who is now allocating this land? You thieves!

Mr. Nang'ole: Mr. Speaker, Sir, I think you heard the word used. The word "thief" is un-Parliamentary and should not be used here. Before he withdraws that word, he knows very well which Ministry allocates land, it is not the Ministry of Energy.

Mr. J.N. Mungai: On a point of order, Mr. Speaker, Sir. According to the hon. questioner's statement, it appears that there was an agreement violated by the Masinga Dam. In view of that, now that the hon. Member says that some people were given 50 acres each; would I be in order to ask the hon. Member to substantiate this allegation and give the names of all the allottees given 50 acres each?

An hon. Member: He has confirmed.

Mr. J.N. Mungai: We want the names.

Mr. Speaker: Order! The Assistant Minister says 700 acres have been given to 15 people.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, in as much as hon. P.N. Ndwiwa is my colleague, this word "thieves" should be removed from our record.

Mr. Speaker: Order! Yes indeed. Hon. P.N. Ndwiwa, you know what language is acceptable in this House, and you know the words you have uttered in this august Assembly are totally unacceptable. You are now ordered to withdraw and apologise to the House.

Mr. P.N. Ndwiwa: Mr. Speaker, Sir, I will withdraw the word "thieves" and substitute it with "grabbers". The Assistant Minister confirms---

Mr. Speaker: Order! Mr. P.N. Ndwiwa, very well, you have complied with part one of my orders. There was part two of apologising to the House.

Mr. P.N. Ndwiwa: Mr. Speaker, Sir, I withdraw and apologise. May I now ask my other question?

Mr. Speaker: Order, ruled out.

Mr. G.I. Ndwiwa: Mr. Speaker, Sir, the Assistant Minister agrees that the 774 acres that had been given by the Embu County Council to TARDA was allocated to some people. Who got the authority to allocate the 774 acres to the individuals? Who did that? We demand that, that land should revert back to the ownership of Embu residents.

Mr. Nang'ole: Mr. Speaker, is the hon. Member heard me well, this land was not given to TARDA by the County Council, but it was compulsorily given to TARDA by the Government, and this is what I am saying.

Mr. Michuki: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to insist on stating that the land was compulsorily acquired without explaining that land which is compulsorily acquired must be used for public purposes, but not for allocation to individuals? Is it in order?

Mr. Nang'ole: Mr. Speaker, Sir, while I agree with that statement, it is the Ministry concerned which gave out that land. In addition to that, we have a total acreage of 476 reserved for the Government utility, which I feel is under the Embu County Council.

Mr. P.N. Ndwiwa: Mr. Speaker, Sir, it is apparent that this Assistant Minister is not informed at all about this matter. This land is under the trusteeship of Embu County Council, and the total acreage is 54,000. Under an agreement, 1,000 acres of this land was given to TARDA so that they could develop Masinga dam. Since the Assistant Minister says that the Government compulsorily acquired this land, could he tell us who is now allocating the same land? Can he table the list of the names of the people who have been allocated this land? This land belongs to Embu County Council. Can he table the list of the 15 people allocated this land?

Mr. Nang'ole: Mr. Speaker, Sir, I have no problem with that. I have the list here with me and I will table it. If the hon. Member has the agreement which was reached by TARDA, the Ministry and the Embu County Council he should go ahead and table it so that we can act on it. So far, I am not aware of any agreement.

Mr. Speaker: Mr. Nang'ole, you promised to table the document. Would you like to do so?

(Mr. Nang'ole laid the document on the Table)

Question No.023

RE-OPENING OF HEALTH FACILITIES

Mr. Mak'Onyango asked the Minister for Health:-

- (a) how many of the closed 41 or so privately owned health facilities in Nyanza and Western Kenya have since been re-opened;
- (b) whether he could deny that the move was meant to deprive the residents of the affected areas such as Siaya District where the Siaya Medical Services Centre was and remains closed, this crucial service; and,
- (c) what the Ministry is doing to facilitate the immediate re-opening of the facilities.

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

(a) My Ministry did not close down any of the 41 privately owned health facilities. They are still licensed under Chapter 253 of the Laws of Kenya. They were, however, de-gazetted under Section 29 of the NHIF Act, Cap.255 to facilitate investigations with alleged malpractices that amounted to defrauding the Fund.

(b) The hospitals were not closed and the issue of depriving provision of health facilities to the residents of the affected areas does not arise. All members of NHIF who require in-patient medical services in any of the de-gazetted hospitals are reimbursed directly by the NHIF Fund.

(c) Re-gazettement of these facilities will be considered as soon as investigations are finalized.

Mr. Mak'Onyango: Mr. Speaker, Sir, this Question has been on the Floor of this House for almost three times and each time the answer has been unsatisfactory.

By virtue of that de-gazettement, these hospitals are not operating and as such the people who need these services cannot get them. Can the Assistant Minister, for the sake of saving lives in this country, come up with a solution to this problem? This matter has been with the Ministry for more than two years.

The owners of these particular institutions have been charged in courts of law and, therefore, the question of investigations does not arise. Can the Assistant Minister come up with an action to save lives because people are dying due to lack of these facilities?

Mr. Criticos: Mr. Speaker, Sir, I would appreciate if the hon. Member could tell me which particular facilities have been closed down because as far as we are concerned none of these facilities has been closed down. A number of court cases have been completed or withdrawn by the Attorney-General and re-gazettement will be considered as soon as the Inter-ministerial Committee Report that has been prepared and submitted to the Government is passed back to the Fund for implementation. The committee has recommended a workable solution with conditions attached to facilitate earlier resolutions to this problem instead of the long drawn court cases that are admittedly very expensive and lengthy. That is why it has taken two years. We, in the Ministry, cater for our citizens.

Dr. Oburu: Mr. Speaker, Sir, when the crackdown on hospitals was started we were given the impression that it was going to be a national exercise covering the whole of the country, but it only ended in Western and Nyanza Provinces and a few selected hospitals in Nairobi belonging to people from Western Kenya. Can the Assistant Minister tell us why there was this discrimination?

Mr. Criticos: Mr. Speaker, Sir, I would like to differ with the hon. Member of Parliament because I have got a list of other hospitals which have been closed down. We have a few of them in Rift Valley, two in Nairobi, three in Coast Province, two in Central Province, one in Eastern Province, one in North Eastern Province and so forth. This has come to my attention on numerous occasions and I would like to assure the Opposition that that is not the case. The exercise was done indiscriminately.

Mr. Manoti: Mr. Speaker Sir, it is now two years since these hospitals were closed down. Some of court cases involving some hospitals were done away with due to lack of evidence. Can the Assistant Minister allow these hospitals to use NHIF cards?

Mr. Criticos: Mr. Speaker, Sir, as I said earlier on, the NHIF cards are still valid and the reimbursement of funds directly from the NHIF.

Mr. Mak'Onyango: Mr. Speaker, Sir, Kenyans have been called upon by this Government to assist in the provisions of some of these facilities and have responded positively by putting up hospitals in different parts of the country.

The action by the Government of de-gazetting these hospitals has denied these indigenous Kenyans the necessary source of income in providing these essential services.

Can the Assistant Minister come up with a solution of ensuring that at least people can still go to these hospitals and be allowed to use NHIF cards because right now they are not allowed to use them and many of them end up dying? Can he come up with an arrangement where people can still use their NHIF cards to get treatment?

Mr. Criticos: Mr. Speaker, Sir, that is in order because the hospitals would be reimbursed directly from the headquarters. Let me say again that these hospitals have not been closed down.

Mr. Mak'Onyango: Mr. Speaker, Sir, I believe the Assistant Minister is aware of the situation in the country.

Is the Assistant Minister not misleading the House by saying that these hospitals have not been closed down when Siaya Medical Centre has been closed down for the last three years simply because of this particular action?

Question No.112

PAYMENT OF SALARY TO MR. SARO

Mr. Shidie, on behalf of **Mr. Mumba**, asked the Minister for Health:-

(a) whether he is aware that since Mr. Kahindi Saro P/F.No.136515 retired as a driver at Malindi District Hospital on 1st October, 1991, he has not been paid the September, 1991, salary despite the Government having cleared him; and,

(b) what reasons led to the delay in payment of his September, 1991 salary, and when it will be paid.

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

Mr. Saro's salary for the month of September, 1991, has already been paid and he should collect his cheque No.023915 of 11th April, 1997, for Kshs2,391.20 from the Medical Officer of Health, Malindi.

Mr. Shidie: Mr. Speaker, Sir, this Ministry is notorious for this kind of thing. Many times when workers retire or need their benefits they are unable to get them.

Mr. Saro has been looking for this money over a period of time. Could the Assistant Minister ensure that bureaucracies are done away with and he does a very efficient job?

Gen. Mulinge: Yes, Mr. Speaker, Sir.

Question No.065

REHABILITATION OF COFFEE AND TEA ROADS

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

(a) when the Government will release the Kshs5.7 billion held in Indosuez Bank for rehabilitation of coffee and tea roads countrywide; and,

(b) why this amount has not been utilised since 1993.

Mr. Speaker: Order! I actually skipped the Question of Mr. Gitonga. We will come back to Mr. Murungi in a while. I am sorry.

Question No.118

ILLEGAL ALLOCATION OF PUBLIC UTILITY LAND

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

(a) if he is aware that public utility land parcel No.LARI/KIJABE/225 has illegally been allocated to a private developer;

(b) if he is further aware that the private developer has now closed the only public passage across the Tongi-Tongi River, thereby causing a lot of inconvenience to the local community; and,

(c) if the answers to "a" and "b" above are in the affirmative, could the Government consider revoking this allocation so that the land in question can revert back to the community who are the rightful owners for the communal use.

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

(a) I am aware that land parcel No. LARI/KIJABE/225 was allocated to one Samuel Thiguri Warwathe. This parcel of land is not public utility plot as per the official records at the Kiambu land registry.

(b) I am not aware that the only public passage across the Tongi Tongi River has been closed causing a lot of inconveniences to the local community. I will, however, investigate this and take necessary action.

(c) The Ministry would not revoke the allocation because the land is a private property and the allocation was recommended by Kiambu District Plot Allocation Committee on 3rd June, 1994.

Mr. Gitonga: Mr. Speaker, Sir, this is a very sad answer from this Assistant Minister.

Mr. Speaker, Sir, I come from the area and this parcel is only five farms away from my own land. I am also aware, because I was there that, this land was set aside way back in the 1960's during the adjudication. It was set aside for public use as a baptism area and also as a community livestock watering area.

Mr. Speaker, Sir, there is also a passage shown on the map of Kenya to show that there is a passage there for people to go from the other side of the hill. Could the Assistant Minister tell us why he thinks that this is not public utility land and to whom it belongs?

Mr. Sumbeiywo: Mr. Speaker, Sir, once a piece of land has been allocated to an individual, it is a private land.

Mr. Gitonga: On a point of order, Mr. Speaker, Sir. He is not answering the question, because what I wanted to know is, if the land is not a public utility land, to whom did it belong before it was allocated to this individual

owner?

Mr. Speaker: I suppose you should have waited first to hear whether he would answer to that. Proceed!

Mr. Sumbeiywo: Thank you very much, Mr. Speaker, Sir. I also thought he should have waited a bit, so that he could listen to what I was going to say. The land was Government land. It belonged to the County Council before it was allocated to the individual I have already mentioned. For the parcel of land, the gentleman who was allocated the land applied for it, and it was recommended for allocation by the District Plot Allocation Committee under Minute No.DPAC/8/94/83 of 3rd June, 1994. It was referred to the Minister for Local Government by the Clerk to Council vide letter Ref:KTC/DPAC/D/Volume 1/107 of 8th January 1996. The Minister gave his approval, after of course carrying out a search in the office to ensure that this was not public land. He gave his approval vide letter 1142-80/xvi/60. The transfer was prepared and documented in the favour of Samuel---

Mr. Speaker: Mr. Sumbeiywo, you are taking too much time on this.

Mr. Sumbeiywo: Thank you, Mr. Speaker, Sir. I wanted to satisfy the hon. Member by assuring him that this land was a county council land and was not for public utility. For the passage, I have said that I am going to carry out investigations and if there is any malpractice, that will be put right.

Mr. Gitonga: Mr. Speaker, Sir, as I said, this parcel of land was held by the county council in trust for the community in the area. It did not really rightly belong to the county council, but the county council was holding this piece of land which had its own title on behalf of the people of Kijabe. How could it be an individual's and yet, the land has been lying there since 1956 until last year, when it was allocated to an individual by the clerk who was in Kiambu before he was transferred because of his crooked ways?

Mr. Speaker, Sir, if this land is now private land and belongs to the county council, could the Assistant Minister tell us if this land was ever advertised for allocation to a private individual?

Mr. Sumbeiywo: Mr. Speaker, Sir, it is true that the land was trust land and the county council was the keeper of that trust land. So, the question of advertisement is always done by the county council which allocates the land.

Mr. Nyanja: On a point of order, Mr. Speaker, Sir. Hon. Gitonga and I hail from the same district and I want to say here now - because the Assistant Minister does not seem to agree with the hon. Member - that there is no name like Samuel Thiguri Warwath in any clan in Kikuyu-land. All the former DC, Mr. Oreta did was to create fictitious names and was everything unto himself in the allocating committee.

Mr. Speaker: Is that a point of order?

Mr. Nyanja: Mr. Speaker, Sir, is he in order, with this background to mislead the House, when we as Members from Kiambu District know the truth, the damage done to public utility land? There is nothing like this. Mr. Oreta will have to face the music. Now, all the communities are represented---

Mr. Speaker: Order! Order, now! Mr. Nyanja, I am sorry, you are not on a point of order. But nevertheless, you have unlawfully said your bit. Now, can we have Mr. Kiraitu Murungi's Question?

Question No.065

REHABILITATION OF COFFEE AND TEA ROADS

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

(a) when the Government will release the Kshs5.7 billion held in Indosuez Bank for rehabilitation of coffee and tea roads country-wide; and,

(b) why this amount has not been utilised since 1993.

The Assistant Minister for Public Works and Housing (Col. Kiluta) Mr. Speaker, Sir, I wish to apologise for not having the answer to this Question, because it was transferred to the Ministry of Finance and they were supposed to come and answer it. But they said they are not ready with the answer. The Ministry of Public Works and Housing does not have the answer either.

Mr. Murungi: On a point of order, Mr. Speaker, Sir. I think the Assistant Minister is misleading the House because, in fact, I have an answer from the Ministry of Finance. So, could the Ministry of Finance answer my Question?

Mr. Speaker: Do we have anybody from the Ministry of Finance? Well, if you do have an answer from the Ministry of Finance and he says he has been directed, I will then order that the Question be deferred with the Ministry of Finance being directed to come and answer next week.

Mr. Murungi: It can even be tomorrow

Mr. Speaker: Sorry, we do not want to do a formality. You want a proper answer. Question deferred!

(Question deferred)

Mr. Speaker: Next Question, Mr. Owino Achola!

Question No.053

EXPENDITURE ON NYAYO CAR PROJECT

Mr. Achola asked the Minister for Transport and Communications:-

(a) what happened to the Nyayo Car project; and,

(b) how much money the Government used on this project.

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

(a) The Nyayo Car Project which is now called the Numerical Machinery Complex Limited is progressing well towards achieving its intended objectives.

(b) The Government, has to date, invested Kshs737 million on this project.

Mr. Achola: Arising from that answer, could the Assistant Minister inform the House as to what the main objectives of the project were, the budget of the project and the duration which it was supposed to last?

Mr. Morogo: The objective of the project was to have Kenya come out with its own car. As we know, many other countries are moving ahead because they have been able to develop their own cars and Kenya was moving towards that direction - in order to come out with a car that would be affordable, efficient and useful to the people of this country. Unfortunately, I do not have the budgeted amount but I could come back with that answer tomorrow.

Mr. R.K. Mungai: Mr. Speaker, Sir, can the Assistant Minister tell this House when the Government expects to achieve this objective? When will we have the finished product?

Mr. Morogo: Mr. Speaker, Sir, there is a lot going to this. We still have research going on. As you all know, there was one proto-type car which had already been manufactured and there were some defects and we are still putting right some of them. So, I cannot say for sure, how soon it will be out, but the Government is determined to have it come out as soon as possible.

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister not misleading the House that this country has got the capacity to produce cars? Is he not misleading the House that at the stage we are in, in terms of economic development, we can manufacture a car? The Assistant Minister is not telling the House the real truth that the purpose of the Nyayo Car Project was to squander public funds.

Mr. Speaker: That is your opinion, Mr. Gatabaki!

Mr. Kapten: Mr. Speaker, Sir, can the Assistant Minister tell this House why everything that is named Nyayo has failed?

Mr. Morogo: Mr. Speaker, Sir, the Nyayo Government is in control and it is fully in control.

Mr. Achola: Could the Assistant Minister confirm or deny that the real reason why this project was set up was because the Government wanted to fleece money out of the taxpayers and this was just a conduit of transferring public funds to be used by this Nyayo Government? At the moment, the project has just stalled and there is nothing going on and yet, the Government has spent over Kshs700 million. Could the Assistant Minister, therefore, tell this House exactly what this money has been used for, so that we can be satisfied as to the usefulness of this project?

Mr. Morogo: Mr. Speaker, Sir, I deny that the purpose of the project was as the hon. Member has suggested. As a Government, we are very optimistic and we have good intentions for the country and we will continue to undertake what we think is helpful to this country any time.

Mr. Kamuyu: On a point of order, Mr. Speaker, Sir. I think this Question has been directed to the wrong Ministry. It should have been directed to the Ministry of Research, Technical Training and Technology. So, I do not know why this Question has been directed to the Ministry of Transport and Communications?

Mr. Speaker: Which Question are you talking about?

Mr. Kamuyu: I am talking about Question No. 053. It has been directed to the wrong Ministry. Through the Chair, we can rectify this, because it has been answered by the wrong Ministry.

Mr. Speaker: Order! Order, Mr. Kamuyu! You are totally out of order. We have already passed that Question!

Question No.084

CONFISCATION OF SOCIETY'S PROPERTY

Bishop Kimani asked the Minister for Co-operative Development:-

(a) whether he is aware that Bahati Cereals Co-operative Society, which was formed by unemployed youth to buy and sell maize in Bahati, is no longer operational;

(b) whether he is further aware that the society's weighing scale was confiscated together with Kshs4 million by the District Co-operative Officer Nakuru, in conjunction with the Co-operative Bank Manager, in lieu of a bank loan of Kshs400,000 given to the society; and,

(c) if the answers to "a" and "b" are in the affirmative, could he ensure that the weighing scale and the money are returned to the Co-operative and that the loan to the society be written off.

The Minister for Co-operative Development (Mr. Munyi): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the Bahati Cereals Co-operative Society is no longer operational, but I want to correct the hon. Member that the people who started that Co-operative Society were not unemployed.

(b) I am also aware that the weighing scale was withdrawn for the time being, because the society had become dormant and I would like to inform the hon. Member that as soon as this co-operative society is active, then the weighing machine will be given back to them.

Bishop Kimani: Mr. Speaker, Sir, the hon. Minister is completely misleading this House. The people who formed that co-operative society were unemployed youths. When they started that society, they borrowed very little money, about Kshs150,000 from the Co-operative Bank. When the work started, the Co-operative Bank Manager wrote to the directors and informed them not to be taking the cheques from the National Cereals and Produce Board, because the bank would be collecting them in order to service the loan. As a result, they never took the money from the National Cereals and Produce Board and they ended up having Kshs4 million squandered by the Co-operative Bank Manager and the District Co-operative Officer and now the Minister is trying to cover up. Is he in order to cover up this issue at the expense of these poor youths? This has created a lot of anxiety to the people of Nakuru North.

You say you love the youths and yet, you steal from them!

Mr. Speaker: Order! Order, Bishop Kimani! Just a few moments ago, when the Bishop was still sitting there, I ordered the Member for Runyenjes to withdraw the word "stealing". Now, here stands Bishop Kimani again and repeats that word. Will, you, Bishop Kimani withdraw that word and apologise to the House?

Bishop Kimani: Although they have stolen, I would say they have squandered the money - Kshs4 million.

Mr. Speaker: First of all, do as I have ordered you.

Bishop Kimani: Mr. Speaker, Sir, I wish to withdraw that word, but I would say they have squandered Kshs4 million. Could the Minister order the Co-operative Bank to refund this money and the weighing scale to the co-operative society?

Mr. Munyi: Mr. Speaker, Sir, it is good that Bishop Kimani has apologised. I wish to inform him that the Ministry did take action to give the weighing scale to that co-operative society. Therefore, the Government is always in support of the people who are doing something to help themselves and I would like to inform Bishop Kimani that what he has said is a mere allegation and a personal opinion.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, there is a question of Kshs4 million which have been taken from the bank by the District Co-operative Officer in conjunction with Co-operative Bank Manager. What is the Minister saying about this?

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. Is it in order for an hon. Member to have a telephone set in the House and it is ringing?

Mr. Speaker: Order! It does appear that there is a very strange gadget in this House. Will the hon. Member who has it, a telephone, or any such gadget that is likely to disrupt the proceedings of this House proceed forth out of the Chambers and keep it away? Proceed, Mr. Munyi.

Mr. Munyi: Mr. Speaker, Sir, I have already answered and it is only an allegation.

Bishop Kimani: On a point of order, Mr. Speaker, Sir. While appreciating the Minister's statement that he is going to refund the scale, is he in order to refuse to promise when this Kshs4 million will be brought back because the youth cannot start job without the money?

Mr. Munyi: Mr. Speaker, Sir, I have given that promise. I did promise something which will be agreed upon and I will take action.

Mr. Speaker: For the second time, Mr. Gatabaki's Question.

Question No.153

NUMBER OF SUSPECTS SHOT BY POLICE

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

- (a) how many suspects were shot by police in 1996; and,
 (b) how many policemen died in the course of duty while trying to arrest suspects during the same period.

The Assistant Minister, Office of the President (Mr. Awori): Mr. Speaker, Sir, I have discussed with hon. Gatabaki that I answer this Question on Tuesday next week because it needs a lot of details which is being compiled now and it was not ready before I arrived here. So, I would like to answer it next Tuesday and hon. Gatabaki is in agreement with me.

Mr. Speaker: Very well. Is that so, Mr. Gatabaki?

Mr. Gatabaki: Mr. Speaker, Sir, I am in total agreement in view of what the police have been doing in this country.

Mr. Speaker: Question deferred.

(Question deferred)

Mr. Speaker: For the second time, hon. Muite's Question.

Question No.070

CANCELLATION OF HARAMBEE PERMIT

Mr. Maore, on behalf of **Mr. Muite**, asked the Minister of State, Office of the President:-

- (a) if he is aware that Mr. Joseph Mutua, former student of Kiriti Mixed Secondary School, applied for a permit to raise funds to assist him join college on 14th October, 1996, and that the application was approved by the District Officer, Kasarani Division, on 21st November, 1996;
 (b) why the same permit was cancelled eleventh hour vide letter KASS/ADM/15/16 of 29th November, 1996; and,
 (c) since Mr. Mutua incurred huge expenses in organising this Harambee, following the laid down procedures, what steps the Government is taking to compensate him (Mr. Mutua) for this loss.

The Assistant Minister, Office of the President (Mr. Awori): Mr. Speaker, Sir, had I known that that gentleman was representing hon. Muite, I would also have discussed with him because the answer that I have got to this Question is unsatisfactory even to me. I would like time to get a correct answer and I promise to bring it on Tuesday next week.

COMMUNICATION FROM THE CHAIR

DEATH OF HON. GETHENJI

Mr. Speaker: As I indicated, I had a communication from the Chair which I would have liked to deliver the very first time and I would like to do it now.

Hon. Members, it is with regret that I have to announce the death of a dear colleague and friend, the hon. Member for Tetu, Mr. Joseph Augustine Gethenji, who passed away on 3rd June, 1997 after a long illness. The late Gethenji was born on 12th June, 1935, at Muhoya's location, Tetu in Nyeri District. He had his early education at Karumaini and Ihururu Primary Schools before proceeding to Nyeri High School and later on to Makerere University College where he graduated with a BA degree.

Mr. Githinji joined the Public Service in 1961 and rose through the ranks from a District Officer, Assistant Secretary to the position of Permanent Secretary, Directorate of Personnel Management in 1968 to 1978. He served as Permanent Secretary, Ministry of Labour from 1978 until June 1987 when he retired from the Civil Service. He made his debut to Parliament in December 1992.

For those who knew the late Joseph Gethenji will always remember him for his humility, devotion to duty and his dedication in serving his colleagues.

On behalf of us all and on my own behalf, I convey our most heartfelt condolence to the bereaved family, constituents and friends of the late Joseph Gethenji. May the Almighty God rest his soul in eternal peace.

Hon. Members let us now rise and observe a minute of silence in honour of our departed colleague.

(Hon. Members observed a minute of silence)

Mr. Speaker: Thank you! Next Order.

BILL

Second Reading

THE NATIONAL CRIME RESEARCH CENTRE BILL

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to move that the National Crime Research Centre Bill be now read a Second Time.

Mr. Speaker, Sir, this Bill is a very important aspect of our society and that is crime. I beg leave to be referring to my excessive notes here in the course of my presentation.

Mr. Speaker, Sir, we all know that crime is no longer a minor social blemish, but a major social problem of the first order. Throughout the world crime is reported to be on the increase and causing serious problems.

The crime rate, there is doubt, is increasing even here in Kenya. If I may just quote a few statistics. For example, in 1992, 911 persons were charged with murder, in 1996, 1,167 and in the first quarter of this year, 587. And if we talk about offenses against persons, in 1991, 1,002 persons were charged, in 1996, 2,213 persons and in the first quarter of this year, 831 persons were charged. With regard to robberies with violence, we had 4,595 cases in 1991. In 1996, we had 5,986 cases. In the first quarter of this year, we had 2,263 cases.

Mr. Speaker, Sir, if we talk about corruption, which is talked about by everybody these days, in 1991, we had 62 cases of corruption. In 1996, we had 344 cases of corruption, which is almost six times as many cases of corruption as there were in 1991. In the first quarter of this year, we had 63 cases of corruption.

If we talk about general stealing, we had 1,801 cases in 1991. In 1996, we had 9,984, which is almost five times as many cases as in 1991. In the first quarter of this year, we had 3,801 cases.

If we talk about theft by servants, we had 4,826 cases in 1991. In 1996, we had 3,498 cases, which is slightly less, but if you take into account the amount involved, it is far much higher. In the first quarter of this year, we had 948 cases.

So, crime is definitely on the increase both in terms of volume, severity and sophistication. We all know the negative impact of crime on the society. Crime does create a climate of fear and violence, and this impairs overall economic development. It discourages foreign investments and reduces the number of tourists coming into this country. We all know that when there is crime, particularly in the past and elsewhere along the Coast, it has an immediate impact on the number of tourists coming into this country. It results in losses both in terms of money and destruction of property.

Mr. Speaker, Sir, crime undermines the people's spiritual and material wellbeing and the quality of life. This is very important. It influences people's choice of places where to live. I am sure that when somebody is looking for a house to rent or to purchase, and he can afford to, he would not want to go to an area where crime is prevalent. It controls the conduct of the daily life of people. People at times have to go home early because they fear walking at night and so on. It generally undermines the social system.

Overall, if you look at it at the national level, it affects the operations of even the private sector. The investments of the private sector, both in personnel and equipment to protect persons and property from crime is a very large item, and a growing one on the budget of not only just the individuals, but of all private enterprises in this country. A very substantial portion of their budget is devoted to security matters. A very substantial portion, even of - I would say the cost of the property in this country - is of security. Putting up grills, edges, electric fences and so on. That is money which that private company could have used to plough back into the business and expand it. But instead, it goes into this aspect.

Mr. Speaker, Sir, it also increases the governmental expenditure in these areas, which again could have been better spent on investments like social amenities and so on. Therefore, crime - I do not think I am speaking on it to the unconverted - is a serious matter which needs to be addressed with profound attention and a focused mind, so that this phenomena of criminality can be dealt with, prevented and controlled.

Mr. Speaker, Sir, let me just mention three other matters before I come to the file on the issue of the crime.

From what I have said already, one can discern three aspects. The first one is that whatever crime policies you have, that is, prevention and control, they must be coordinated with strategies for social, economic and cultural development.

We all know that the idleness and idle minds; a mind which is not employed productively plays a significant part in crime causation. The whole issue of unemployment has a bearing on crime causation. Therefore, to prevent crime effectively, we need to address this other social ills like unemployment. That is the first point I would want to make.

The second point that I want to make is that whereas the primary responsibility of detection, prevention and control of crime lies with the police under the Police Act, it cannot be---

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. You notice that while some of us are interested in following this discussion, there are three caucuses, one around hon. Biwott, another around hon. Makau and a third around hon. Ndolo Ayah, which are just consulting with loud voices, and they are not available for reason.

Mr. Speaker: Order! Proceed, Mr. Wako!

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, as I had just said, the issue of crime detection, control and prevention is an issue that must be addressed in conjunction with other economic, social and cultural programmes, to alleviate those conditions which contribute in giving rise to crime in this country.

The second point is that whereas the Police Department is primarily responsible for the detection and control of crime in this country, it is quite clear that the prevention of crime cannot be left to them as a whole at all. The fight against crime must involve the entire society and each and every person. The countries which have had an effective programme against crime have involved the people in the detection and prevention of crime.

Mr. Speaker, Sir, we all noticed some time ago that our police department put up hotlines in order for people to inform them of what is happening or about suspicious conduct on part of some people which could convince them that they were committing crimes. We saw that the police were very successful in tracking down the criminals. Therefore, the support of the people is important. I have just got a report from Japan by a similar institution like the one that will be set up under this Bill if it is enacted into law. It emphasises the importance of the support of the society as a whole to the law enforcement agencies in the success of fighting against crime. It says as follows:

"The successful functioning of penal and judicial agencies has come about as a result of positive, enthusiastic co-operation and trust bestowed upon Japan's criminal justice system by its citizens.

This is the 1996 Report." It continues by saying:

"That in view of the goad of heinous offences such as murder and armed robbery which has serious impact on the security of the Japanese society and its penal system, it is hitherto vital that serious measures be taken and efforts made not only by law enforcement and judicial agents, but also by the general public."

So, the second point is that whereas it is the primary responsibility of the police to do this, for them to be successful they must have the support of the Kenyan public.

Mr. Speaker, Sir, the third point that I want to make is that each and every institution involved in this exercise must be strengthened. What are those institutions? One of them of course, primarily, is the police. This Bill, if enacted into law, cannot operate in a vacuum or independently. It is very much dependant also on each and every institution in the area of administration of justice being strengthened to perform the work that it was supposed to perform under our laws and regulations in this country. We, therefore, need to increase the capacity of the police to cope with increased crime by taking into account those aspects that have hampered their effective and efficient contributions such as lack of adequate training, resources, facilities, equipments and their general maintenance. Therefore, the police need to be given more support both in terms of the resources available and also in terms of training. That has to go on.

Mr. Speaker, Sir, the other institutions, for example, the Judiciary also has a role to play in this whole area of administration of justice. The Judiciaries' capacity needs also to be increased and bettered. As far as the Judiciary is concerned, it is addressing those concerns. The current Judiciary is looking into ways and means in which it can expeditiously dispose off cases in court. This is because one of the most important things is that crime must not be made to pay and for crime not to be made to pay these cases must be heard expeditiously with, of course, due regard to the right of the accused persons. The Judiciary is looking into that. The Government has also set up a task force on the reform of penal laws and procedures and one of the tasks of that task force is to look into the law relating to procedures and see whether or not those procedures cannot be expedited with due regard for the rights of the accused persons. The same task force is also looking at penal laws to see if the penal laws cannot be amended to take into account the current trend in crime. So, these other areas are also being addressed.

Mr. Speaker, Sir, the other institutions that may be involved in this exercise could very well be other research institutions within the society that may be based at the university. In fact, they will need to co-operate very closely with these institute when it comes into force and they should also be, in fact, its members. In particular we have specialists in criminology and those who have studied a bit of law and sociology. These experts also have a role to play and, therefore, their capacity to do their research in criminology also needs to be increased. They also need to have access to

all materials to enable that research to be done. Therefore, what I am saying is that the various institutions concerned with this matter need also to be strengthened if this Centre that is to be established is to function properly. These include the police, judiciary and the university academia and other areas.

Mr. Speaker, Sir, in addition to the strengthening of these various institutions, there is need not only that they be strengthened, but also there is the overriding need that they be co-ordinated. In other words, there is no use of the police operating in a vacuum of their own there. There is no use of the prosecutors operating in their own vacuum; the Judiciary operating in its own vacuum; and the university operating in its vacuum. If this problem has to be dealt with properly, they need to have a forum for co-ordinating some of their activities. One of the real positive features about the setting up of these centres is the provision of that co-ordination in the area of research.

Mr. Speaker, Sir, now coming to this Bill, let me also mention the fact that for any development to occur and, I believe, the professors who are here will agree with me is that in any area there is need for research, planning and evaluation. This is because they are talking about a scientific area or a management area. For any area to really move, progress and so on, there is need for research, planning and evaluation. That is why developed countries in particular invest so much of their money and resources on research, planning and evaluation. Now, one area where research, planning and evaluation has lacked is in the whole area of administration of justice. We have very little of research, planning and evaluation in the whole area of administration of justice.

That is why, Mr. Speaker, Sir, this Bill is important because it is really only through research and planning, first of all, that you can have the basic data on which to form a policy. It is only through research and training that one can have an assessment of the programmes that are needed. It is only through research that one can evaluate the effectiveness of existing programmes. Therefore, research and planning is very important. That is why in this Bill emphasis is very much laid on research and planning.

Mr. Speaker, Sir, this Bill has its genesis quite some time ago when the Government of Kenya hired a United Nations consultant by the name of Edward Gallway who made two visits to Kenya and presented his report. He was a UN adviser on the UN agency called the UN Centre for Prevention of Crime and Administration of Justice which is headquartered in Vienna. Then the matter was followed up - just a few moments ago, I saw hon. Mwiraria here, who was the then Permanent Secretary in the Ministry of Justice and Constitutional Affairs. Following that, the policy to establish this Centre was reflected in the Development Plan of 1984-1988. In that Plan, it said that during that Development Plan, this Centre will be established. But unfortunately, for one reason or another, it was never established during that development period (1984-1988).

Mr. Speaker, Sir, the matter was again re-emphasised, as mentioned in the Development Plan of 1989-1993, where it was recognised. But as the nation develops both socially and economically, it faces challenges from new types of criminal activity arising from social and economic forces. Control and prevention of crime or criminal activity needs a firm information base to facilitate retention of those negative tendencies which arise from rapid, social and economic transformation leading to increased tendencies to criminal behaviour - National Crime Research Centre for the promotion of research into these processes leading to defiant behaviours to re-examine existing programmes and policies for early retention of crime and to enhance the effectiveness of the legal system in the punishment of crime through the judicial and penal systems. That is the historical background which led to the recommendation by the Government in both development plans of the need to establish this centre.

Mr. Speaker, Sir, the fact of the matter is that in most developed countries and now also in developing countries, the establishment of such national centres has been encouraged. In developed countries, it has been established and in developing countries such as Africa, a number of African countries have established them. In Latin America, they have now established them all pursuant to various resolutions of the United Nations under the UN Centre for Prevention of Crime and Administration of Justice. That centre, if I may say so, has been decentralised and now, regional offices of the centre have been established and the regional office for Africa is based in Kampala, Uganda, who have already established this centre.

Mr. Speaker, Sir, on 20th August, 1991, I set up an Inter-Ministerial Committee with the Solicitor General as the Chairman and which had representations from the University of Nairobi, Judiciary, Commissioner of Police, Commissioner of Prisons, the Probation Services, the Ministry of Home Affairs and National Heritage and the Ministry of Culture and Social Services to look into this on how it should be set up. They already have a lot of precedents to go by.

So, Mr. Speaker, Sir, I can say with some confidence that the Bill that you have before you has had an input, first, of the UN in the Regional Centre for Crime and Justice Research Institute, which, as I have told you, is based in Kampala. They have had similar constitutions or legislations from countries such as Finland, Japan, Sweden, South Africa, many countries in Latin America, Ireland, many states of USA, Canada and Italy. So, they had this wealth of experience and precedents which they used in drafting this particular Bill. Therefore, the Bill which I have before you, is a Bill which meets the international standards in these matters.

Mr. Speaker, Sir, I now come to the Bill and, as I stated earlier and I will be coming to it when I am moving this Bill, the only aspect that was left out of this Bill and which I will introduce during the Committee Stage is the fact that the annual report of the centre should be tabled before Parliament. For example, I have the annual report of the centre in Japan under the auspices of the Ministry of Justice which tabled it before Parliament for consideration. It sets out the various crimes, the causes and everything else and makes appropriate recommendation.

Mr. Speaker, Sir, having now introduced the background to the Bill, I will just briefly go through the Bill to highlight important aspects of the Bill. The Bill is to be called the National Crime Research Centre Bill. It will be a body corporate under Clause 3 capable of suing and being sued in its own name. You would find towards the end of the Bill that the name "Crime Research Centre" has been preserved so that any mention of that should mean this particular centre. The objects are set out in Clause 4, which are to carry out research into the causes of crime and its prevention and to disseminate research findings to such institutions as the Council may from time to time determine for appropriate action. And as I have said also, I will be introducing an amendment that the report of this centre be tabled in Parliament just as the reports of the Law Reform Commission are also tabled in Parliament because these are activities which Parliament will be interested to know.

Mr. Speaker, Sir, Clause 5 sets out the functions of the Centre which are really the area of research.

(a) To carry out co-ordinated research into and evaluate the impact of programmes pursued by the agencies responsible for the administration of criminal justice.

(b) To collect all crime related data. When I began moving the Second Reading, I did give some statistics of some figures. I am not so sure that those statistics are really accurate. This centre will maintain a more accurate record of the various statistics on various crimes committed in this country. It will also carry out research, and in particular, on crime causation and prevention. It will look into what causes crime and how it can be prevented. This, of course, will be tied into particular offences, which may have different causation and, therefore, meriting different methods of prevention.

Mr. Speaker, Sir, it will also carry out research into group or culture related crimes. It will also carry out research into social, political and economic causes of criminal behaviour, including drug trafficking, peddling or addiction. It will also carry out research into the *modus operandi* of persons engaged in any criminal activities. It will also carry out research into juvenile delinquency.

The Centre will also carry out research into deviations from the criminal justice system with a view to increasing awareness and responsibilities of the community in the rehabilitation of criminal offenders. That is a very important thing. As you may know, there is already an interim committee on what one calls "the community service order". It will be presenting a report to me in about two weeks' time. I have already drafted a Community Service Order Bill. The effect of that Bill, which will be debated in this House, will, if it is passed, be that any person sentenced for one year will be ordered to stay in his village and do some community service for that period under some supervision. We have a bit of that under the current law. But somehow it is not very well understood and it is not used. So, we need an Act which can be enforced by the courts. These are the type of things that we would want to do to improve the administration of criminal justice system.

The Centre will carry out research into efficacy and adequacy of criminal investigation and prosecution agencies, the penal system and the treatment of criminal offenders. One of the many things that we need to do in this country is to improve the efficiency and adequacy of investigations into crime. In this way, whoever commits a crime, will know that he will be found out and punished. Under this clause, we will have a continuous process of seeing how we can continuously improve our investigation system with, of course, utmost regard to the rights of the persons being investigated.

The Centre will disseminate its research findings through publications, workshops, seminars the mass media and other appropriate means of dissemination. It will communicate its research findings and recommendations to Government agencies concerned with the administration of the criminal justice system. It will also liaise with any research bodies within or outside Kenya which are engaged in similar pursuits. As I have indicated here already, most countries now have similar national research institutes. Therefore, this national research institute will not just work in isolation, but will be able to exchange experiences and research findings with other national research institutions of this nature at the both the African and worldwide levels.

Under part III, there will be a governing council of the research institute. We want a governing council which has teeth and is effective. Therefore, the governing council will have to include all those institutions which are involved in the administration of justice. Therefore, its composition will have the Attorney-General, the Chief Justice, the Commissioner of Police, the Commissioner of Social Services, the Commissioner of Prisons, the Principal Probation Officer, one person appointed by the Minister to represent public universities in Kenya, one representative of the non-governmental organisations to be nominated by the National Council for Non-governmental Organisations and three other persons appointed by the Minister by virtue of their knowledge or expertise in specific aspects of crime

oriented research work. In other words, all the public institutions involved in the administration of justice will be represented. But apart from public institutions even those in the private sector who are in this area of operation - either through research work or any other related activity - will also come in and make their worthwhile contributions to the deliberations of this particular governing council.

Mr. Speaker, Sir, the functions of the council are well spelt out. The meetings of the council are well spelt out in the Bill, and I do not need to bore hon. Members by going through the entire thing. There will, of course have to be a director of the Centre. There will also be a deputy director and other officers as may be appointed by the Centre. The Centre will be financed with money provided by Parliament for that purpose and also with proceeds from the sale of any research publications authorised by the council, and also with such monies or assets as may accrue to or vest in the Centre in the course of the exercise of its powers, and such other monies as may be donated to the Centre by other institutions.

There are detailed provisions about annual audited accounts, and the presentation of those accounts to Parliament and so on. I do not need to bore hon. Members with this point.

Just to sum up, I think if this National Crime Research Centre Bill is passed by this House and the Centre is established, this will become a major contribution towards the improvement of our administration of justice system. It will also be a major contribution to the efforts by the Government and the people of this country to combat this ever rising trend in the crime menace in our society as a whole.

With these remarks, I beg to move.

The Assistant Minister, Office of the President (Mr. Shamalla): Mr. Speaker, Sir, I rise to second the Bill. In the light of the very well articulated position by the hon. Attorney-General, which he has backed with statistics, my contribution is going to be very brief, indeed. First, I want to underscore the fact that the Bill is not only imperative but is long overdue. I do not know why we, as Kenyans, have tended to pay attention to the evolution or development of our legal system in various areas and overlooked those other areas that are quite fundamental. The level and sophistication of crime in Kenya have been rising day in day out. I am afraid to say that, if we have to be very frank, we are way behind with regard to our knowledge of the background to most crimes, particularly the latest crimes. We do know of simple burglaries, thefts, assaults and so on. But whether we like it or not, with the advent of technology in the world, we have new crimes that require a devoted and concerted study to understand them before we are able to combat them.

Mr. Speaker, Sir, drugs are peddled by very determined criminals in the world who would adopt the latest technologies to hide and to traffic the deadly commodities. The arms that are currently used in perpetuating crimes in Kenya are much more sophisticated than what we have known for a very long time. Kakamega, my home Town, is one that had never heard of armed robbery using guns. It is in the front pages of the newspapers today as having experienced robbery with the most modern arms yet to be seen in this country. We have crimes that have yet to catch up with us. We may have tasted some of them, but we have not tasted them to the extent that the rest of the world has; for example air hijacking. We may have had some hijackers diverting aircrafts to our airfields but this is a very small scale of the crime of air hijacking that other countries do experience and the extent that we may have to experience in future. There is what has come to be known as the Oklahoma bombing in the United States where the suspect was convicted only the other day and is awaiting sentence. I was impressed by the fact that within hours of that bombing taking place, sometime last year, the Americans responsible for studying the nature and origin of crime were able to determine that the perpetration of the Oklahoma bombing was a local affair in the United States. In other words, they ruled out the Middle East guerillas, the Third World guerillas and they narrowed this down to being a locally American affair. At least, this is an illustration of the importance of the study that the Centre which we propose is going to be undertaking; at least, to help us know the nature and the origin of the crime, and therefore, those involved so that we are better equipped to cope and fight the same.

Mr. Speaker, Sir, as far as our little effort in combating crime can be traced, I think, one can narrow this down to having to institute stiffer and tougher sentences as a deterrent to the would-be criminals. An example of this, if I recall again and my colleagues here will agree with me, it is about 20 or so years ago when as a country, a wave of violent crime befell us. At that time, someone thought of a noble idea that we should institute the death sentence for 'violence with crime'.

Dr. Lwali-Oyondi: It is robbery with violence, not "violence with crime"!

The Assistant Minister, Office of the President (Mr. Shamalla): If you did not get me correct, Dr. Lwali-Oyondi and the Hon. Achola---

Mr. Speaker: Can you address the Chair?

The Assistant Minister, Office of the President (Mr. Shamalla): Yes, Mr. Speaker, Sir. I am doing exactly that, but I want to make sure that Dr. Lwali-Oyondi is with me because if not, he is going to be on his feet. The reason for introducing the death penalty for robbery with violence, we believed, was that we would scare the would-be

robbers and deter them by the mere severity of the penalty, the death penalty. We have seen robbery with violence grow year-after-year and so much that, in fact, today, this year, we have had even women charged with robbery with violence. I have to be deliberate because only then---

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to keep on referring to some crime which we do not understand: 'violence with robbery?' I do not know what act is that.

The Assistant Minister, Office of the President (Mr. Shamalla): Mr. Speaker, Sir, that was meant for him. I think he is right but he understands me. The point is that severity of sentence is in no way going to help to deter crime in this country. As a matter of fact, time has come when we must be thinking more of rehabilitating criminals rather than punishing them more harshly than before. Our prisons are very congested and we have come under criticism by those who claim to cherish human rights, perhaps more than we do, on account that conditions in our prisons are harsh. However, I am one of those who believe that time has come when we should be thinking more and more of rehabilitating our criminals rather enhancing the penalty that has not been able to deter them.

Mr. Speaker, Sir, the Bill as set out, I think, meets as many requirements as we can possibly imagine and this has been spelt out by the Attorney-General and I will not repeat what he has already covered. But I wish only to point out and to appeal to him to consider, that during the Committee Stage, the inclusion in the Law Society which does not cover amongst those spelt out here, the membership. But there is, of course, a provision for three more persons who can be appointed by the Minister by virtue of their expertise. But I would have been happier if the Law Society was considered as an institution, to have permanent representation on the Council.

Mr. Speaker, Sir, but all said, the success or otherwise of the Bill, when it becomes an Act, is dependent, first, on the cooperation that we expect from the public in general. Somewhere in the Bill, it is proposed to punish members of the public who may refuse to answer questions directed at them by the Director. But while that is necessary, I think by and large, Kenyans have to grow to understand that cooperation with the law enforcement agency is something that is an obligation to a citizen rather than something they should be fearful of as avoiding to interfere with the process. The citizens should appreciate their cooperating with the law enforcement agency is something that will have to assist in educating them, and the success of this Bill, no doubt, will depend on the degree that the citizens at large will have to accord to those enforcing it.

The other support that the Bill, when it is an Act will require, is from the various law enforcement agencies, who stand to benefit from it; the police, the courts, the judiciary and the lawyers. Without their support and their understanding of what the institution will be doing, then there will be very little use that we can make from the studies and discoveries that will come out through the work of the institution.

Mr. Speaker, Sir, finally, we will also require the support and the cooperation of the hon. Members of this august House, first at the stage the Bill is at, and more importantly, its approval and support all the time.

With those few remarks, I beg to second.

(Question proposed)

Mr. Orengo: I thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Bill.

I have many doubts about this Bill, and before I come to the substantial facts of the Bill, I want to say a few things in summary why I think that this Bill should not be brought here at this stage. We are trying to put the cart before the horse. I would not want to question the reasons or the objects the Government or the Attorney-General have in bringing this Bill. But considering the objective situation and reality in the country, and the fact that we are faced with more fundamental problems in this country, I think that the Attorney-General should have taken time to consider more fundamental questions and issues of the day. Probably by doing that in moving this Bill, there would have been a better vision, a better framework and a better philosophy provided for this Bill.

Mr. Speaker, Sir, one of the things that I want to say in summary is that probably this Bill, like many others which have come before this House, with enthusiasm expressed by the Government for bringing the Bill before the House, may end up at best being a white elephant. The structure or the body being created may be a white elephant and we may just be creating sinecures or positions with which to reward certain people to sit in the Council or the various Committees which are contemplated by this Bill.

Over the years, there are several legislations which have been enacted in this House but have never become operative for one reason or another, and I think that this is one of such legislations. We may enact it, but by the end of the day, it will just be pushed into the archives or in the libraries without any action being taken. In 1990, this House enacted the Act No.18 of 1990 which was the Land Disputes Tribunals. There was a lot of politics about removing land issues from the courts and there was considerable enthusiasm amongst politicians that land issues should be dealt with by village elders and so forth. Since the enactment of this Bill in 1990, it has not been operative. It is not part of the statutory laws of this country, and yet Parliament has enacted it. I think this is one way of destroying the dignity of

this House. We take considerable time in passing legislations and then at the end of the day, they do not become operational. There was another Act No.20 of 1991 or Act No.2 of 1979 - Employment Agents Licensing. All these were brought to this House with a lot of enthusiasm, but to this day, they do not form part of the volumes of the laws of Kenya because they have not become operative. This not only lowers the dignity of this House, but even the institution of the Presidency because once a Bill has been given Presidential assent, then it should become part of the municipal laws of this country. These Bills that I am talking about, were not only enacted by Parliament, but they were given Presidential assent. To this day, they have not become operational, because the relevant Ministers have not appointed the day on which these Bills should become part of the laws of this country. Therefore, I am trying to plead with the Attorney-General that: "Please do not make this House an ass". Do not make this House some platform for discussing anything that comes to the mind of the Government, and then when we have spent time, and after you have had officers in the Attorney-General's Department and various agencies doing research and preparing a draft like this, then at the end of it, the law does not see the light of day. I can assure the Attorney-General that this is one of the Bills that will not see the light of day in this House. He is being taken for a ride by the Government, and until he sits together with the Minister for Finance, again, he may not have the necessary resources to fund this Centre. I think the resources are crucial. If you look at the Memorandum of Objects and Reasons, it is stated as follows:

"The enactment of the Bill will involve additional expenditure of public funds. It is not, however, possible to indicate at this stage the amount of the anticipated expenditure. This will be provided for through the Estimates".

Mr. Speaker, Sir, I do not want to anticipate what is in the Estimates. If the Estimates Committee was operational, probably I may have a basis because Parliament would be involved in the budgetary process. I am not sure whether the hon. Attorney-General is involved in the budgetary process in any essential way, but I can see that for various reasons, this Bill is not going to see the light of day. Probably, the Attorney-General may argue that some of the Acts of Parliament that I mentioned, particularly No.2 of 1979, No.18 of 1990 and No.20 of 1991 were enacted before he became the Attorney-General. I want to remind him of the ones we have enacted since he became the Attorney-General.

One of them is the one relating to law reporting and the creation of a law reporting council. The colonial Government used to do better. We used to have decisions of the highest courts of this country reported regularly and funds were available for law reporting. Now, the Attorney-General had a very good idea. He brought it before this house, but up to now, he has not told us why that law is not operational. We have not seen any law reports at all since the enactment of that Bill.

The Attorney-General (Mr. Wako): On a point of information, Mr. Speaker, Sir. On the issue of law reporting, the National Council for Law Reporting has been set up, it has met at least twice and it is provided for in the coming Budget.

Mr. Orengo: But it is not operational. I want to tell him that it is not operational because we have not seen any law reporting. The former Chief Justice of Kenya, Justice Hancox was better because at least, he produced two volumes of law reports, as an individual, yet this Government cannot produce law reports. It just shows the level at which this Government cannot manage the affairs of the country, even in a small area like law reporting.

I want to say that even in the Law Reform Commission, some of the commissioners are also not attending the meetings because their appointments have never been gazetted and they fear that if they go to those meetings, they are going to be surcharged because the Commission is not properly constituted. So, the Law Reform Commission, which is a creature of legislation, is also not functioning effectively. The question of just gazetting the appointments of Commissioners in the Law Reform Commission has not been done at all. I have talked to some commissioners who say that they are not going to attend meetings of this Commission because they are not going to be like Ministers in this Government who are appointed over the radio and sacked over the radio. They want things to be done legally and formally. Therefore, they are waiting. In the meantime, the Law Reform Commission has not brought anything before this House in the recent past that can justify its existence.

Not so many days ago, I told the Attorney-General that he took the amendments of the Public Order Act before the Cabinet and he was thrown out of the Cabinet, but after the demonstrations in Uhuru Park, now pressure has been put until he had to agree---

The Attorney-General (Mr. Wako): On a point of order, Mr. speaker, Sir. Is the hon. Member right to say that I was thrown out of the Cabinet? I am still a member of the Cabinet.

Mr. Orengo: In fact, it was in the media and the Attorney-General never denied that. If something of that nature is said about him, he should refute it. I also told him in this House and he agreed that he was thrown out. We helped you in Uhuru Park on 31st May, 1997 although there is nothing new in the Bill that is coming. It is just Public Order Act by another name. It is not guaranteeing the freedoms in the Constitution.

This Bill and institution that the Attorney-General wants to create, it is not going to see the light of day. Out

of the many things I have mentioned, I would urge the Attorney-General that this is not the right time. Probably, wait until a Government with reason, with a philosophy and framework of mind is in place. It is only then that you can have a Bill like this brought here with more work put into it, more determination and political will put into the entire exercise.

[Mr. Speaker left the Chair]

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

This Government has not been very supportive of research institutes. It is very anti-research. I know, for example, the National Council for Science and Technology (NCST). It was created with very grand ideas. In fact, out of a council of nearly 24 persons, 12 of them are permanent secretaries and yet for two years, this NCST was not meeting. And the 12 other members of the Council, for a period of two years, had never been appointed because this Government has no value for research. I would understand if you have people like hon. Nassir in the Government who have no value for research.

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Jambo la nidhamu, Bw. Naibu Spika wa Muda. Nilikuwa ninamsikiza Mbunge lakini anafanya vibaya kunitaja.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, whenever I meet hon. Nassir in Mombasa I stop and greet him, something that Mr. Hemed does not do. When Hemed meets him, he beats him. So, I am your friend. I just want to plead that this Government does not have the framework of mind and philosophy to really put an idea of this nature into concrete action.

The universities are an essential sector in higher learning and research. Over the years, we have seen how the universities have been treated and under-used in the area of research. About 15 years ago, the Institute of Development Studies at the University of Nairobi was a very important component and department of the University of Nairobi. They were doing a lot of research there, but ever since 1978, the Institute has been under-used. They have the personnel and trainers to undertake this type of research. I would suggest that until this Government fully utilizes the research capabilities in our institutions of higher learning, like the university of Nairobi and others, it is no use creating yet another body just for the sake of being seen to be abreast with the world. I am happy the Attorney-General was talking about South Africa, Canada, Britain and so on. These are people who are looking at the world from a different perspective. These are people who have fully acceded to the demands for democratization and accountability. I would urge him to fully use the university because it has got the capacity. The School of Law is collapsing because of under-funding. These all go to demonstrate that there may not be sufficient capacity and good will for this Government to create the National Crime Research Centre.

Mr. Temporary Deputy Speaker, Sir, the Attorney-General also needs to tell us what all these task forces he has created on penal laws and detention without trial have achieved. They overlap with some of the objectives of this proposed research centre. Soon, we are coming to the end of the life of this Parliament and not a single report or Bill has been brought before this House to consider the work of any of these task forces. Indeed, the Children's Bill which came here was criticised, and it was a document which the Attorney-General himself had finally to withdraw from the Floor of the House, and it has again not seen the light of day. So, if the task forces which are created for very specific and minor areas of research, investigations and inquiry cannot come up with reports, cannot come up with legislation or recommendations, then I do not see in any way that this research centre is going to see the light of day as I said in the beginning. The Government must also demonstrate the capacity to the country and give the country confidence that it is actually interested in crime prevention. Not just crime prevention, because, impunity must also be dealt with. Those who commit offences must be dealt with. But, both from the dimension of prevention and from dealing with the agents of crime, this Government has not demonstrated a capacity and initiative, and has not given this country the confidence that it is actually prepared to deal with crimes.

Mr. Temporary Deputy Speaker, Sir, probably when the hon. Attorney-General talks about crime generally, he would be at ease to talk about robbery, assault and some of these crimes that people hear about in the courts everyday. But what about massive crimes that have taken place in Kenya recently in Marakwet and in Pokot where hundreds of people have been murdered and killed and up to now, nothing is done? Probably the Attorney-General is waiting for this centre to tell him who committed these crimes and yet, these are crimes of a fundamental nature, they border on genocide and nobody is telling us how the Government is dealing with the problems in Marakwet or Pokot Districts. Recently in Moyale and Marsabit districts, many people were killed, civil servants were murdered and up to now, there is no resolution or no concrete steps taken to deal with the massive human destruction of property in these districts. In fact, the people in that area believe that this Government has a pact with the foreign powers to exterminate

Boranas and other Kenyans. So, unless this Government can show us that it has the capacity and the intention to deal with crimes when they are committed, all this other activity, particularly the creation of a research centre is not going to help at all in dealing with the high rise and incidence of crime.

Mr. Temporary Deputy Speaker, Sir, the other important thing which I do not see in this Bill is that the State is part of the problem. This Government is really part of the problem. There is a lot of criminal activity taking place in this country because of the conduct of this Government and because of the unwillingness of this Government to reform, not only the Constitution, but some very oppressive body of laws in this country. For example, on 31st May, 1997, there was destruction and looting of property in Nairobi. That was a direct consequence of the action that the police took. If the police had not decided to shoot at people and possibly deal with those who had peacefully assembled to listen to the ideas propagated by the convention process, there would have been no violence at all. But this Government has not developed a human rights culture. It has not developed a democratic culture and for that reason, on 31st May, 1997, they caused a lot of destruction in this City merely because they could not allow a meeting which was legal and legitimate under the Constitution to take place. At the end of it, you even embarrassed another head of state who came to visit Nairobi. In fact, probably he may not want to visit Kenya again because he knows that this Government is not in control. The people hate this Government. I believe that, that was an indication that we are not dealing with the fundamental problems of the day. So, I want to urge the Attorney-General first to deal with the Constitutional reform issue. That is the basic issue and he has to agree with this Government that the people of this country should sit together, so that we discuss and agree on a new constitution for this country. A constitution that would guarantee life and liberty.

Mr. Temporary Deputy Speaker, Sir, I am saying this because, last week when I was at a meeting, I tried to quote a section of the Constitution which probably if you look at it seriously, legitimises the police to shoot and kill innocent Kenyans. I was very happy that when the Secretary-General of Amnesty International came to that meeting, he quoted that very section. That, according to the Kenyan Constitution, the shoot-to-kill order or the shoot-to-kill practice of the Kenya police probably has its genesis from the Constitution which we need to amend to ensure that there is protection of life and liberty.

Mr. Temporary Deputy Speaker, Sir, Section 71 of the Constitution, Sub-section 2 says the following:

"Without prejudice to any liability for a contravention of any other law with respect to the use of force in those cases hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as a result of the use of force to an extent as is reasonably justifiable in the circumstances of the case;

(a) for the defence of any person from violence or for the defence of property."

So, somebody can be killed merely because the police or some other person wants to defend his property. To what extent? That is not clear in our Constitution.

(b) "In order to effect a lawful arrest or to prevent the escape of a person lawfully detained."

So, again if the police consider that you are escaping from lawful arrest, he can shoot to kill and still come and say: That provision is there in the Constitution.

(c) "For the purpose of suppressing a riot, insurrection or meeting."

From this section, one can understand why the police were behaving in a very uncivil manner on 31st May, this year.

Finally, it says:

"In order to prevent the commission by that person of a criminal offence."

So, the commission of a crime is really never established until the matter goes before a court of law - and yet under this section, one can be shot in order to prevent the commission of a crime. I am trying to tell the Attorney-General and this Government that these are the areas which he should be looking into now, when there is time to talk and deliberate on these issues. If we do not agree to deliberate on these issues - like Mobutu refused to talk with the Opposition for seven years and refused to agree to have Tshisekedi as his Prime Minister for seven years and seven years later, the people of Congo found a different solution in the person of Mr. Kabila who is now a Head of State. Two months ago, people in this Government would not want to meet Kabila but now, they want to meet him because they want to make business deals. But what I am saying is that it is important that we discuss and agree on constitutional reforms. I remember, in 1993 when hon. Muite brought a Motion here on Detention without Trial, the Attorney-General promised that the issue of detention without trial will be dealt with comprehensively through the process of constitutional reform and that he was looking at the Constitution in a broad based manner, so that all the necessary amendments that are required will be put in place and a year later, the Head of State said that we were going to reform the Constitution and up to this day, we have not started that process and the Government has reneged on its promises to bring about constitutional reforms.

The task forces which the Attorney-General is fond of forming and the resources that have been put on their

hands would have been usefully deployed in the process of bringing about a new Constitution and a new constitutional order. That is the basic question of the day and in 1993, we had very high hopes that the reform process would have commenced then.

Mr. Temporary Deputy Speaker, Sir, even after a Motion was passed in this House and the Government amended that Motion - on the Electoral Commission that we need to change the electoral laws and they promised that a Bill would be brought to this House to have electoral laws in place which would ensure free and fair elections. That has not been brought, and instead, we have the National Crime Research Centre Bill. I think this is not the time for this Bill.

Mr. Temporary Deputy Speaker, Sir, I now want to touch on the substantive sections of the Bill and bring to the attention of the Attorney-General and the Government, the reasons why we are opposing this Bill.

In Clause 6, part 3 on the Structure and Officers of the Centre, it reads as follows:

"There shall be established a governing body of the centre which shall be known as the governing council."

If we look at the persons who will sit on this council, they are: The Attorney-General, the Chief Justice, the Commissioner of Police, the Commissioner of Social Services, the Commissioner of Prisons and the Principal Probation Officer. These people are part of the problem and for them to sit in the governing council of this centre, portends even more problems and the objectives of this Bill are not going to be met. The reason why they are part of the problem is that both the Attorney-General and the Chief Justice come from institutions which are reactive. They deal with crimes already committed. The Attorney-General is the director of prosecutions. He deals with crimes that are already committed, the police take before him files for advice or action and then he decides to prosecute. The Chief Justice sits in judgement of cases that are taken before him or before the courts and so, does the Commissioner of Police. In fact, in so far as the Commissioner of Police is concerned, there are other problems. The Commissioner of Police we have in Kenya today, is in charge of only a small section of the police force. For example, the intelligence section, which is still considered part and parcel of the Police Force in so far as the laws, as they stand now are concerned, do not fall under the normal direction and control of the Commissioner of police. Therefore, all the people who are going to sit in this council are not the kind of persons who can deal with the council or propound its objectives or set its agenda because, by the very nature of their offices, they do not deal with prevention but with punishment of crime or prosecution of crimes or they deal with detention of criminals who have already been convicted in the courts of law like the Commissioner of Prisons or the Principal Probation Officer.

Mr. Temporary Deputy Speaker, Sir, this centre, if it is ever to be created, should not have the hon. Attorney-General as its Chairman, the Chief Justice and the Commissioner of Police as its members. It should be a truly independent research centre that has nothing to do with the Government agencies in terms of control and management. Now, it looks quite obvious that the Government is just creating another department within itself presided over by the Attorney-General. We may as well say this is a department in the Attorney-General's Office. He should be frank to say so - that he wants to create another department where he wants the Chief Justice to sit. But to tell us now that there is going to be a body corporate with perpetual succession and a common seal that shall be able, in its corporate name to do a number of things, I think we are being taken for a ride. As it is presented to this House, this Bill seeks to create a department in the office of the Attorney-General and he has invited the Chief Justice to sit with him. I am saying today, that the office of the Attorney-General and the courts are part of the problem of dealing with crime and the overall criminal justice system. They have let us down in trying to set up a philosophy and a framework for the criminal justice system in this country. I think when it comes to research, they are part of the problem. This centre should be a body which should be able to look into the courts and to look at the performance of the Chief Justice and Attorney-General as the Director of Prosecutions - although I do not know whether he is the Director of Prosecutions. The Constitution says he is but the President of this country says Chunga is. That is a problem which we have to deal with before you bring us other confusion in the laws of this country. So, the emphasis should have been on those persons who have nothing to do with the Government. The civil society, the NGOs, the academia - the professors and people who have the relevant knowledge who can freely and independently look into these issues and report without fear or favour.

In fact, the general framework of our general criminal system is still reactive. Our laws are still reactive because they are sensitive in dealing with crime. We see crime generally as a security issue and not as a social issue. The Government is more concerned about its own survival, so much so that if it is crime that is affecting the ordinary person, they are not prepared to deal with it swiftly enough or prevent that type of crime. But when it comes to free speech and I am addressing the hon. Attorney-General through the Chair, that there is an area in the Penal Code of the Sedition laws which inhibits Kenyans from talking freely and speak their minds. It is disallowing Kenyans to talk freely, talk their mind in consonance with the democratic practices that we intend to create in this country. It is now time to look at the penal code to ensure that, that body of law, that in a democratic society should not be criminalised or taken out of our statute books. That includes sedition and the grey areas in the penal code like the crimes of

incitements or unlawful Assembly. That when people sit together to discuss or to educate each other that should not require a licence. But now, as we sit here, this Research Centre is going to receive statistics and data whenever a policeman arrests somebody for speaking his mind. I was following the Attorney-General very well. He was talking about robbery and murder, but he was not talking about many innocent people who have been convicted wrongly for speaking in the name of sedition. This is something he needs urgently, under the general reform process of the Constitution. In fact, the courts now have been encouraged to talk politics. I was surprised the other day the Chief Magistrate was saying that the Constitution can only be changed in Parliament. That is not true! The Attorney-General knows that without the fall of Bastille, without the revolution in France in 1789 under the slogans of fraternity, liberty and so on, there would have been no new order in France. It was the people who went to the streets, men and women, and the people in Paris who destroyed the ancien regime in France.

Similarly, in America, it was the Boston Tea Party, the colonies against Britain that brought about the Constitution settlements. It was as a consequence.

Indeed, in this country, without the struggle including the armed struggle by the Mau Mau, various Kenyans patriots, trade unions and so on, there would not have been this Constitution that we are talking about. In fact, this Constitution did not have its genesis in this Parliament. It was negotiated as a settlement at Lancaster. That is where it was negotiated, it was a settlement, agreement between different parties and individuals, parties and organs that were invited to Lancaster. It was that document that was now brought into this Parliament to legitimatise it after it had gone through the British House of Commons.

The Attorney-General also knows that the Magna Carta, when the landed gentry defied the King, did not come about by the King sitting with his advisers, cronies and council. It was out of struggle. The hon. Attorney-General, as the Legal Adviser to this Government should hear that it is time that this Government was advised that when laws are oppressive, then the people have the right to defy those laws. So long as the Public Order Act is part of the law of this country, we, as the Opposition and through the Convention process, are going to defy these unjust laws because they are not laws that should be part and parcel of a democratic society.

So, Mr. Temporary Deputy Speaker, Sir, if we have the present Chief Justice, the present Commissioner of Police, although he is a liberal considering the others, the present Commissioner of Prisons and so on. These people have been brought up in a legacy where they think that to talk your mind is a crime. They criminalise all activities in this country.

In fact, the courts have become part of the problem. The courts in Zambia and in Tanzania have come out openly to say that the Public Order Act as it existed in those countries, were unconstitutional, but the courts here in Kenya would rather wait and receive orders from this Government. I am not even sure whether in Balala's case, orders were not given for that case to go the way it went because this same Government accused Balala of the crime of treason. You cannot accuse somebody of treason unless he owes allegiance to that country. If he was not a citizen why did this Government charge Khalid Balala with treason? Only the parties of this country have been charged with treason and sedition. This needs to be explained that, we need to go back to the roots of the beginning and look at root causes.

Mr. Temporary Deputy Speaker, Sir, I fully believe that if the council will consist of the *ex-officio* members who were mentioned, it is not going to into the detection or into the research of causes of crime and its prevention. You are putting the same people who are part of the problem to deal with the problem. Now looking at the section about the objects, Section 4 says:

"The objects of the Centre shall be to carry out the research into the causes of crime and its prevention and disseminate research findings to such institutions as the Council may, from time to time determine for appropriate action."

This Government does not have a national crime prevention strategy. It does not at all. Without such a strategy, you cannot have a Centre which does not have a framework from which to undertake its activities. I think, presently, crime prevention is more fundamental than the punishment of offenders, if you want to rid society of criminal activities. There are all sorts of things that we should deal with including sociological factors that bring about incidences of crime and increase of crime. We should look at the police system anew. Is the present police system suited to deal with the detection of crime? Is it trained to deal with the prevention of crime? I do not think that this police system is properly trained in this direction. That must be done at the very outset because the operative ideology and the practice of the present police force has not only its genesis from the colonial legacy, but the strict law and order and enforcement approach of the present Government has made the police system in this country also adopt a very violent culture. The police system in this country is not friendly, it is not like the police system elsewhere that when you meet a policeman on the road you would want to talk to the police to find direction and assistance from the police and so on and so forth.

In the villages, if the people see a policeman around, they run away because they know there is trouble. They

are not fully integrated into the communities in which they serve. I think the modern philosophy about policing in many countries is towards integration of the Police Force with the communities that they serve. This is the beginning of prevention of dealing with prevention of crime. We cannot deal with prevention of crime adequately and sufficiently until the Police Force gets rid of its former character which, as I have said, is inherited from the colonial system of dealing with people as if they are not free citizens. They are dealt with as if they are subjects of some lord and king somewhere. If you do not believe me, hon. ole Ntimama had a party stopped in his home despite being a hon. Minister. The police once given direction were quite oblivious of his position. They could not even allow him to speak for himself.

So, this is a fundamental problem that we need to look into; to change the character of the police force, to ensure that it serves the community in which it operates, and that it is fully integrated.

When I look at the objects in Clause 5, it is very difficult to draw the line as to whether this centre is going to be purely a research body, or it is also an investigatory body. I think that needs to come out clearly. If it is purely a research body, then the point that I had made earlier about its independence and impartiality is very important. If it deals and works within the context of the administrative structures under the officials mentioned in Clause 6, then I do not think that it is going to meet its objectives. It is not going to be impartial. You can even look at the universities, which in the past were a forum and a platform for free exchange of ideas. University students were allowed to invite men and women of science, art and even political leaders to go and talk to the university communities.

Now, if you have a university like the Kikuyu Campus where "jeshi la mzee" is operating, they can even come into this centre and say that they are trying to look into the security of the Nyayo Government and not into crimes. That is something we need to deal with impartially and independently. Therefore, looking at the objectives as contained in Clause 5, and looking at the structure as contained in Clause 6, it is quite clear that if the Attorney-General means business about the creation of this centre for purposes of research, a de-linkage is necessary so that the centre can carry out its activities impartially and without being directed by anybody.

I would have been much happier if in the objects clause, something about the vision of this centre came out more clearly. For example, I was reading a paper on a national crime prevention strategy in South Africa, where they have established a centre like this one, as the Attorney-General said. But they have formulated and articulated a vision that clearly defines the philosophy and the framework, even in the area of crime, and how to deal with it, and the objective of ridding the society of crime. If you allow me to read what that vision is in South Africa as adapted for purposes of a centre like this, and for a national crime prevention strategy, it says:

"South Africa shall be a society where its inhabitants can pursue their daily lives in peace---"

The Attorney-General (Mr. Wako): Can you repeat!

Mr. Orenge: Oh! Are you taking notes? This is found--- Sorry, I did not know the Attorney-General is very particular. This is because whenever he takes notes, the people he advises do not listen! This is found in the book, National Crime Prevention Strategy, paragraph 1.2.1.4.1, and its vision for the national crime prevention strategy is:

"South Africa shall be a society where its inhabitants can pursue their daily lives in peace and safety, free from undue fear of crime and violence. It shall be a society in which the fundamental rights of an individual are effectively protected with the support and co-operation of fellow citizens. Economic development amongst all sectors shall be unhindered by fear, and South Africa shall attract the confidence of investors and the interests of tourists".

So, that is the vision they have about crime prevention and establishing a centre of this nature. I am saying that this Government does not have, both in its practice, mind and vision, a human rights culture in the prevention of and dealing with incidences of crime. I am saying that so long as that is not there, this centre will not be clothed with the right attire to deal with what it sets out to deal with.

I am saying this particularly because in Kenya, there is so much impunity. For example, if you read the Public Accounts Committee and the Public Investments Committee Reports, which are public documents, where people in Government and elsewhere are accused with evidence and facts - and I am delighted by hon. Prof. Anyang' Nyong'o because the last Report by the Public Investments Committee was very clear. The evidence that was established formed the basis upon which the Attorney-General could act to ensure that public money is not stolen with impunity, bearing in mind that this money is not Kshs10 million or Kshs5 million---

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Orenge in order to imply that the Attorney-General has not taken any action on the Public Investments Committee Report, when he knows very well since he is a member of the Committee, that for all the recommendations of the Public Investments Committee on which the Attorney-General was asked to take some action, the action has been taken by the Attorney-General?

Mr. Orenge: I am delighted for that information, but it is misplaced because these facts are a matter of

public record. The truth of the matter is that when Kenyans hear that people have stolen billions of shillings and they go unpunished, you are creating a culture of impunity where people know that they can commit crimes and they are sure that they shall never be prosecuted or convicted in any court of law. That shows them that crime pays, and this trickles down to the ordinary people.

Dr. Kituyi: On a point of information, Mr. Temporary Deputy Speaker, Sir. Thank you, hon. Orenge. I wish to inform you that contrary to the public relations work of the Attorney-General, the most notorious criminals who have been mentioned in the Public Investments Committee Report have normally got transfers and promotions, and never punishments. Unless he wants to tell us what punishment has Mr. Lawi Kiplagat, who is the most notorious of them all, who was moved from Kenya Milling Corporation, Executive Secretariat and Technical Unit, and now the Chief Executive of National Housing Corporation. Every time he is involved in a scandal, he is moved next door to commit another scandal and get promoted. Are the eyes of the law not clear enough to see Mr. Lawi Kiplagat and Mr. Sang who has recently retired from the Ministry of Lands and Settlement?

The Assistant Minister for Home Affairs and National Heritage (Mr. Mutiso): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is what is happening there really in order? Can the two hon. Members give one another permission to be informed without asking the Chair to give consent to that information? They are doing it as if this meeting is only for the two! Is it in order?

(Mr. Orenge stood up in his place)

Dr. Kituyi: On a point of information, Mr. Temporary Deputy Speaker, Sir. Thank you very much hon. Orenge. It is very unfortunate that after so many years of State crimes being instituted against the hon. Mutiso, he still has not overcome that fear of the system that he can rise to defend it without understanding the Standing Orders that he is supposed to have mastered as an old Member of this House.

Mr. Orenge: Thank you, hon. Kituyi. Hon. Mutiso used to be a very wonderful debater when he used to sit next to the late Jaramogi, but these days he is sitting next to people who cannot advise him very well. As a result of ten years experience in jail coupled with hard labour, he should be sitting next to hon. Oneko so that he does not forget the Standing Orders. But I respect him very much.

The Assistant Minister for Home Affairs and National Heritage (Mr. Mutiso): Mr. Temporary Deputy Speaker, Sir, I really enjoy the humour which is being expressed by the hon. Members across the Floor. But really is what they are discussing part of the business of this House?

(Laughter)

Mr. Orenge: Mr. Temporary Deputy Speaker, Sir, in jail there is so little humour that hon. Mutiso has forgotten that you cannot discuss humour. You only hear of it and smile like you are smiling now. I do not want to take a lot of time because there are a lot of people who want to speak. But I am pleading with the Attorney-General that this Bill is coming at the wrong time. Let us deal with the first things first. Let us deal with the fundamental problems facing this country. Let the people of this country have freedom and, indeed, when you are demanding for this freedom even some of the Members opposite do not enjoy the freedom that they wish to enjoy. Even within their own parties they do not have that freedom.

An hon. Member: Name them!

Mr. Orenge: We have hon. Shariff Nassir and the hon. ole Ntimama. So, when we are talking about the fundamental processes of constitutional reforms, we are not demanding it for ourselves. We are not demanding it for the Opposition. We are demanding it so that we can create a democratic society. We are demanding it so that even the President of this country can also retire in honour and dignity, not like the way Mobutu has retired. That is why we want these reforms. But the attitude of this Government is to a piecemeal approach. That is comparable to the colonial periods when the colonial Government tried to appease the natives as it were with little freedom like the introduction of Lyttleton Constitution or the Lennox Boyd Constitution that if you give people a little bit of freedom, then they are going to be appeased. But this country does not want little freedom. We want complete and full freedom so that we can be masters of our own destinies and masters of our own nation. So that if you serve in the Government as a Minister who is given responsibility, you can serve in that position without fear or favour. You have made my very articulate friend the hon. ole Ntimama to be very quiet these days because there is no freedom in KANU. There is no freedom. You have quietened illustrious sons of this country. For example in Kisii senior Ministers cannot hold meetings. Instead there are other people who have dubious positions in KANU who have the freedom to hold meetings in Kisii forgetting about the elected leaders in Kisii. This freedom that we are demanding for is not for ourselves. It is freedom that will make hon. Kanyingi not to kneel down when he is talking to another human being. This is the freedom that

we are demanding.

Mr. Temporary Deputy Speaker, Sir, this is the freedom that will make all communities in this country including the small ones to enjoy constitutional freedom. Crime is rampant in North Eastern Kenya, Isiolo, Moyale, Marsabit, Pokot, Turkana and Marakwet. It is not crime committed by ordinary people. It is crime committed and abetted by those in this Government and this Bill is not telling us how to deal with that type of crime. When the Pokots and the Marakwets fight the people who gain are those who are carrying lots and lots of cattle. In fact, I see these people doing so when I travel between Eldoret and Nairobi at night and during the day. They carry these animals during the day and night either to Nairobi or outside the country. Those are the people who are benefiting from crimes. These are the people in high places. We are talking about this freedom because Members of Parliament like hon. Cheserek---

The Assistant Minister for Home Affairs and National Heritage (Mr. Mutiso): On a point of order Mr. Temporary Deputy Speaker, Sir. The hon. Orengo is making a very serious allegation that Members of Government are perpetuating the crimes in those areas that he has mentioned and this is a very serious allegation. Could the hon. Member substantiate that?

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, one can make deductions. But I can make deductions and I can also benefit from information that he has heard from that side of the House when the hon. Member for Samburu said that the local District Officer was involved in cattle rustling in that area. Hon. Mutiso, you were here and you did not stand up to ask for substantiation from your own colleague in KANU and you know it. That is why you in 1969 or 1970, if I remember very well, you were standing for the truth.

Dr. Lwali-Oyondi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Member speaking to keep on addressing the Member directly as "you" instead of addressing the Chair?

The Temporary Deputy Speaker (Mr. Wetangula): You are right hon. Lwali-Oyondi. Hon. Orengo, could you, please, address the Chair.

Mr. Orengo: Yes, I am addressing the Chair, but hon. Lwali-Oyondi is not wearing spectacles today. He is not seeing the way I am doing.

(Laughter)

Dr. Lwali-Oyondi: Then you use "you".

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, and I was using "you" in plural and I was not talking about a particular Member. I was using "you" in the plural form and Dr. Lwali-Oyondi deals too much with animals that sometimes the English grammar escapes him, but I respect him.

Dr. Lwali-Oyondi: On a point of information, Mr. Temporary Deputy Speaker, Sir. As far as I know, although I am not an Englishman, when you use "you" you are referring to the second person whether it is plural or singular form. He should be addressing "he" and that is the way we should address you.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, he says that I should not say "you" but I should be addressing him as "he". I think let us sit down and discuss English later on, but right now let me make my final point. I think the hon. Attorney-General has files to do---

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the hon. Orengo is avoiding answering the question that he was asked by hon Mutiso. He says that Government officials are aiding and abetting cattle rustling and assisting fellows who are causing problems in the northern districts of Kenya. Could he substantiate his claim? You cannot let him get away with that.

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Sumbeiywo, were you here when hon. Godana said that the DC watched animals going to Ethiopia? Were you not?

An hon. Member: He is still a policeman; he is not a Member of Parliament.

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): He did not refer to a single Government official, because he put it in plural.

The Temporary Deputy Speaker (Mr. Wetangula): Order Sumbeiywo! Hon. Orengo cited the case of Dr. Godana when he gave a very emotional speech here about the incidents in his area and hon. Orengo told hon. Mutiso that he was here when Godana said that.

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

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Mutere! I do not need any assistance from you.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, when I was talking about the Police Force, now, you have seen an example of what I was saying---

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order, hon. Orengo! He is not a policeman!

(Laughter)

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Orengo, MP for Ugenya, to refer me as a policeman? I am not a policeman, but I am an elected MP for Kerio Central. I am not nominated. He should understand that.

The Temporary Deputy Speaker (Mr. Wetangula): Order! Hon. Orengo, we all know that Sumbeiywo left the Police Force with a very distinguished record and he is now an hon. colleague here. He is not a policeman!

Mr. Achieng-Oneko: On a point of order, Mr. Temporary Deputy Speaker, Sir. We are all proud of our professions, whether one was in the Police Force or a journalist, he must really be proud of his background.

The Temporary Deputy Speaker (Mr. Wetangula): Order! Hon. Achieng'-Oneko, that is, indeed, true, but the problem is that policemen do not always remain policemen like lawyers and doctors. Once he leaves the Police Force, he ceases to be a policeman.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I agree with you, but I can assure you in case one leaves the Police Force, the police are very proud of their men who have served like the hon. Member and on the burial day, they will give him a gun salute whether he is in the Police Force or not.

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform hon. Orengo that during that final day on this earth of a police officer, he is given that honour of being buried with guns being shot in the air.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I am speaking out of experience. My father was a police officer and five years after his departure from the Police Force, at his burial, 10 police constables had a parade and fired in the air. I do not know how you do it, but since the hon. Member has not died yet, he does not need to worry very much!

(Laughter)

Mr. Temporary Deputy Speaker, Sir, I did not want to finish on such a humorous note, but the point that I have made is that the Attorney-General and the Government should think, first and foremost, about constitutional reforms. That is the beginning, the alfa and omega.

I beg to oppose.

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, ninafuraha kwa kunipa nafasi ili nami nitoe maoni yangu kuhusu Mswada huu. Ijapokuwa wengine walikwenda kusoma ili waweze kuongea sana hasa lugha ya Kiingereza, lakini kwa vitendo, hawana lolote.

Wakati huu wanataka Serikali ipate lawama ya kila kitu kwa sababu miguu yao inaelekea kaburini. Miguu yao ina siku chache kwenda kaburini kwa maana mtu ambaye hakuwafanyia kazi watu ambao anawawakilisha hawezi kurudi tena hapa. Kwa hivyo, tumpe mhe. Mbunge nafasi ya kuzungumza na kuikosoa Serikali na kutoa ushahidi wake kwa Kiingereza na ataje kila sheria kwa sababu tunatapatapa kama mgonjwa anayekaribia kufa. Kila mhe. Mbunge ana wajibu wa kuzungumza katika Bunge hili.

Bw. Naibu Spika wa Muda, mimi nitaheshimu sheria za Kenya na Polisi na kuwasaidia kudumisha amani katika taifa letu. Nchi yoyote ile ina sheria na polisi wa kuchunga damu yetu isimwagike bure. Ingekuwa leo watu kama mhe. Orengo, watatufanya kumwaga damu bure---

Mr. Orengo: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Ningependa kumjulisha, mhe. Nassir kwamba hakumwona mhe. Busolo tarehe 31 Mei alipopigwa na kumwagika damu na polisi bila kufanya jambo lolote na ya mhe. Nassir ipo njiani!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, ni heri mimi nipigwe, lakini watoto wetu wawe na maisha mazuri, wasimwage damu.

Dr. Kituyi: On a point of information, Mr. Temporary Deputy Speaker, Sir. On 25th July, 1996, Amnadar, a young Turkana was walking home in Lokichar town in Southern Turkana, police had tortured another woman insisting that she points out her husband who was suspected to have committed a crime. Out of fear and pain, this woman pointed at the nearest youngman and cheated that this was her husband. Amnadar was arrested by the police, tortured and he died in police custody. Is this the police that you are happy they are protecting your children?

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, Mungu ametujalia tuna wahe. Wabunge mawakili. Kama mnaona kuna mambo ya aina hiyo, msichochee watu kupigana, lakini kwenda kortini mmsaidie mtu huyo. Lakini wewe ni mhe. Mbunge wa aina gani ambaye hawezi

kumtumikia mtu mpaka akupe pesa? Hufanyi Harambee wala humsaidii mtu kutafuta kazi. Huna lolote isipokuwa kuja hapa kuzungumza mpaka tumefika mwisho. Siku za mwisho---

Mr. Muluya: Mwizi!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, sijui kama kwetu Kikamba mtu humwita mwingine mwizi, lakini mkome kuwachochea Wakenya wamwage damu. Hata polisi wakifanya kazi, sisi tuna wajibu wetu kila Mkenya kuzuia umwagikaji wa damu.

Bw. Naibu Spika wa Muda, tuna mambo mengi ya kufikiria ndani ya Kenya. Leo Wabunge wengi wamekata tamaa hata Bunge hawaji tena. Kwa maana kuna Mswada inayopitishwa, tutamwacha mhe. Orengo azungumze kwa masaa mawili kwa sababu yeye ni hodari kwa kuongea kwa Kizungu, utafikiri yeye ni Mzungu mwenyewe. Lakini tuna haja ya kudumisha amani hapa Kenya na kuwasaidia watu wetu. Zile fujo ambazo mlifanya juzi huko mkipora mali ya watu, mnatisha watu wasifanye biashara kwa sababu ya Wahindi na huko mnaofanya biashara na kuwaomba Harambee---

Dr. Lwali-Oyondi: Bw. Naibu Spika wa Muda, ningependa kumwarifu mhe. Nassir kwamba watu wale waliopora mali walikuwa wale waliojiita "Jeshi la Mzee" ambao ni watu wa KANU na pia polisi wenyewe. Watu wengi walikuwa wametoroka jiji hili.

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, kama viongozi hawa hawakuanza kuwachochea watu, uporaji huu ungetokea? Ninataka kuwajulisha viongozi wanaohusika kwamba wasijaribu kufanya vitendo vya aina hiyo nje ya Nairobi. Ninasema hapa leo kuwa wasije---

Mr. Muluya: Jambo la Nidhamu, Bw. Naibu Spika wa Muda. Umesikia maoni ya mhe. Nassir, je, mazungumzo yake yanalenga Mswada huu ama anaongea juu ya mambo mengine? Ninaomba kwamba arudi katika Mswada huu na ausome vizuri.

The Temporary Deputy Speaker (Mr. Wetangula): Bw. Nassir anaongea juu ya uporaji wa maduka.

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, mimi namwambia mhe. Orengo kwamba anakaribia kukimaliza kipindi chake Bungeni.

Mimi sina kabila na nitaitetea mali ya mchuuzi, Mwarabu na Mzungu. Mimi ninayatetea makabila yote.

Mr. Orengo: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Ni haki kwa mhe Nassir kusema kwamba hana kabila na hali juzi tuliona kwamba kitambulisho chake kinaonyesha kuwa yeye ni Mwarabu?

The Temporary Deputy Speaker (Mr. Wetangula): Bw. Nassir ulisema huna ukabila au huna kabila?

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Bw. Naibu Spika wa Muda, mimi huchangia gharama ya mazishi ya kila mtu anayekufa Mombasa. Wabunge wengine wanafanya hivyo? Mimi sina ukabila na nawaambia wenye ukabila waupeleke kwao, walikozaliwa. Hata nisipopigiwa kura nitaendelea kuitetea amani. Ningetaka kuwaambia wenzangu kwamba hata kama wakiongea katika Bunge hili na hotuba zao kuandikwa katika magazeti kila siku kipindi chetu hapa Bungeni kimekwisha. Sasa wananchi wanatungojea watuulize tulichowafanyia.

Ningetaka kuwaambia wenzangu kwamba kule Mombasa mimi si mtu wa kuchezeza. Nawaambia wapinzani wasije kuleta fujo huko Mombasa. Wakifanya hivyo, sisi viongozi tutapambana bila ya polisi. Atakayejaribu kuleta fujo huko Mombasa atajua Nassir ni nani. Upinzani hapa Kenya umezidi sana. Kila siku Upinzani unaishambulia Serikali na KANU. Hata kama Wabunge wa Upinzani ni simba na sisi ni paka, tutageuka kuwa simba na kupambana nao. Ni lazima Mkuu wa Sheria ahakikishe kwamba kuna amani hapa Kenya. Haifai kwa watu wengine kufikiri kwamba sisi ni wajinga kwa sababu tunaishi kwa amani hata ingawa sisi tunatoka katika makabila mbali mbali. Watu wengine wanaendelea kuungana katika vikundi vya kikabila. Inafaa wajue kwamba kila kabila lina watu wengi. Waluo, Waluhya, Wakikuyu na watu wa Pwani ni wengi. Hata kama watu wakinitania kwa kuniita jina gani, sijali.

Bw. Naibu Spika wa Muda, mimi ni kiongozi wala si msemaji.

An hon. Member: Wewe ni Mwarabu!

The Assistant Minister for Information and Broadcasting (Mr. Nassir): Haidhuru kitu! Kama Mwarabu ni mfanyakazi wako au mbwa wako, yeye ana kabila. Mimi siwezi kulitukana kabila lako. Mimi nakuita Mkenya kwa sababu ninataka tuishi kama Wakenya.

Lakini kama tutabaguana, siku moja tutapata taabu hapa nchini na ninyi mtaomba msamaha. Tunawaambia kwa hisani zenu, tukae kwa amani kwa sababu kesho sisi tunaenda zetu na wale watakaopigiwa kura kuja hapa Bungeni, watakuja kurekebisha Katiba. Siku zetu zimekwisha. Tunasikia maneno tu kila siku lakini Wakenya wanataka vitendo.

Kwa hivyo, ikiwa mmeona kuwa mmeshindwa, salimuni amri. Msitafute marekebisha ya Katiba kwa sababu kutakuwa na Wabunge wapya ambao watapewa mamlaka ya kuwaongoza wananchi. Siku zenu zimepita.

Kwa hayo machache, ninaunga mkono Mswada huu.

Dr. Kituyi: Thank you very much, Mr. Temporary Deputy Speaker, Sir. My modest remarks will basically

be summarised as follows:

Firstly, this draft Bill here shows that the Government does not understand what research is. Secondly, that the Government does not understand crime. Thirdly, that the Government does not know the traffic of information during the information age and what needs to be done officially to facilitate access to research data. The fourth and the last one which should connect these three is that this Government has a major problem. It is seeking to slow down progress on legislative, administrative and constitutional reforms and it is very confused on how to put hurdles in the way of this process of reforms and it ends up bringing what is, for all practical purposes, an irrelevant Bill. Mr. Temporary Deputy Speaker, Sir, I agree with hon. Nassir that our country is in trouble. Kenya is having a major crisis and there is too much anxiety in the country, people are looking at their leaders and they are wondering if they are appreciating that this country has a crisis. There is much more pronounced ethnic chauvinism in politics, across the political divide, than at any other time in the history of this country. Today there is much more need for dialogue beyond the political party boundaries than at any other time since 1960. Problems that are compounded by this Bill, and the escalation of crime, are related with the anxiety of the citizens of this country about where their country is going. Citizens are expecting their leaders to say:

"Regardless of my ethnic background, political persuasion and my political party, I want to lower my voice and hear what the other side is saying".

When people are listening to such leaders and hear the President telling them that "How would you expect me to hold dialogue with those people? How can I hold dialogue with people who have a different opinion from my own?" The Kenyans are shocked, they are not shocked about the President but about those who advise him that he is supposed to have dialogue with only those people who share the opinion that he holds. I am shocked that they have not advised him on what dialogue means.

Mr. Temporary Deputy Speaker, Sir, it is true that we as leaders have a collective responsibility to take our country away from the brink of crisis and from the brink of the collapse of law and order. It is a mutual responsibility for all leaders. It is a responsibility that should separate between peace as the absence of violence and peace as a reflection of a just society. It is very difficult for some of us to see the difference between the absence of war and the presence of justice as a foundation of peace. If you intimidate people and they stay at home, you think that this is a peaceful society, that if you threaten others that you will beat them and show that you really have a large army, and you say that you have threatened that you want to make this country ungovernable, I am challenging you to do it. That is the language of a vagabond not the language of a leader. That is not the language Kenyans expect of a leader. That is not the language the Kenyans who want the easing of tension in the society are looking for. The people of this country are expecting that both sides of the political divide will retreat from brinkmanship, empty threats and empty promises of vengeance and hooliganism; the creation of private armies, "*tonton mucout*" the Presidential guards, the *jeshi la mzee*. These are not the acts of a leadership investing in longer term stability and securing in a country. These are threats to civilised conduct of Government affairs.

The Minister for Labour and Manpower Development (Mr. Masinde): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think you are listening very carefully to several hon. speakers utterances and these words *jeshi la mzee* have been said repeatedly. Can the hon. Member tell us where this *jeshi la mzee* is and what it is all about?

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, you understand that the Deputy Leader of Government Business does not know the rules of the Standing Orders of this House because there is no point of order in expressing his ignorance about the existence of *jeshi la mzee*, and I have no obligation to supply that information to him.

Mr. Temporary Deputy Speaker, Sir, I now want to go to the four sections of my contribution.

The Minister for Labour and Manpower Development (Mr. Masinde): On a point of order, Mr. Temporary Deputy Speaker, Sir. Let the hon. Member not try to evade the question. We want a substantiation. It is not that I do not know the Standing Orders of the House, but I am asking for the substantiation. Which is this *jeshi la mzee* and when was it established?

An. hon. Member: Ask Mzee!

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, I can volunteer information to the hon. Deputy Leader of Government Business, but it is not my obligation to supply him with information if he does not know about *jeshi la mzee*. I have no such obligation under the Standing Orders of this House. But I will just provide a limited amount of information to the hon. gentleman, the outgoing Member of Parliament for Nambale. The information is this; when the regular police stand aside and watch a band of armed youths in civilian clothes forcefully evicting people from matatus they own at the Railway Station, at Machakos Airport and at Nakuru bus station, and any person who resists these youths entering his vehicle gets beaten with the police looking on--- If the hon. Minister had been at Machakos Airport the day of the *Kamukunji* rally, he would have seen persons whipping up people. When you ask the police: "Why are you not beating those people?" They say: "If I beat them, nitapoteza mkate wangu wa

kila siku." If you saw this reality, you would know that however far up you hide in the ivory tower, the reality of a collapsing society; of collapsing monopoly of the state in legitimate violence, the surrender of police authority to private armies, the "tonton macout", is a major threat to the integrity and security of this country. It is a major threat to the environment of sustainable research, whether in criminology or in any other feature.

Mr. Temporary Deputy Speaker, Sir, now I wish to come back to the substance of this Bill.

An hon. Member: Ask him whether that is the position.

Dr. Kituyi: I hope he has understood that volunteered information.

Dr. Lwali-Oyondi: Mr. Temporary Deputy Speaker, I wish to give information to the hon. Member on the Floor. On that day that we were at Kamukunji, the people who were even knifing people called themselves; "sisi ni jeshi la mzee", and the police were giving them a chance to beat us.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, unlike hon. Nassir, I will now go to the substance of the Bill before the House.

Mr. Mulusya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Now that hon. Dr. Kituyi has given that substantiation, is it not in order for him to ask the outgoing hon. Member for Nambale whether he has understood what *jeshi la mzee* is? Does he now understand?

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Mulusya, you must learn the difference between points of order and points of information. I do not know whom you directed that question to.

Dr. Kituyi: Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): Dr. Kituyi, if you really want to push your point, which looks very constructive, avoid allowing frivolous points of information.

Dr. Kituyi: That was a point of order and you allowed it. After a very careful study of this document, I got the impression that the Government is saying that it has discovered that there is need to have some statistical base on criminology, the process of investigations, prosecution and what is happening after that. After so many years, this Government has realised that research is useful. They are also saying that research on crime is useful, but then they run into problems: How will you get information from people who do not want to give information?

I looked at Clause 21 of this Bill where the Attorney-General discovered inadvertently that this Government, for many years, has built up an edifice of blockages to the flow of information. This Government has inhibited research. This Government has created a culture of secrets that if you tell someone what you know, it is not correct. If somebody at the top says something is correct, then everybody else thinks it is correct. We have a good example of the DC of Turkana who told the Amnesty International Secretary-General that if the President says that Kenya Pastoral Forum is Kenya Patriotic Front, it has be like that. If he says the sun rises in the West and sets in the East, that should be the state of things.

Now, the Attorney-General has a very funny problem. You find that officers are taught to be secretive but where does he offer us a solution? We want this House to pass a legislation which compels, with a threat of being jailed or being fined, those who fail to give information to investigators on crimes.

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

[Mr. Deputy Speaker took the Chair]

Some of us have had the privilege of intellectually developing in a world where we understand what research is supposed to be. If the State realizes that it has developed a culture of hiding facts from the population, the solution is not to give the person looking for information a weapon to beat those who are not giving the information, but to ask yourself how you can eradicate the culture that is against the free flow of information.

The most important thing that the Attorney-General should have brought to this House is not a Bill setting up a centre for research and crimes, but a constitutional amendment providing for the freedom of information. The Government is being a victim of its own mistakes. Now, instead of saying that this research is sanctioned by an Act of Parliament and if one fails to co-operative he will be penalized, the Government should create conditions where every legitimate research does not run into hurdles of bureaucracy. We are entering an age of information where our own capacity to project where we will depend on how much we understand what is going on around us. That is partly why I appreciate that the Government has discovered that research is important. The frustrations that have led the best development researchers in the world to move away from Kenya, which was the most favoured country in the world in the late 70's, to go to Tanzania, Uganda, Zimbabwe, Namibia and South Africa is just because we started developing a thick skin. We did not care about people who wanted information. We turned our backs. Now, we are falling victims

to the same. Instead of removing the hurdles which drove away research funding from Kenya, we want to create punitive measures to allow these favoured researches to extract that information. If you threaten me, how are you sure that the information I give you is the most accurate?

The Attorney-General (Mr. Wako): On a point of order, Mr. Deputy Speaker, Sir. We have a task force on press laws and the very first mandate of that task force is to make recommendations on access to information and the free-flow of information in accordance with Article 19 of the International Covenant on Civil and Political Rights, which talks about free-flow of information. So, in other words, the matter is not lost, it is under very active consideration.

Dr. Kituyi: Mr. Deputy Speaker, Sir, I have three problems on what the Attorney-General is saying: First of all, he is talking about information in terms of free exchange of ideas which is different from information as research data. Secondly, this Attorney-General does not seem to realise how much his name has been discredited by the expression "task force". Every time he uses task force as an excuse to postpone concrete Government action of a legislative and constitutional nature. He has made the word "task force" sound like a four-letter word in this country. There is no benefit that this country gets from all these proliferation of task forces which were a very good excuse for doing nothing.

Mr. Deputy Speaker, Sir, what I wish to emphasise to the Attorney-General is that, I am not talking about the free information for journalists or the free information for political platforms. I am talking about a substantive core access to critical information for research; i.e information which has now driven research funds out of our universities and research centres. If the Government is interested in research - there is a nice thing that hon. Orenge mentioned here: This country, because of its favoured vantage position in the 1970's, attracted a lot of expansion in research capacities which developed the Institute for Development Studies, which started developing research capacity in the department of Sociology which is the best suited department in this country to deal with matters of criminology.

Mr. Deputy Speaker, Sir, in fact, if you look at this document, the drafters do not understand that this has much more to do with Sociology than with Law. They do not seem to understand that the right *locus* of research on crimes, nature of crimes, preventive measures and so on, is the department of criminology or the section of criminology under the department of Sociology and not the faculty of Law. The main thing is, if Government is interested in sustainable research, a government which has realised the incompetence of public management of initiatives of this nature, a government which is selling off parastatals, why should it nationalise criminology research? At a time when this Government is abandoning areas which have nothing to do with the daily overseeing, refereeing of different interests, why should Government start competing with universities? Why should Government establish a parastatal to research on crimes?

Mr. Deputy Speaker, Sir, I will say a few things about crime. In this country, we have a very 19th century British classic bourgeoisie sense of crime. When we think of crime, we think about the pickpockets on the streets and about the fellows who shoplift and take two loaves of bread home because they have gone two days on an empty stomach, but we do not talk about persons who would take money out of the National Hospital Insurance Fund to buy aeroplanes to fly weapons to the intarahamwe. We do not talk about persons who take money from the National Social Security Fund and who sell quarries to the National Social Security Fund using pensioners money.

We do not talk about persons who commit crimes against the people. There is genocide in terms of actions that have been going on in certain parts of this country. There are crimes of omission like the denial of security to the people of Gabra when they are invaded by the Shangila. These are major crimes of omission by the State. An anticipated obligation on the part of the State. Those responsible are committing a crime against the people; the victims of that violence. We are not talking about these crimes. We are not talking about crimes in terms of perjury; the falsification of records that lead young men to jail for many years to die there because they are called "Mwakenya". You cannot talk about crime without understanding social justice. You cannot talk about crime outside the understanding that you have to go beyond the petty interests of the propertied classes. Is an institution to be presided over by the Attorney-General and the Commissioner of Prisons capable and endowed with the intellectual capacity to investigate these angles of crime? To my mind, the crisis of the management of criminology in this country is a crisis of the structures of managing criminology. The structures whose bosses are enumerated under Clause 6 - the Attorney-General, the Chief Justice, the Commissioner of Police, the Commissioner of Social Services, the Commissioner of Prisons and the Principal Probation officer. These are the principal persons to be investigated if you want to deal with crime in this country. How do you now make them the Governing Council? This is a strange expression for a Government parastatal because I associate Governing Councils with political parties and the Attorney-General had better watch out. You might be told that you are running a parallel organisation of your own.

Mr. Deputy Speaker, Sir, I aver that these persons are a target of research on crime and crime management in this country. They cannot be facilitators. I also aver that the most sustainable way of using resources on research on

crime is to fund public universities and Government research institutions and also strengthen institutions which have persons who are trained and who earn a living because they are researchers, even on crime. You do not start creating a parastatal whose chairman is the Attorney-General who is reporting to a Minister called the Attorney-General who is supposed to account for its behaviour in Parliament as brought here by the Attorney-General. The Attorney-General is the Chairman of the General Council and he is the Minister to whom the Chairman of the General Council must report progress on research. The Attorney-General is also among the "Big-Five" who appear before the PIC, to explain what happens in the parastatals. This Centre will be under the Public Investments Committee as enumerated in this Bill and not the Public Accounts Committee. So, the Attorney-General will be there to help the Committee understand why the Chairman of the Centre for Crime Research has not delivered and the Attorney-General will be representing the Government when we will be discussing the report of the Crime Research Centre in Parliament. Even in the Napoleonic time, there was a certain separation between the performer and the overseer. The same Attorney-General who is the Chairman of the Governing Council appoints every member of that council who is not an ex-officio member apart from one. So, he appoints people to sit in a council which he chairs and it reports to him and under this Bill, the Attorney-General is given the powers to fire any Member of that Governing Council for inability to perform. If you have lived in an environment of research, one of the most important things about a vanguard research, bohemian and new frontier research is that, those bohemians are not structured by expectations of the Commissioner of Prisons and the Attorney-General. Those are persons who say this methodology has never worked in understanding why there is expansion of sexually related violent crimes more in the Rift Valley than in Eastern Province or why there is greater expansion in defaulting by people who have been bailed out of court from certain parts of the country than in another. That intellectual flexibility cannot develop in an environment which is dominated by civil servants whose portfolio has nothing to do with research. It is about--- "trust and obey for there is no other way---" They believe in trust and orders from above and pass them on down.

Mr. Deputy Speaker, Sir, this Bill gives us an important opportunity as a people to say that we need research to understand why crime is growing, but we must understand that after five years of steady economic liberalisation without growing state responsibility to the victims of liberalisation, and after the unfettered expansion of the greed for accumulation which forces the under class to spill onto the streets of Nairobi as hawkers and after the collapse of the primary production sector because of the removal of all cushions for farm gate prices, we are living in a society of a mixed fortune - where the temptation for success as embodied in the Mercedes Benze SE 320, are most abundantly available on the streets. We live in a society where the possibilities of decent survival are more difficult than ever before.

We should understand and address the social and economic foundations of proliferating petty criminality. We should understand the role model played by powerful thieves; persons who, year-in-year-out, appear in PAC and PIC as fleecing the tax-payers and going scot-free. What happens to them? They are congratulated like the hon. Nassir wants us to do, that they are good because they think about wananchi, they transport the corpses home. They will import sugar duty-free, cause crisis in the sugar belt, impoverish Luos and Luhyas who grow sugar cane, expect that they will come crawling to beg for *gorogoro* as a bribe to vote for certain parties and then they are carried as role models.

This is what develops criminality in our country. This is a society which abandons advisory opinion. This country has a Government which has persons who should actually have access to information. They have a Vice-President and Minister of Planning and National Development who is a professor. They are supposed, at least in the very least, to know the importance of information of the recent research. But if you worked in a Government which humiliates you, which wants you to take deliberate leave of your senses and your faculties before you demonstrate that you can conform, a regime of management of public affairs which redefines titles; for example, you find that an illiterate individual from Central Province joins KANU, he becomes a member of the Kikuyu elite. A Luo professor at Maseno University joins KANU and he is called a KANU activist. A total reversal! If we want it this way, this is the way we have to understand it. If you really operate in that environment, you cannot appreciate what it is you have done to the normal past of research, which has made it impossible for the Institute of Development Studies, the Institute of African Studies, the Department of Criminology in the Faculty of the Social Sciences in Nairobi University to operate. What has happened that makes them not capable of supplying to the public domain information relevant for us to understand the escalation in criminality and for us to understand the patterns of criminal justice? These are questions I believe this Government has persons who are capable of asking. But what solutions do they have? A Bill for an Act of Parliament to create another monster. A monster which will suck away monies that would otherwise have helped in institutional development and enhanced competence at research institutions at the university. They take away the attention---

When the Attorney-General is a consumer of important information about patterns of criminality, it is an opportunity for those who are seeking the opening of the infrastructure for research that the Attorney-General will fight

those hurdles so that they can also benefit. There are others also who are interested in the impact of migration of poor peasants into pastoral rural rangelands, the impact of Degodia migration on agricultural activities in Tana River, but they cannot pass certain institutionalised hurdles. We would have wanted that the Attorney-General, in discovering the hurdles in his way, to facilitate the removal of those hurdles. What is he doing? He does not want funding to go through the established avenues of academic research. He wants funds to create an institution of his own because it has been given shock absorbers. It is like hydrofoil which can climb over the hurdles because it has a section which allows him to force information out of civil servants who otherwise refuse to give information to researchers in this country. We do not have two ways about it. As a country, we should not tire to repeat that to those who have brought this before us. But installed research capacity should be at research institutions associated with public universities, and not in departments under the Attorney-General. We can understand that the Government has anxiety; that is the procrastination I have talked about. The Government is dragging its feet. It has promised that it wants to bring the Public Order Act with a slightly different name. But it is scared about bringing it because it will look silly. So, what does the Government do? It loads at a critical time in the last sitting of the Seventh Parliament, a time when the Government should be asking itself: What has been part of my critical legislative agenda that I have not delivered? What should I deliver in preparation of going back to the electorate? At that time, there were so many legislations like the Children's Bill which has been a very useful topic for the Attorney-General and the Vice-President and Minister for Planning and National Development in their talking circuits in Nairobi. Other issues include areas like street children, remodelling our legislation to give a sound basis for sustainable social development, strengthening the regime of management of public land. Look at the cause and the confusion. Today, one gives an order about public land and tomorrow, another person gives another one. The third day, somebody comes with a letter of allocation with green ink. The fourth day another person denies that this was a forged signature. The worst expression of failed Government in the management of public affairs is the scandal of the management of land matters in this country. These are urgent matters which could be sold politically. These are matters that we would embrace as a step in the right direction.

Instead of doing that, what does the Government do? It wants a parastatal to do research, governed by the Commissioner of Prisons. I had originally intended to sift out and criticise specific parts of this Bill. I have problems with sections of it. I have problems with this House creating yet another mechanism, which is given authority like we did to Mr. Chacha Nyaigoti Chacha's Higher Education Loans Board, the freedom to invest monies publicly raised in securities. I wanted to talk about that. But I think it is not fair to legitimise something that is wrong, by attacking small components of it. I think we have to attack the principle of the Government wanting research as a controlled phenomenon; the Government wanting the management of research to be a civil service function. According to this Bill, the Attorney-General appoints three representatives of the universities to sit on the governing council. The same Attorney-General can fire all of them for being incapable of discharging their duties. This means that you come and sit here and you must do a "Nyayo-friendly" research. If Mr. Kanyingi says a lobby group in Mathiyoia is good, you call it a good lobby group. If another lobby group in Kerugoya is bad, you call it a Non-Governmental Organisation (NGO) spreading subversion. There is no country, even under fascism, where research prospered by centralisation of instruments of research and creation of authority for representatives of the Government to appoint and "dis-appoint" the managers of that research.

I want to request the Attorney-General to think seriously. We want to assist the Government to establish an enhanced capacity to research on criminology. That capacity belongs to the universities. I will be very interested when I hear our former teacher at the university, that is Prof. Saitoti, talk about this matter, and about how the Government can legitimise this, that in the face of collapsing research competence at the universities, an opportunity to strengthen research on criminology, instead of being sent to the universities, is transferred to a department under the Attorney-General, who is interested in research and monitoring what is happening to justice. Not every Attorney-General will be interested in research, by the way. The blend and chemistry of an individual will vary. While we have many problems with Mr. Wako, we can appreciate that he sees the importance of certain forms of research. But we would not have said the same about Justice Muli and Justice Kamere. We cannot blend what competencies we see in Mr. Wako, into an institution that might have another Justice Kamere replacing him. What will happen when that Justice Kamere now becomes in charge of monitoring the competence and performance abilities of the individual researchers, particularly those who come from the universities? This is because those are the ones who are going to manage the research. Those are the ones who know the changes in the methodology of carrying out socially based inquiries. Mr. Attorney-General, retreat from the brink.

ADJOURNMENT

Mr. Deputy Speaker: Order! Hon. Members, the House stands adjourned until tomorrow, the 11th of June, 1997, at 9.00 a.m.

The House rose at 6.30 p.m.