

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 9th May, 1996

The House met at 2.30 pm.

[*Mr. Speaker in the Chair*]

PRAYERS

NOTICES OF MOTIONS

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

DUAL-CARRIAGE WAY: NAIROBI-MOMBASA ROAD

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

DEMOLITION OF ILLEGAL STRUCTURES IN URBAN CENTRES

THAT, in view of the fact that there are so many illegal structures mushrooming in almost all urban centres in the country due to irregular land allocations and unauthorised shady physical plans; aware that these structures do not conform with the official physical development plans; and aware that these structures have interfered with public utilities and inconvenience urban residents, this House calls upon the Government to order the demolition of all the illegal structures in urban centres and to take disciplinary actions against the officers who abetted these irregularities.

SCHOOLS AND CENTRES FOR STREET CHILDREN

THAT, since the street children have no means of livelihood and have a high illiteracy rate; and, in view of the fact that their present living conditions pose a great danger to social-economic development, this House urges the Government to establish schools and centres where the street children will be admitted to receive vocational training.

Mr. Anyona: Mr. Speaker, Sir, I beg to give notices of the following Motions:-

ASSISTANCE FOR SMALL-SCALE FARMERS

THAT, in view of the crucial importance of the agricultural sector both in the rural and national economy and the role of the small-scale farmers in the cashewnut, coffee, cotton, maize, milk, pyrethrum, rice, sugarcane, tea and other sub-sectors throughout the country; considering that the small-scale farmers are heavily burdened with high overhead costs including inflated prices of inputs like fertilizers, insecticides, *et cetera*, and prohibitive taxes Presumptive tax, Value Added Tax, *et cetera*; conscious of the fact that this House passed a resolution on 14.4.93 which resulted in the abolition of the 5 per cent Presumptive Tax in the 1994/95 financial year, but which Presumptive Tax was re-introduced at the rate of 2 per cent in the 1995/96 financial year, this House resolves that:

- (a) The small-scale farmers be given all possible

assistance in the various sub-sectors in order to maximise production.

(b) The cost and price of inputs like fertilizers, insecticides, *et cetera*, be controlled or subsidised.

(c) The 2 per cent Presumptive Tax, Value Added Tax (VAT) and other prohibitive taxes on the small-scale farmers in the various sub-sectors like cashewnuts, coffee, cotton, pyrethrum, milk, rice, sugarcane, tea, *et cetera*, be abolished in the 1996/97 financial year.

(There were loud consultations in the Chamber)

Mr. Speaker: Order, hon. Members! We can hardly hear the notice of Motion being given by the hon. Member for Kitutu-Masaba! I think it is in the interest of the House that hon. Members hear what notices of Motions are being given.

Proceed, Mr. Anyona.

Mr. Anyona: Thank you, Mr. Speaker. These are very important notices of Motions that I would have thought the House would have listened to.

GOVERNMENT TO FINANCE YOUTH POLYTECHNICS

THAT, given the crucial importance and role of the youth polytechnics in the technological transformation of the rural areas in the country through the informal and jua kali sector, and in view of the serious financial management and organisational problems facing and threatening the collapse of all youth polytechnics in the country, this House resolves as follows:-

(i) That all youth polytechnics in the country be financed through the Exchequer and managed by the Ministry in the same manner as all public educational institutions.

(ii) That the remuneration and other terms and conditions of service of instructors and other employees of youth polytechnics be based on a regular scheme of service in accordance with the Public Service Regulations.

(iii) That the graduates of the youth polytechnics be absorbed into regular employment both in the public and private sector and/or be assisted with capital (financial and/or material) to join the informal and jua kali sector in self-employment.

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

TARMACKING OF KIBWEZI/KITUI ROAD

KWA KUWA kupanuka kwa biashara baina ya Mkoa wa Pwani na Mkoa wa Mashariki kumetazizika kwa sababu ya ukosefu wa barabara madhubuti, Bunge hili linaomba Serikali itie lami barabara ya Kibwezi/Kitui haraka iwezekanavyo.

ESTABLISHMENT OF A WORKERS' BANK

THAT, in view of the fact that the National Social Security Fund does not benefit workers until they achieve their retirement age, this House calls upon the Government to establish a workers' bank from which workers can get soft loans for investment purposes or for other personal use.

ORAL ANSWERS TO QUESTIONS

Question No. 219

RELEASE OF KENYANS' PASSPORTS

Prof. Mzee asked the Minister of State, Office of the President:-

(a) whether he could consider returning passports of Kenyans who were repatriated from Kuwait by the British Government during the Gulf War; and,

(b) since the Kenyans repatriated during the Gulf War lost their properties and savings, whether he could consider waiving all repatriation costs.

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

(a) The majority of Kenyans who were repatriated from Kuwait have had their passports returned to them after they had paid the repatriation expenses. The rest will have their passports returned to them only after they pay the repatriation expenses.

(b) Since the Government spent colossal sums of money to repatriate the Kenyans with the assistance of friendly countries safely home, it does not intend to waive the repatriation expenses.

Prof. Mzee: Mr. Speaker, Sir, can the Minister tell this House how many Kenyans were involved and what was the cost of repatriation per person?

Mr. Kalweo: Mr. Speaker, Sir, they were all 23 and 19 of them paid. It is only four who did not pay. The total cost was--- I have not calculated the cost per head. A friendly country, Britain, assisted us with Sterling £10,759.85 and the 19 people paid a total sum of Kshs363,617.90. The other four persons who failed to pay have a debt amounting Kshs78,857.80.

Prof. Mzee: Mr. Speaker, Sir, surely, the figure which has been read out by the Minister is not colossal. It is a very, very small amount of money. These people were caught up in a war. We have to show some compassion to our people. Most of them were workers, mostly labourers, who were working there and bringing in a lot of foreign currency. The ones who were unable to pay are actually very poor. Could he still consider a waiver for the few because we are talking of very, very small amounts? It is over a year now since they were repatriated and they still cannot raise that amount of money. Will the Ministry, after getting this information, really reconsider the decision and waive the unpaid amount by the four people?

Mr. Kalweo: No, Mr. Speaker, Sir. These four gentlemen had signed the agreement to pay. So, since they had signed a bond, we believed that they might pay. They still keep on saying that they will pay. Therefore, we assume that they can pay.

Mr. Mwaura: Mr. Speaker, Sir, the Gulf War efforts were being undertaken by big powers, that is the Americans and the other Western countries. Now, since this was a European war against Mr. Saddam Hussein, why did the Kenya Government have to pay to whichever country repatriated the Kenyans instead of that country, if it is the United Kingdom, taking that burden, for these people?

Mr. Kalweo: Mr. Speaker, Sir, it is a matter of reasoning. They are Kenyans. They are not British.

Mr. Farah: Mr. Speaker, Sir, in the first place, the Minister said that a friendly country repatriated the Kenyans. Can the Minister tell us whether actually the Kenyans did pay the friendly country or it is just trying to make its own commission? Could he further tell us why he thinks that these people should pay when the entire cost of the war is being paid by Mr. Saddam Hussein now? Where does he think they will get the money, considering that the workers lost their jobs?

Mr. Speaker: I am sorry, hon. Farah, ask one question. Order!

Mr. Kalweo: Mr. Speaker, Sir, I have answered on what concerns Kenyans. The Kenyans who were in Kuwait had gone there to work for their own benefit and then they were caught in a war, whereby they were to be assisted. This is the reason why they are paying.

Mr. Farah: On a point of order, Mr. Speaker, Sir. My question this: The Minister said that a friendly Government repatriated them here. Can the Minister tell this House if the Kenya Government reimbursed the friendly country the cost of repatriation.

Mr. Kalweo: Mr. Speaker, Sir, that is exactly what we did.

Question No. 318

CASUALTIES OF WAGALLA MASSACRE

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

(a) how many Kenyans were killed by members of the security forces in Wagalla, Wajir, in 1984; and,

(b) whether any officer has been charged with the mass killing of the innocent Kenyans in Wagalla in 1984; and,

(c) why the Government has not compensated the families of the said victims.

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

(a) A total of 57 people died as a result of bullet wounds, dehydration and being trampled upon during the security operations in Wagalla, in Wajir in 1984.

(b) The probe committee set up by the Government to investigate this incident did not come up with

incriminating evidence against any Government officer.

(c) Arising from my reply in part (b), part (c) of the Question does not arise.

Mr. Farah: Mr. Speaker, Sir, in the first place, it is not 57 people who lost their lives; it is over 2000 people. The Minister has made his answer, where he says that a total of 57 people were killed through bullet wounds and dehydration. Dehydration means that they were kept somewhere where they were not given any water or food; hence they were starved. He goes further and says that nobody was responsible for that. Can the Minister tell this House who were the foreign forces who came in and killed our own people, if it is not the Kenyan security forces who did that?

Mr. Kalweo: Mr. Speaker, Sir, I have not denied what the hon. Member is trying to allege. What I have said is that 57 people died in that particular area. But in the years between January, 1983 and February, 1994, there were about 88 deaths through wars that were started by two warring clans. These clans are Ajuuran and Degodia. At that time, about---

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

Mr. Speaker: Can you allow him to answer?

Mr. Kalweo: Mr. Speaker, Sir, at the time when these 88 people died, property worth over Kshs17 million was destroyed. The Minister of State, Office of the President, held a meeting there and urged the warring clans to stop fighting. The Ajuuran clan co-operated, but the Degodia clan did not. This is why the Provincial Security Committee (PSC) decided to intervene. This is the time when the operation commenced and the people died.

Mr. Salat: Mr. Speaker, Sir, I was following the Minister very closely. What he is trying to tell us is very amazing. He is saying that 88 people were killed during inter-clan fighting and property worth Kshs17 million destroyed. Is there any justification whatsoever for 57 people to be killed and property destroyed? Is the Minister trying to justify the killing of 57 people because 88 people had been killed earlier through inter-clan rivalry, and property worth Kshs17 million destroyed? Does it mean that the killing of 57 people and property destroyed is justified?

Mr. Kalweo: Mr. Speaker, Sir, it was not as simple as the hon. Member wants us to believe. When there are operations, there is nothing to laugh at. You know when they were being rounded up, there came a time when they resisted. It is during that period when the security force fired bullets and killed some people.

Mr. Muite: Mr. Speaker, Sir, this particular incident is well documented by international human rights organisations, and it is a fact that members of the Degodia clan were collected by security forces, and kept for days on the hot tarmac without water and food, which resulted in many of them dying, and others being shot. Given that the relatives and friends of those who were massacred will never feel reconciled until justice is done, and given that justice cannot be done unless those who were responsible are apprehended and prosecuted, when will this Government undertake to re-open this matter? Other incidents have been re-opened, like the recent case of Julie Ward which was re-opened. If there was any investigation by the Government that did not disclose any incriminating evidence, that investigation was a cover-up. Will the Government now re-open the matter in order to prosecute those who were responsible?

Mr. Kalweo: Mr. Speaker, Sir, the Government had nothing to cover up. The hon. Member knows, and should understand, the fact that usually the Government and the police are looked for even when somebody is killed in the streets to find out what is happening to the person. When the Degodia clan attempted to rebel, and become violent and unreasonable, they were rounded up, and this was the Government acting to maintain law and order.

Mr. Shabaan: On a point of order, Mr. Speaker, Sir. The hon. Assistant Minister has said that there was inter-clan fighting and the Ajuuran clan co-operated, while the Degodia refused to co-operate. As a result, 57 Degodias were killed by the security forces. Is he in order--- If these people did not co-operate, was lack of co-operation the only means of justifying their killing? Why did the security forces find it necessary to kill these Degodias? If they did not co-operate, why could they not be arrested and tried in a court of law?

Mr. Kalweo: Mr. Speaker, Sir, I would like to correct the hon. Member as regards my earlier reply. On 12th February, 1984, during the screening and interrogation, the people became unruly and attempted to escape while others tried to attack the district security committee members. I said that during this incident, bullets were sprayed and 57 people died. Others were stepped upon and others died as a result of dehydration.

Mr. Arte: On a point of order, Mr. Speaker, Sir. Whether the Minister covers up or does not cover up, there is no secret as we know what happened. The Government killed those innocent people. My question is: Now that they have done what they wanted, what are they doing for the families and the children of those people who were killed?

Mr. Kalweo: Mr. Speaker, Sir, I do not know why hon. Members are only worried about 57 people and not the 88 people who were killed as a result of the inter-clan wars.

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

Mr. Speaker: Order, Mr. Mbui! I have only a mouth to restore order here. So, can we be orderly? I think I have given this Question about 10 minutes. So, we go to the next Question.

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

Mr. Speaker: Order, Farah! I do not think you need to create, in the House, a situation that may lead to something similar. So, can we be orderly? Next Question!

Question No. 101

IMPLEMENTATION OF PENSIONS INCREASES

Mr. Mbeo, on behalf of **Mr. Ojode**, asked the Minister for Finance:-

(a) whether he is aware that pension rates increased by 100 per cent during the budget of 1994/95 have not been implemented to date; and,

(b) if the answer to "a" above is in the affirmative, what he is doing to ensure that the increases are effected without further delay.

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

(a) I am not aware that pension rates were increased by 100 per cent during the Budget of the 1994/95 financial year. However, there was a proposed increase of pension to the Government pension to correspond with the salaries awarded to the serving civil servants as per Civil Service Salaries Review Committee, 1990/91 Mbithi Report.

(b) The increase will be effected as soon the legal instruments, that is the Pension Increase (Amendment) Bill are tabled in this Parliament.

Mr. Mbeo: Mr. Speaker, Sir, I have in my hand a Budget Speech by the Minister, and it would appear that the Assistant Minister is disowning his own Minister's speech which reads as follows:-

"I am proposing to continue the phasing of tax deductible contributions to registered pension funds as well as the strengthening of rules to protect the pensions of Kenyans. In light of the recent high inflation levels, the limits for both contribution and deduction will be increased by 100 per cent. The combined limits for the contribution to registered pension and provident fund will be raised from Kshs90,000 to Kshs100,000 per year."

Now it has been proven that we are not referring to Prof. Mbithi's Report. Could the Assistant Minister confirm or deny that this has been approved through the Budget of 1994/95?

Mr. Koech: Mr. Speaker, Sir, the process of increasing the pensioners' money was a long one because there were some people employed to look into how the pension was going to be implemented, and this has taken time. But right now, the process has been finalised, and the Bill is soon going to be tabled in this Parliament to effect the pensioners' scheme.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, what is the long-term Government policy regarding pension and pensioners? But more particularly, in the light of the fact that the Government intends to privatise the National Social Security Fund (NSSF) after top Government officers have looted all the money from it, what is the Government's long-term policy regarding the retirement of workers and their welfare?

Mr. Koech: Mr. Speaker, Sir, there is no correlation between the pension and the NSSF. So, that is not relevant.

Mr. Gatabaki: Mr. Speaker, Sir, the purpose of the Minister for Finance announcing 100 per cent increase in pension was political expediencies. The Government did not intend, has no funds of increasing the pension by 100 per cent. Could the Assistant Minister deny or confirm that this was political expediency, and the Government has no money for this type of exercise and should apologise to the Kenya workers?

Mr. Koech: Mr. Speaker, Sir, if only the hon. Member had followed my speech, he would not have asked that Question.

Mr. Mwiraria: Mr. Speaker, Sir, it is good to hear that the Assistant Minister is going to bring a Bill here to increase pensions for the Government pensioners. Given the fact that many of these pensioners started earning their pensions, which are very small, many years ago, and have to travel miles to the district commissioner's office to collect their pensions, which are normally late every month, could the Ministry also

consider introducing another method of paying pensions to save the pensioners from spending more, sometimes, than the pensions, in collecting them?

Mr. Koech: Mr. Speaker, Sir, the pensioners advise the Director of Pensions where they want their pensions to be sent and in that way, the problem the hon. Member is raising would not arise.

Mr. Mbeo: On a point of order, Mr. Speaker, Sir. I have just read an extract from the Minister's Budget Speech of 1994/95, stating categorically what I have just quoted. If you want me to quote it again, I will quote it.

Mr. Speaker: No, I have no time!

Mr. Mbeo: Mr. Speaker, Sir, if you do not have time, I would like to lay this on the Table and insist that the Minister actually said it and it was presented in this House, debated and approved. So, when is it going to be implemented, 1994/95 Budget?

(Mr. Mbeo laid the paper on Table)

Mr. Koech: Mr. Speaker, Sir, I do not know what the hon. Member wants I am saying that during this Session of Parliament, a Bill is going to be tabled here, where all of us, because I know that we want our people to benefit, are going to approve that Bill so that the pensioners are paid immediately.

Mr. Speaker: Next Question, Mr. Busolo.

Question No.317

SUSPENSION OF NZOIA FACTORY OFFICERS

Mr. Busolo asked the Minister for Agriculture, Livestock Development and Marketing:-

(a) what caused the Board of Directors of Nzoia Sugar Company to suspend six high ranking officers, including the Factory Manager, the Chief Accountant, Computer Manager, and Outgrowers Accountant, in the last two weeks;

(b) why Nzoia Sugar Company has adopted the policies for hiring senior employees that appear to discriminate against those from its (Nzoia Sugar Company) locality (district); and,

(c) if he could ensure that the suspension of the six officers and others is lifted.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): Mr. Speaker, Sir, I beg to reply.

(a) The Board of Directors of Nzoia Sugar Company decided to suspend six high ranking officers to facilitate smooth and uninterfered audit investigations regarding the use of funds during the factory maintenance exercise which was carried out in July and August last year. This was done to ensure transparency and fair play.

(b) Employment of senior staff in Nzoia Sugar Company is irrespective of home districts and is based on academic qualifications and experience. Before such personnel are hired, they are interviewed by a panel of interviewers. Only those who meet the basic requirements and satisfy the interviewers are employed. It is not true, therefore, to allege that employment of senior staff at Nzoia Sugar Company is discriminatory and against the residence of Bungoma District.

(c) The relevant audit report is ready and will be submitted to the Board of Directors in due course. However, as for lifting of the suspension, this matter will be addressed by the board once it deliberates on the audit report.

Mr. Busolo: Mr. Speaker, I wish to thank the Assistant Minister for his concern as regards the question of auditing the accounts of Nzoia Sugar Company. I also wish that he could go into other details because the auditing of Nzoia Sugar Company did not begin yesterday, particularly, in lieu of the PIC Report which has mentioned several names. I wonder if the Assistant Minister is aware that just before this event, for example, the then Office of the Vice-President and Ministry of Finance was in charge of pocketing the proceeds of the money from Nzoia Sugar Company. I wonder if that has ever been audited. In addition to that, I wonder if the Office of the Attorney-General, which is also concerned with the question of signing contracts for the rehabilitation of the factory, has ever been audited. So, I want the Assistant Minister to tell us why there is this selective and retroactive auditing? Could he tell us how many audits have been done?

Dr. Misoi: Mr. Speaker, Sir, I do not have details of how many audits have been carried out. The answer I have is that auditing has been done.

Dr. Kituyi: Mr. Speaker, Sir, it is very unfortunate, if one just scrutinises what kind of answer the

Assistant Minister has given. At a time when the company is closed down for maintenance, which time it is critical that the factory manager is in place, a special audit is ordered for the factory. When there is an audit of the factory, it is critical that the Accountant is in place. Now, if you close down for maintenance and for audit, and you suspend from duty the accountant of the factory and factory manager, who is going to respond to the questions we are carrying out the audit for? But apart from that, if these two people were removed from their duty, suspended as it were, in order to facilitate an audit in July and August 1995, how can the Assistant Minister explain that in May, 1996, these persons are still suspended and there are other persons who have been appointed to act in their capacities?

Dr. Misoi: Mr. Speaker, Sir, the suspended employees, first of all, were involved in purchasing spare parts and also hiring services for factory maintenance last year. As I have said, they were suspended to facilitate that investigation. Suspension still stands until the report is submitted to the board of directors.

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. The Assistant Minister is misleading this House; either he is the Assistant Minister or he does not know what is going on in his Ministry. The Ministry itself constituted an inter-Ministerial Committee last year. That report was brought before the Ministry and sent to Parliament and the culprits have been named in that report. His own under secretary was the chairman of that inter-Ministerial Committee. What is he now telling us, that it is being investigated afresh, when the culprits have been named, figures have been given, and charges have been recommended? What is he telling the House?

Dr. Misoi: Mr. Speaker, Sir, there is no question of me misleading the House. The question was asking: "Could the Minister ensure that the suspension of the six and others is lifted?" That is the question and I have answered it. So, how am I misleading the House?

Mr. Wetangula: Mr. Speaker, Sir, is the Assistant Minister aware that a man has been hired as a factory manager to Nzoia Sugar Company who was rejected from Muhoroni Sugar Company on account of being incompetent and of, irregular conduct?

Dr. Misoi: Mr. Speaker, Sir, indeed, I am not aware!

Mr. Busolo: Mr. Speaker, Sir, among other things, I would like the Assistant Minister to tell us when he will be aware of such kind of incompetent personnel that have been hired in place of competent personnel that worked here? And further, is he aware that the suspension of the six officers has caused very low morale within the factory so that it is producing under capacity?

Dr. Misoi: Mr. Speaker, Sir, it would be unfortunate if this has caused low morale. But, in any case, I am not aware.

Question No. 022

MAINTENANCE OF WORSHIPPING PLACES

Mr. Ndicho, on behalf of **Bishop Kimani** asked the Minister for Home Affairs and National Heritage:-

(a) who is responsible for the maintenance of the ancestral Agikuyu worshipping places like *Mukurwe wa Nyagathanga*, *Mugumo Waitungi* in Gatanga and other shrines in Central Province; and

(b) whether the Ministry could transfer these ancestral Agikuyu worshipping places to the Kenya National Evangelism Fellowship Church.

The Assistant Minister for Commerce and Industry (Mr. Galgalo) Mr. Speaker, Sir, on behalf of the Minister for Home Affairs and National Heritage, I beg to reply.

(a) The sites are either on private land owned by individuals or it is being held in trust by the prospective county councils. They are not under the jurisdiction of the Ministry because they have not been declared national monuments under Clause 4 of the Antiquities and Monuments Act of 1983.

(b) If the Kenya National Evangelism Fellowship Church is interested in taking them over, it should liaise with the owners of the estates where these shrines are allocated.

Mr. Ndicho: Mr. Speaker, Sir, the Agikuyu have got three very important *Mugumos* or shrines; *Mukurwe wa Nyagathanga* and *Mugumo Waitungi* in Gatanga, and *Mugumo wa Chege wa Kibiru* in Thika. These are very important shrines where the Agikuyu used to pray or worship God to get rains or dispel all tragedies that threatened the community. So, the Assistant Minister has stated very well that these trees have fallen under individual lands or lands being held in trust by county councils. The one at Thika falls under Thika Municipal Council. All what we are asking the Assistant Minister to do is to allocate about an acre of land for a mugumo

tree and declare it a shrine so that if we fail to get our prayers answered in the churches we can go back to ask our *Ngai* to give us rain. So, the Question is: Can the Assistant Minister declare where these trees are as protected areas?

Dr. Lwali-Oyondi: That is devil worship!

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. You heard hon. Dr. Lwali-Oyondi saying that this is devil worship. There is one time that the Kikuyus have ever worshipped the devil. Is he in order to say that we are devil worshippers?

Mr. Speaker: Order! Order! Order, hon. Members! All hon. Members are requested to respect the beliefs of Kenyans and I do not want to be involved in this argument. I think the best I can do is to ask the Assistant Minister to answer whether these trees are going to be protected or not.

Several Hon. Members: On point of order---

Mr. Speaker: Order! Order! What were you complaining about hon. Gitonga?

Mr. Gitonga: On a point of order, Mr. Speaker, Sir. Hon. Dr. Lwali-Oyondi said worshipping under the mugumo tree is devil worshipping. He should withdraw that remark and apologise to the House because the Kikuyus do not worship the devil.

Mr. Speaker: Order! As I said, Kenyans have a right to worship in the best way which they wish to do and I do not think any hon. Member is a competent judge. So, if you did say that, that form of worship by a section of Kenyans was tantamount to devil worship, then you are certainly out of order and you must withdraw and apologise without conditions.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, I said this---

Mr. Speaker: Order! Order! Order, Dr. Lwali-Oyondi! You have heard me absolutely clear. Will you now comply with my order? You must sit down until I resume my sit.

Dr. Lwali-Oyondi: Before I withdraw---

Mr. Speaker: Order! Order! Order, hon. Members! When hon. Members are ordered to do a specific thing by the Chair, it means you do that exactly and nothing else. So, you are now called to comply with the order.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, that is being quite dictatorial because I wanted---

Mr. Speaker: Order! Hon. Lwali you must learn to be a little more gentle both to this House and to Kenyans generally. You have just said that the Kikuyus worship the devil and now you are saying that the Chair is dictatorial. That is a very gross disrespect to the Chair. You will first of all comply with my, first order and then I will make a further order in relation to your arrogance to the Chair!

(Applause)

Dr. Lwali-Oyondi: I have not been given a chance to say exactly what I said.

Mr. Speaker: Order! Order, Dr. Lwali-Oyondi. I heard you clearly say that worshipping under mugumo tree is devil worshipping. I expect hon. Members to be honourable in this House, hon. Dr. Lwali-Oyondi included. You either comply with my order or I will take an appropriate action.

Dr. Lwali-Oyondi: I am going to withdraw, but let me explain---

Mr. Speaker: Order! Order, Dr. Lwali-Oyondi. It does appear that the hon. Dr. Lwali-Oyondi is not prepared to comply with my order. It is not going to help you any better by being unnecessarily difficult to the House. You may get away with an apology or you may refuse to apologise and either you will be sent out for one day. If you continue behaving the way you are, you may get even a stiffer reprimand. So, it is either you become civil and obey the rules of this House or the necessary laws of this House will be used against you.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, since you are insisting, I have withdrawn.

Mr. Speaker: Order! Order! It is not the question of insistence. It is the question of obeying the order given by the Chair. I do not think that phrase, "I have withdrawn, since you have insisted" is proper. I insisted from the very beginning. In any case, will you withdraw also the fact that you called the Chair "dictatorial?"

Dr. Lwali-Oyondi: I beg to withdraw the remarks that the Chair is dictatorial.

Mr. Farah: On a point of order, Mr. Speaker, Sir. I do not want to delay the business of the House, but with all due respect, there has to be some decorum in this House. Hon. Dr. Kituyi said that the god of money is the devil and Kikuyus worship money----

Mr. Speaker: Order! Order! All those Members who cannot be serious in this House are at liberty to leave.

Mr. Galgalo: Mr. Speaker, Sir, the Ministry cannot gazette those areas because the people who have established those mugumos have not complied with the laws governing the registration of monuments. I am now Tabling the names of the necessary sections for the benefit of the Members so that they can comply with them.

The hon. Member said that maybe due to the fact that these mugumo shrines are not being fully respected, the Kikuyus are not getting enough rains. I am advising the hon. Member and the Kikuyus generally to have a united faith instead of a divided one.

Thank you, very much.

(Mr. Galgalo laid the document on the Table)

Mr. Muite: Mr. Speaker, Sir, the Minister did say that these shrines are in the hands of private individuals and county councils. But the Government has got the power under the National Emblems and Monuments Act to actually take over any of these sites and even recognise their very critical role that these much marginalized community played in bringing Independence to this country. It is due to the efforts of this community that we are here today. Could we request this Government, under that Act of Parliament, to take over these sites and pay compensation to those individuals who own these shrines, and declare them historical sites and preserve them for the history of this nation?

Mr. Galgalo: Mr. Speaker, Sir, the Government would consider taking over these sites only when those people who have discovered those monuments comply with the law. The relevant laws are given in our statutes for the member to see and comply with. Once they have complied with the rules, then we would do things accordingly. Thank you very much.

Mr. Mwiraria: Mr. Speaker, Sir, there is one Kenyan *mugumo* tree in the Uhuru Gardens and since the Assistant Minister cannot look after the Kikuyu *mugumo* tree because they are under the county councils and given the fact that we got our Independence at the Uhuru Gardens, which are very badly unkempt such that the *kaiyaba* fence has not been cut for a long time except for a few yards, now that we have a dignity visiting the country, could the Assistant Minister undertake to ensure that this national *mugumo* tree is also looked after? It was planted at Independence.

Hon. Members: By who?

Mr. Ndicho: By Mzee Jomo Kenyatta!

Mr. Galgalo: Mr. Speaker, Sir, since hon. Mwiraria was one time a Permanent Secretary (PS) in the Ministry of Home Affairs and National Heritage, he knows very well that the Ministry takes full responsibility of all the sites that have been registered. The very *mugumo* trees he is talking about in the Uhuru Gardens, are in very good condition and they are being adequately looked after.

Mr. Speaker: Hon. Abu Mohamed's Question.

Question No 319

MISUSING OF FAZA SECONDARY SCHOOL'S FUNDS

Mr. Mohamed asked the Minister for Education:-

(a) whether he is aware that an amount of Kshs200,000, meant for Faza Secondary School has been misused; and,

(b) what action he has taken against those officers who misused these funds.

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

(a) I am aware that the Kshs200,000 remitted by the Ministry to Faza Secondary School in July, 1995, for the purchase of science equipment for the school was not used for the purchase of science equipment, but spent for purchase of food, stationery and for payment of school debts.

(b) My Ministry has already taken action by demoting the headmaster to an ordinary classroom teacher in another school.

Mr. Mohamed: Mr. Speaker, Sir, is it in order for the headmaster to misuse the money which had been intended for the purchase of science equipment when I know for sure that, that money has been misappropriated by the headmaster, the chief and the Board of Governors Chairman? Is the Assistant Minister aware of that?

(Applause)

Mr. Komora: Mr. Speaker, Sir, it is certainly not in order for any headmaster to misuse Government money.

Hon. Members: Are you aware of that?

Mr. Leshore: Mr. Speaker, Sir, the demotion of the headmasters which has become a common feature, clearly indicates that the headmaster must have embezzled the money. Why has the Ministry not taken further action either to surcharge the headmaster or prosecute him before a court of law?

Mr. Komora: Mr. Speaker, Sir, in the event of misapplication of the usage of money, you cannot charge the officer involved, but you take disciplinary action so that he does not handle money and that is what we have done.

Prof. Mzee: Mr. Speaker, Sir, Faza is on the extreme end of this country, and there are a lot of people living there and schools in that area do not have these science equipment. This money has been misappropriated.

What is the Ministry doing to provide Faza Secondary School with the science equipment? They are doing very poorly in the national examination, precisely because they do not have the science equipment.

Mr. Komora: Mr. Speaker, Sir, if the hon. Member listened to my answer, the money was spent for other usage for the school and the Ministry would take action to replace the equipment that was supposed to be bought.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, could the Assistant Minister tell us exactly when the Ministry would be purchasing these equipment because the students who are there now, are going to fail in their examinations? They are not going to do their science subjects because there are no laboratory equipment. When is he going to disburse the money for the science equipment?

Mr. Komora: Mr. Speaker, Sir, as soon as the money is available.

Mr. Speaker: Next Question, Mr. Maore.

Question No 188

MAINTENANCE OF NTONYIRI MARKETS

Mr. Maore asked the Minister for Local Government:-

- (a) how much money has been collected in Mutuati, Lare Athiru Ruujine and Antubetwe Kiongo Markets between 1992 and March, 1995;
- (b) why the money has not been used to maintain these markets; and,
- (c) whether he could instruct that the roads in the said markets be gravelled immediately.

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

(Applause)

(a) Money collected in Mutuati, Lare Athiru Ruujine and Antubetwe Kiongo Markets during the period 1992 and March 1995 is Kshs5,765,956.80.

(b) Maintenance of market standards has been done at a cost of Kshs458,294. Since no proper records have been kept by the county council, maintenance at our market centres cannot be given precisely.

(c) The Ministry has instructed the County Council to keep proper records so that a proper follow-up can be done. I have also instructed that the roads in the said markets be gravelled immediately.

Hon. Members: Very good! He should be made a full Minister!

Mr. Maore: Mr. Speaker, Sir, I wish to congratulate my former colleague in the PAC for a very good answer he has given. Given that the county council has taken nearly Kshs6 million from these four markets and what has been used is less than Kshs500, 000 and bearing in mind that, even there is no records to show that actually this money has been properly used, can the Assistant Minister help this House by Tabling a letter of the instruction he has given to the county council to gravel the markets because it seems that these people are very big thieves?

(Laughter)

Mr. Speaker: Order! Order! Just before that, I think hon. Members must cultivate one thing and that is

the respect for the word of your colleagues otherwise you will expect every time a Minister answers a question, he should be carrying the office copies files here to Table a copy of that letter. I do not think, as a House, we should degenerate to that much.

Mr. Maore: On a point of order, Mr. Speaker, Sir. The purpose of this question is that the Assistant Minister has literally collected this answer from the officers on the ground and it is possible that even these instructions will not be complied with. So, it is good if we have evidence; we can push them from the ground.

Mr. Speaker: Order! That is all I have with you. Anybody else interested in the question or do you have any other question except that?

Mr. Mwiraria: Mr. Speaker, Sir, I just wanted the Assistant Minister to inform this House if it takes three years for the Ministry of Local Government to discover that local authorities are not maintaining proper records because he has admitted in his answer that no proper records were kept and, therefore, they did not know how money was used and they are only now instructing them to give proper records. Do they not audit their accounts annually as they are supposed to do?

Mr. Speaker: Order! Mr. Mwiraria, you are addressing the wrong person. He is in the Ministry of Public Works and not Local Government.

Hon. Members: No! No! He is the newly appointed Assistant Minister for Local Government!

Mr. Speaker: Sorry, I think you are right and I am wrong.

Mr. Kamuren: Mr. Speaker, Sir, as regards to the question by the hon. Member, I would like to inform the House that these instructions have already been given to the officers on the ground to give us the records and they must maintain those records so that a follow-up will be easy for the Ministry.

Question No. 081

TARMACKING OF DAGORETTI ROADS

Mr. Kamuyu asked the Minister for Local Government:-

- (a) how many kilometres of roads are tarmacked in Dagoretti Constituency; and,
- (b) what was the estimated amount of money that was required to tarmac these roads and how much was allocated by the Ministry for that exercise during the 1995/96 financial year.

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

- (a) Thirty eight kilometres of roads in Dagoretti Constituency remain untarmacked.
- (b) The estimated cost is Kshs684 million which is required to tarmac those roads and no funds have been allocated for tarmacking the roads in the financial year 1995/96.

Mr. Kamuyu: Mr. Speaker, Sir, this has become a perennial question. I came to this Parliament on March 21st 1988, and I have been asking the same question year after year and I get the same answer. Now, you can see that Kshs684 million is required to tarmac these thirty eight kilometres. I do not know why they are so discriminated against. Is it because we are not KANU or is it because KANU only got two thousand votes in Dagoretti? May I ask the Assistant Minister to comment on the fact that there is a Roads 2000 Programme whereby money has been donated by the European Union? Is he aware of that? Also since Kshs1.6 billion of Service Charge has been contributed by Nairobi workers. Why has Dagoretti not received either this money from the donors or this Kshs1.6 billion from Service Charge? Are we being blackmailed to join KANU?

Dr. Wameyo: Mr. Speaker, Sir, the Government is responsible for everything in this country without any discrimination. As of now, I said in the financial year 1995/96, there is no money allocated for tarmacking those thirty eight kilometres of roads in Dagoretti Constituency. There is no discrimination. There is nothing about KANU or FORD(A). It is work to be done by the Government, but as of now there is no money to do that.

Mr. Gitonga: Mr. Speaker, Sir, is this not in 1995/96 financial year. Have you included it in the future programme for development in that area?

Dr. Wameyo: May I plead with you hon. Gitonga to repeat the question because I did not get it.

Mr. Gitonga: Mr. Speaker, Sir, what I have said is that the Assistant Minister tells us that these roads are for tarmacking in the financial year 1995/96. Do you have any programme for 1996/97 for those roads in Dagoretti Constituency?

Dr. Wameyo: When funds become available.

Mr. Muite: Mr. Speaker, Sir, I thank you. One of the small but very fundamental points is that money which is collected for a particular purpose ought to be used for that particular purpose and for no other purpose. In this country every person who has a car and every traveller pays money in terms of Road Maintenance levy. Even

those without cars travel in matatus. So by paying the fare, they are contributing to this Levy. Why does this Government not spend that money for the maintenance of roads including Dagoretti Constituency because that money is enough even to tarmac roads in Dagoretti Constituency and all over the country? Why do you not spend that money for maintenance of the roads across the entire country?

Dr. Wameyo: Mr. Speaker, Sir, I am talking about roads that fall under local authorities and not the ones that fall under the Ministry of Public Works and Housing.

Mr. Kamuyu: Mr. Speaker, Sir, simple calculation indicate that Kshs684 million for thirty four kilometres will cost very close to Kshs20 million per kilometre. This is not realistic at all. It is totally exorbitant and one of the many untruths presented here by this Assistant Minister. Can the Assistant Minister go back and calculate these figures because they are not real; they are over-exaggerated. Can he go back and bring the correct figure so that his engineers can do a thorough job? Can he do that because Kshs20 million is not realistic for tarmacking one kilometre?

Dr. Wameyo: Mr. Speaker, Sir, I will always go back, but this is what I have been given by the experts and I do not know how the hon. Kamuyu has arrived at that deduction that, that figure is not reasonable.

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

Mr. Speaker: Order! Order, hon. Mulusya! We will now go to Questions by Private Notice. But as we go there, Question No 1 by the hon. Alfonse Musyoki, Question No. 2 by the hon. David Mwiraria and Question No. 4 by the hon. Leshore have all been deferred to Tuesday next week.

QUESTIONS BY PRIVATE NOTICE

SHOOTINGS BY POLICE

(Mr. Musyoki to ask the Minister of State, Office of the President:-

- (a) Is the Minister aware that seven people were injured, two seriously, when police shot at them in Machakos T-Tot hotel on 22nd April, 1996?
- (b) If the answer to "a" above is in the affirmative, who were the officers involved and how many shots were fired?
- (c) what measures is the Minister taking to compensate those injured?)

(Question deferred)

INSECURITY IN NORTH IMENTI

(Mr. Mwiraria to ask the Minister of State, Office of the President:-

- (a) Does the Minister recall that on 7th November, 1995, he promised to issue a Ministerial Statement on the raid by about 50 Tharaka people on Kwang'ombe Village in Giaki Location of North Imenti on 5th November, 1995?
- (b) Is the Minister aware that last month (April) some Tharaka raiders invaded the home of one Mr. Mubichi, who had been targeted in the earlier raid in the same village, stole everything and burned down all his buildings, and that following that incident, a number of Tharaka residents have written threatening letters to Imenti people threatening to invade bordering areas?
- (c) If the answers to "a" and "b" above are in the affirmative, could the Minister inform the House what action the Government has, so far, taken or intends to take to contain this explosive situation?)

(Question deferred)

DEVELOPMENT IN SAMBURU EAST

(Mr. Leshore to ask the Minister for Agriculture, Livestock Development and Marketing:-

- (a) Is the Minister aware that Samburu District Development Programme (SDDP) which is financed by the German Government Technical Co-operation (GTZ) has not undertaken any project despite money allocated?
- (b) Could the Minister tabulate the Programmes's plan of action for Samburu East?)

(Question deferred)

SHORTAGE OF SUGAR IN THE COUNTRY

Mr. Mutahi: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture, Livestock Development and Marketing the following Question by Private Notice.

(a) Is the Minister aware that there is an acute shortage of sugar in the country at the moment?

(b) What was the amount of sugar held in stock by Mumias, Nzoia, South Nyanza Sugar (SONY) and Chemilil Sugar Companies as at 2nd May, 1996?

(c) What criteria does the sugar companies use to appoint distributors throughout the Republic?

Mr. Muite: On a point of Order Mr. Speaker, Sir, we all respect the Chair a lot. But why does the Chair not give us the reason for the postponement of the three Questions? They are the property of the House.

Mr. Speaker: Well, there are two reasons. First of all, Mr. Muite you are wrong. They are not the property of the House until they are asked. Now, the second issue is, if you were to look at--- In fact, there are two reasons for it; we have already gone past Question Time and secondly, the Minister responsible for answering the Questions, has approached the Chair and said they received the Questions this morning. So, the Chair acts in the best interests of them.

Mr. Muite: As you say, I understand!

Mr. Speaker: Very well! Anybody from the Ministry of Agriculture, Livestock Development and Marketing!

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): Mr. Speaker, Sir, I beg to reply.

(a) The Minister is not aware of any acute shortage of sugar in the country at the moment.

(b) The stocks held by sugar factories as at 2nd May 1996, were as follows:-

Mumias Sugar Company	-	8,000	tonnes
Nzoia Sugar Company	-	350	tonnes
SONY Sugar Company	-	4,349.06	tonnes
Chemilil Sugar Company	-	1,635	tonnes
Muhoroni Sugar Company	-	50	tonnes
West Kenya	-	200	tonnes

TOTAL - 14,584.06 TONNES

(c) Since the liberalization of the marketing of sugar in 1993/94, sugar companies sell their sugar to wholesaler agents on negotiated terms. Therefore, there are no appointed distributors.

Mr. Mutahi: Mr. Speaker, Sir, the word "liberalization" in this House has been misused by the Ministry of Co-operative Development and the Ministry of Agriculture, Livestock Development and Marketing. I have a list of the appointed distributors of sugar. I have their telephone numbers and all their details. If you call Mumias Sugar Company today, they will not sell you the sugar, they will refer you to the following:-

Mr. Speaker: How many are they?

Mr. Mutahi: They are four.

Mr. Speaker: Okay!

Mr. Mutahi: Simba Commodities, Chermach in Baba Dogo and Mombasa branch, Telephone 861821.

Mr. Speaker: Leave out the telephone numbers, please!

Mr. Mutahi: Progressive in Westlands and Khama Limited.

Mr. Speaker, these companies are owned by none other than Members of Parliament on that side of the House. When there was an increase of rate on duty and VAT on sugar, they ran away to Mumias to monopolise the distribution of sugar.

Mr. Speaker: Are you making a speech or you want to ask a question?

Mr. Mutahi: Mr. Speaker, Sir, sugar in Mumias is costing Kshs1,755 for 50 killogrammes and Kshs3,400 for 100 killogrammes. But the said companies are selling at Kshs4,300 for the 100 killogrammes and Kshs2,150 for 50 killogrammes. So, the retail price per killogramme has risen from Kshs36 to Kshs45 per killogramme.

(Several Members stood up in their places)

An hon. Member: Ngoja amalize!

Mr. Speaker: Can you ask your question? Order! Order! Can we give the hon. Member time? But you see, Mr. Mutahi, you do not have the whole day.

Mr. Mutahi: Mr. Speaker, can the Assistant Minister or the Minister remove this clause of having only some individuals to buy sugar from Mumias and other companies and give a hand to the wholesalers and distributors?

Mr. Kamuyu: On a point of order, Mr. Speaker, Sir. I did hear very, very clearly the hon. Member say that the four companies are owned by hon. Members on that side of the House. That kind of general accusation is preposterous unless it is substantiated. Who are those who own these four companies?

Mr. Speaker: Order! Order! There is nothing illegal about Members of Parliament owning business!

Hon. Members: We want to know!

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

Mr. Speaker: Order! Order, hon. Mulusya! I see no reason why we should take time on a Question as serious as this by diverting to other irrelevant issues. Can we give the House a chance to probe into the shortage or otherwise of sugar?

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. This matter affects the whole country and we particularly those who come from the sugar growing areas do not refuse any Member of Parliament being a businessman, but when he has got to hike the price, we would like to know who he is, so that we tell wananchi.

Mr. Speaker: Would you like to answer the question put to you?

Mr. Mulusya: Hon. Wameyo is one of them!

Dr. Misoi: Mr. Speaker, Sir, since the sugar marketing is liberalised, it will not be possible for the Ministry of Agriculture, Livestock Development and Marketing to dictate to the sugar manufacturers as to who their agents should be. The apparent artificial shortage of sugar which has been referred to is, first and foremost, due to the fact that during the months of May and June, most of the sugar companies are closed for maintenance. It is also evident that there is some amount of hoarding and speculative buying with the expectation that the closure of these factories might lead to higher prices.

Mr. Speaker, Sir, the Ministry has already communicated to the Kenya Sugar Manufacturers Association, and those concerned, regarding this particular important issue, that the price of sugar in this country should not be hiked for no apparent reason. The price of sugar at the moment, ex-factory, is Kshs34,000 per tonne and so the situation is being monitored by the Government, and when there is need to intervene, action will be taken.

Mr. Anyona: Mr. Speaker, Sir, you remember the other day I was trying to raise this matter in order to be given a Ministerial Statement. I think some people are hiding behind the whole process of liberalization to exploit Kenyans. If this Government is not in a position to defend Kenyans, then I do not know what this Government is for. It is very clear that this cartel has decided to move sugar from the factories in small quantities. I do not know if it is an agreement between them and the factories. But sugar is moving in very small quantities so that they can create an artificial shortage here and hike prices. That is one of the problems.

The other problem is, there seems to be some problem with the Kenya Railways. Kenya Railways Corporation is supposed to transport sugar and somehow it is not transporting sugar. Can the Assistant Minister tell us what he is going to do to make sure that sugar moves from the factories, farmers are paid and consumers get sugar at reasonable market prices?

Mr. Speaker, Sir, the other day I called Progressive Limited, because I was trying to check, and I asked for the price of sugar. They asked me who I was, and I told them that I just wanted to buy sugar. They said, "unless you tell us your name, we will not tell you the price". That is what is going on. Does this Government know that?

Dr. Misoi: Mr. Speaker, Sir, let me take this opportunity to assure this House and the nation at large that the Ministry has alerted the Kenya Sugar Manufacturers Association (KSMA) and the Kenya Sugar Authority (KSA) to take the views of the people very seriously and ensure that sugar is available at affordable prices.

Mr. Mulusya: Mr. Speaker, Sir, can the Assistant Minister tell us why his Ministry is writing and requesting the KSMA and the KSA? Why is the Ministry not directing these two bodies accordingly? It is in a position to direct. The Minister is here and he knows this is a very essential commodity in this country. Why does the Ministry not simply direct, instead of requesting? Why is there interference from State House on this sugar problem?

Dr. Misoi: Mr. Speaker, Sir, there is no way we can direct or institute price controls in this country.

We will monitor the situation. Let me also say that there is no interference from State House on this matter.

Mr. Michuki: Mr. Speaker, Sir, is the Assistant Minister aware that part of the reason for the shortage of sugar is the fact that officers at the sugar factories are demanding Kshs2,500 per ton from the buyers before any sugar can be released?

Dr. Misoi: Mr. Speaker, Sir, I am not aware, and I do not think it is so.

Prof. Ouma: Thank you, Mr. Speaker, Sir. As long as we are dividing something which is in small quantity, there shall be shortage. Sometime in 1994 or 1995, the hon. Minister on the opposite side spoke very eloquently on the strategies for increasing sugar production and for giving incentive to farmers. Can we now be told how much of that strategy has been implemented and, if not, how shall it be implemented and when, so that there is enough production of sugar and less import?

Dr. Misoi: Mr. Speaker, Sir, that is a different question. If the hon. Member wants an appropriate answer, he should put his question at the right time.

Prof. Ouma: On a point of order!

Mr. Speaker: Order! Well, I am sorry, that is the last question. That marks the end of Question Time.

POINTS OF ORDER

ALLEGED INSULT IN THE HOUSE

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): Mr. Speaker, Sir, my point of order is that, yesterday, during the debate on the Motion regarding the strengthening of the Electoral Commission of Kenya, hon. Ojode alleged that I had called hon. Dr. Otieno-Kopiyo a conman. I deny that I called the hon. Member of Parliament a conman, as I had no reason to do so. Hon. Members of Parliament should restrict their different peculiar interests to themselves and not involve other Members of Parliament in petty issues.

Mr. Speaker: May I just make one comment out of what has transpired as a result of what happened yesterday and what hon. Dr. Misoi has said. I, too, am worried, as your Speaker, about the progressive retrogressive conduct of the House. I urge hon. Members not to put into other Members' mouths what they have not said. Maybe, you want to besmirch the name of another hon. Member and you want to do that through a third party. I think this is most unbecoming. Unfortunately, it is gaining a lot of currency. It has led me to say that, first, I do not have prefects in this House to report to me what other Members say outside the ear-shot of the Chair.

I would encourage Members to keep to themselves those things that are said privately and which have not come to the attention of the Chair.

Secondly, I would urge hon. Members of this House that if we continue the way we are, by using obscene language against each other, being abusive to each other, being disrespectful to each other by conduct and by address and by being disrespectful to this House and its norms, rules, integrity, etiquette and being disrespectful even to the Chair, I am afraid, history will judge this Seventh Parliament very harshly. I hope we will not get to that. I hope we will keep the integrity of this House and that we will continue to be civil to each other and continue to uphold the integrity of each other.

I thank you.

FORCED HARAMBEE CONTRIBUTIONS

Mr. Shikuku: Mr. Speaker, Sir, I wish to draw your attention to a matter that is of a very serious nature, in connection with this National Youth Development Fund. I have already received complaints from various wananchi, civil servants, businessmen and so forth, that money is being collected from them, by order. Some people are not willing to contribute, but they are forced to do so. I wish to take this opportunity to request the Minister of State, Office of the President, to make a statement to this House so that wananchi are not harassed.

This is because even the law states that before anybody's salary is deducted, the person concerned must give authority in writing. However, today, civil servants' and other peoples' salaries are being deducted and this is not in the interest of this nation. If it is a KANU affair, let it remain a KANU affair. Everybody should not be forced to contribute. If it is a question of national importance, then the Opposition and the Government should sit together and agree so that this matter can be brought before this House. If it is a national issue, it should be brought here so that we can pass it before people are taxed.

Mr. Speaker, Sir, I even have a copy of a circular from a chief and other people who have already given instructions that people's salaries be deducted. I would like to Table it here.

(Mr. Shikuku laid the document on the Table)

MISREPORTING BY *THE EAST AFRICAN STANDARD*

Mr. Mak'Onyango: Mr. Speaker, Sir, I wish to bring to the attention of the House a matter which to me appears to undermine the integrity of the House. Yesterday, the Leader of the Official Opposition, hon. Wamalwa, moved a Motion here which was adequately debated and passed. Unfortunately, a section of the Press, notably, *The East African Standard*, has come up with a story on its page five saying that the Motion was defeated. As far as I can recall, this Motion was passed and not defeated. I would, through you, request that this be corrected.

Mr. Speaker: Hon. Mak'Onyango, you are absolutely right. The Motion was passed as amended. Maybe the *East African Standard* was not present. Next Order!

BILL

Second Reading

THE PHYSICAL PLANNING BILL

*(The Assistant Minister for Lands
and Settlement (Mr. Kaino) on 30.4.96)*

(Resumption of Debate interrupted on 8.5.96)

Mr. Wetangula: Thank you, Mr. Speaker, Sir, for giving me further opportunity to carry on with my comments on this Bill.

I had decried several omissions in this Bill and at the time we rose last evening, I was talking about the question of environment *vis-a-vis* physical planning. Clause 36 of the Bill very casually mentions the environmental concern in the course of physical planning. It was and still is my humble view that physical planning must take into account the environmental protection very seriously. We need to embody in this Bill provisions that would make it mandatory for the planners to set aside areas that assist in the protection of the environment and stiff penalties for those who by either their conduct, acts or omissions contribute to environmental degradation. We have a giant paper factory in Western Kenya called Pan African Paper Mills. This paper factory was built about 24 years ago. Recently, I was shocked to hear the Minister responsible for environment telling this House that a study is underway to assess the environmental impact of this factory to the area where it is situated. This is not only disastrous but it is despicable. If you go to Webuye in particular and Western Province in general, you could feel the smell of very offensive effluent from Pan Paper Mills from as far as Busia and Kenya-Uganda border. Statistics show that effluent emitted into Nzoia River has destroyed the entire aquatic life in the river from Webuye downstream to Lake Victoria. Fish and other aquatic animals that used to move upstream for breeding have all been killed. Every other day we hear of the slow, sure and painful death of Lake Victoria. This is as a result of incorrect and improper planning and a total disregard of environmental requirements by our physical planners. It is desirable that before any factory or any plant is set up anywhere in this country, this Parliament must be satisfied beyond any doubt that such a factory or an industry is not going to harm the environment. If we do not take this into account, very soon we will have no fresh water, fish, forest and we will have nothing and this is very dangerous for the future of this country. It is not only Pan Paper Mills, there is a factory in Eldoret called Rivatex. Rivatex emits very dangerous effluent into a river that passes through Eldoret Town that eventually empties into Kipkaren River, that eventually joins up with River Nzoia to go down to Lake Victoria. It is high time that factory inspectors and the Ministry of Environment and Natural Resources set up a committee that will inspect these factories that are already in existence to appraise the nation on their impact on the environment, and future physical planning must take this into account.

Talking about environment, the physical planners before they even approve the establishment of a town or an urban centre, must ensure that there is sufficient room for greenbelt, water points where water is available for public parks, waste disposal and for the disposal of effluent. If you look around Nairobi, you can see the total

neglect of Uhuru Park and all the parks that you may find in this City. If you go to South B of Nairobi, you will find that there has been a new estate called Riverbank developed on the brink of Industrial Area. There is no concern whatsoever on how to control the emission of effluent and other dangerous gases from the industries of Industrial Area into this estate where human beings are living.

If you go to other industrialized cities elsewhere in the world, you will find that there is a reasonable perimeter of empty land planted with forest between any human habitat and an industrial set up. Such a process in this country is also desirable because people in these cities are so hungry for houses that environmental feelings take a back seat when they are looking for a place to live, and it starts with the planners to ensure that in the course of planning, they take care of environment. Look at Nairobi River. If you go to towns with streams smaller than Nairobi River, you find that those streams are very well looked after, developed and well protected and you find that the residents of those cities have water spots on such rivers. I do not think anybody would survive if he tasted the waters from Nairobi River. It is even more dangerous further downstream where you find effluent from industries is emptied into the streams running through the City. In certain areas, you find raw sewerage flowing out into Nairobi River and other little streams within the City. This has been as a result of improper planning or failure to sustain the planning that is already in place.

Mr. Speaker, Sir, Clause 47(1) of the Bill says:-

"Subject to the provisions of the Antiquities and Monuments Act the Director may serve on the owner or occupier of a building, which in the opinion of the Director is of special Architectural value or historic interest, an order prohibiting the demolition or alteration or extension of such building."

It is dangerous to vest such powers in a single individual. The provision speaks of: "... in the opinion of the Director..." What is going to be the basis upon which he will form his opinion? I would suggest that a proviso be added to that Clause to the effect that the opinion of the Director must be based on sound advice from professionals concerned with the preservation of monuments and antiquities. Otherwise, leaving it to the Director to just form an opinion that your structure is of monumental value is a bit too dangerous. You never know when a legislation like this one can be abused.

In the memorandum and objects of this Bill, one of the very novel issues that the Bill is supposed to control is the mushrooming of shops along major roads. This is, indeed, very important. If you drive around this country you will notice that anybody whose piece of land ends up on either a main road, a highway or even a cattle track wakes up any morning and starts constructing either a kiosk, a shop, a bar, a hotel or whatever they want. The upshot of this has been that our roads and highways are littered with improperly planned markets and other shopping centres. It is desirable that physical planners must designate, particularly along highways cutting across the country, that there shall be no mushrooming of markets or urban centres at intervals of, say, 20 or 15 kilometres. In this way we will not have our highways littered with shops that sometimes serve as a security risk.

Quite often, you find that in the wee hours of the night, undesirable elements hide in those structures to harass travellers.

To have meaningful physical planning, especially in terms of urban development, it is desirable for this country to set up a permanent commission on urban development. I have in mind something like what they have in the United Kingdom (UK). There is a permanent body called. "The Commission for New Cities", which is based in the City of Newton (Cairns). Such a commission will be charged with the responsibility of assessing any applications or desires for the development of a town, up-grading of a small town into a city and so on. I know that we had a commission chaired by Dr. Odongo Omamo that was going around the country to hear views from various areas on how to improve municipalities and townships. It would be good if we had such a commission operating on a permanent basis, and continuously collecting views from members of the public, particularly those involved in areas where cities are growing up. In this way the direction of development, the impact of population explosion and so on would be taken into account.

Mr. Speaker, Sir, as I conclude my contribution, I want to urge our planners to take into account the fact that while currently 20 per cent of the world population is living in urban centres, in another 20 to 30 years it is estimated that 50 per cent the world population will be urban dwelling. To be able to face that future challenge, the planners must ensure that where towns and cities are growing up, there is sufficient supply of fresh water and all other amenities that go with large human settlements.

I will not end my contribution without mentioning about the inability of physical planners and their partners in local authorities to control the mushrooming of unplanned estates. I dare say that enemy number one of urban dwellers in this country are property developers. All that they do is: Once anybody has money, he buys an empty piece of land, builds on it totally sub-standard houses and sells them at very exorbitant prices, but he does not provide any physical facilities or roads. He does not care whether there is a sewage connection or street lighting. Yet when you go into the matter, you find that the development has been sanctioned by the Nairobi City

Council (NCC). There is an estate in the Nairobi Eastlands, which was developed by a reputable property developer called "Commonwealth Development Corporation (CDC)". I understand that they are the ones who developed Buru Buru Estate or something like that. There is no single road or track worth being called a road in that estate. All that you see are craters and craters that get filled with water when it rains.

The development plan for this estate has been approved by City Hall. All that the developers do is: They excavate what looks like rock, put on loose murrum, add on a veneer of tarmac, get a certificate from City Hall and then go away to sell their properties at exorbitant prices. When an innocent purchaser is buying such a property, its value is supposed to reflect on the amenities and facilities that are provided in it. The moment the veneer of tarmac wears out there is no road left, neither is there water or street lighting. The value of the property then drops by over 50 per cent. This is cheating the innocent public! But the practice has been going on over and over again.

There is an estate in Spring Valley which has been developed by M/s Middle Africa Finance called "Matunda Court". It was completed in 1986 and the NCC gave all the necessary ticks to whatever was required to be developed. To date, there is no street lighting in that estate. Yet, the value of the houses sold to the tenants took into account the fact that there was security lighting provided by the developer. Why would the NCC be involved in these fraudulent transactions that are defrauding wananchi of their hard-earned income and life-long savings? It is high time that we looked into this matter.

Recently we were told that the World Bank has released money to our Government for the rehabilitation and development of urban road infrastructure. The danger is that when this money gets to the local authorities, it will be left to be administered by Town Clerks and a few councillors surrounding him. At the end of it all, there will be no roads. All that the local authorities will have is a facade of what looks like tarmac roads and all the money will be blown away. We need to have a very, very stringent use of these funds. Every local authority is collecting rates and rent from wananchi. Where does this money go, if they cannot provide the facilities to urban dwellers? I urge the Ministry concerned to ensure that people get what they pay for, so that they can get value for their money, and an environment that is worth living in. Lastly, I would like to urge that the Directorate of Physical Planning once it is in place, must ensure that there is adequate road network, recreation facilities, parking, mandatory street lights to curb crime, litter collection centres, proper sewage disposal and drainage, facilities for schools, colleges and other areas of learning, provision for areas of recreation like cinemas and bars, well planned kiosks in any development of a dwelling place or an industrial place.

Mr. Speaker, Sir, it is not sufficient for the City Council and other municipalities to unleash the terror of askaris on kiosk owners every other day, simply because the kiosks are erected in un-designated area. The planning must specifically indicate and mark out where kiosks are to be located, so that the small man who invests his money in the kiosks does not wake up one morning and find his kiosk razed down.

Mr. Speaker, Sir, on Peponi Road, some one or two years ago, there was a small young man called, Kamau or Mwangi. I used to buy my groceries from him. He had a very, very well stocked kiosk. One morning, City Council askaris came and razed it down in total disregard of his investments, the inconvenience they were causing, the loss they were causing and chased away this young man. Two weeks later, the same, same spot was allocated to another person to erect a kiosk. This kind of erratic behaviour has to be brought to an end. People manning the City Council and its departments must know that when they deal with wananchi, they are dealing with people who have sweated all their lives to save Kshs5,000 to start a kiosk. It is the height of illegality and unfairness to wake up one morning and unleash a platoon of tenuous City Council askaris on a little kiosk owner, in the guise of cleaning the area, and the next day, relatives of councillors or senior City Council officers erecting similar and sometimes sub-standard kiosks in the same places. This has to be checked.

It is also desirable that anybody who is developing an estate must, as of right and legal requirement, make a provision for either a police post or a police station in the event, the area is large enough to warrant a police station, so that the police department can in turn develop the area, or send in the police so that there is immediate availability of security.

QUORUM

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): On a point of order, Mr. Speaker, Sir. Is there a Quorum in the House? It looks as if the House is empty.

Mr. Speaker: Well, I will check that. But I may just say this: It is more than usual to have a Front-bencher interrupting business. Do we have a Quorum? You are right hon. Sumbeiywo, there is no Quorum. Ring the Division Bell.

(The Division Bell was rung)

Mr. Speaker: We have a Quorum now. You may proceed, Mr. Wetangula.

Mr. Wetangula: Thank you, Mr. Speaker, Sir. I was saying that with increased urban crime, every estate development should have a provision for a police post or a police station so that when these thugs come to harass wananchi, like they often do, there is readily available security for them. The Director of Physical Planning should not approve any such development until and unless there is such a provision. There must be a provision for designated open markets, where hawkers can go and parade their merchandise for those who want to buy. But I want to suggest that those who man City Hall should take the cue of what we see in other cities like London. That every Sunday, they should close all main streets between 9 a.m. and 5 p.m. and allow hawkers to come in, and hawk their merchandise in an orderly manner. Then the following Sunday they will move to another street. If this weekend it is Kenyatta Avenue the next Sunday it will be Moi Avenue and the next will be a portion of Uhuru Highway, or whichever they select. This gives the small man an opportunity to move into the areas where the affluent and those with purchasing power can go and buy their merchandise without having the fear of security implication, and this will help the small man. It is desirable, and I think it is high time that City Hall drew a time table, consulted with shop owners and informed the public--- This should happen in all other towns. Instead of hawkers battling with the Council askaris everyday, they should have a place to be orderly and sell their merchandise.

Mr. Speaker, Sir, last but not least, I want to make an earnest appeal to the physical planners to protect agricultural land in this country. I said this yesterday and I am repeating it today. If you look in the direction of Kiambu from Nairobi, all the coffee farms are going, all the land where they have been growing potatoes and other foods are being consumed. We must have a system of protecting agricultural land. You go to Kitale. All the large-scale farms have been fragmented into non-productive units, and unless we protect our agricultural land, we are heading for a disaster.

With those very many remarks, Sir, I beg to support this Bill very strongly.

Prof. Mzee: Thank you very much, Mr. Speaker, Sir for giving me this opportunity to contribute on this important Bill for physical planning. I would like to start from the end of the Bill, and that is to outline the object of the Bill so that my discussion is based on the object of the Bill. I would like to assure you that I will not take a long time since quite a lot of other topics which I had prepared have been pointed by several speakers before me. So, my contribution will be very brief.

The principal object of this Bill, first, is to establish a central office in Nairobi for physical development planning and also appoint a Director of Physical Planning. The function of this office and the functions of the Director is principally to draw up physical development plans, not only for the urban areas, regional, but in short, for the entire country. In addition, to formulate policy for physical planning. These are the principal objects of this Bill.

Also the Bill seeks to repeal the previous Physical Planning Bill, namely, the Land Planning Act and the Town Planning Act, which controlled physical planning in this country before.

Mr. Speaker, Sir, now I would like to contribute by asking questions. The questions which I would like to ask are:-

- (1) Is this Bill really necessary now?
- (2) Why the need to centralise planning?
- (3) If we do this, will it solve the physical planning problems in the country?

Another thing which probably those who contributed before me did not touch on is, what is the experience from other countries when the planning is left to the bureaucrats, who are centralised in the capital city? Physical planning for the whole country, regional and town planning is not something new. A lot of countries have done that and have experienced one thing or the other. We have to look at these countries' experience so that we avoid the mistakes which have occurred in these countries. Principally, I am looking at a country like Brazil which had formulated a comprehensive physical planning Bill where a large number of people were moved into Amazon area. What happened? Indonesia is moving a lot of people in their physical planning down to the Islands on the extreme South. What is happening to their planning?

[Mr. Speaker left the Chair]

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

I think it is important that we learn from these experiences so that we do not make the same mistakes.

Mr. Temporary Deputy Speaker, Sir, most urban areas including Mombasa, Kisumu, Nairobi, Nakuru and Malindi have a very comprehensive physical development plan for their areas. What has gone wrong? In the last ten years or so, there has been a total breakdown in imposing physical planning laws by the local authorities and this is a fact. In Mombasa, there is absolutely no regard for these laws. It is as if there is no physical planning office within the Municipality of Mombasa. Everything is being done the way the developers want and not the way the laws are spelt out in the Town Planning Act and the by-laws of Mombasa Municipal Council Act. In the last ten years there has been a complete total disregard of all these laws. Before that, they were adhering to these laws very strictly. The problem is not that we do not have a comprehensive physical planning for the rural and urban areas. The problem is imposing what has been laid down on the paper and this has occurred not long time ago, not after Independence in 1963, but in the last ten years. Why has this happened in the last ten years? The main reason for the breakdown in imposing physical planning laws by the local authorities is greed. By breaking these laws, it gives an opportunity to developers to make as much money as possible and this is what has happened in the last ten years.

Mr. Temporary Deputy Speaker, Sir, this is compounded by land grabbing mania which has inflicted a cancer to our country. And this land grabbing mania is endemic, particularly, at the Coast Province, and specifically in Mombasa. It looks like its for political patronage. The Coast Province, particularly Mombasa, is where people have been paid for their political patronage for the work they are doing for the political party which is in power at the present time by rewarding them with land. It looks like the most abused part of this country is the Coast Province. We have very rich land. We started long time ago with beach plots in the beginning and then it encroached into the urban and then into the rural areas of the Coast.

In this greed of land grabbing mania, there is no consideration at all which has been given to the physical development plan for the Mombasa town and its environs. Currently, in Mombasa there is no single parking area left. We had, ten years ago, about ten huge fenced tarmacked parking areas in Mombasa when the number of cars in that town was very small. Now, all the parking areas in Mombasa have been grabbed.

These parking areas have given way to high-rise buildings, the skyscrapers. Most of the buildings which are coming up at the present time which are 20-storey high in Mombasa are located on the parking areas. These were designated parking areas protected over years and now with a stroke of the pen, they are given to people to build high-rise buildings.

These spaces are not given by order of "small people." These areas are given by the letters of authority coming from the highest authority in this country. We will see people having letters which are instructing the Municipal Council or the Commissioner of Lands, saying that the highest Office has no objection for this parking area being given to such and such person. These letters are plenty.

The number of cars in Mombasa have increased in the last 10 or 20 years, especially, in the last four-five years because of liberalisation. Importation has allowed so many re-conditioned and second-hand cars to come in. If we go to the Port of Mombasa any time, in spite of the fact that hundreds of cars are leaving the Port every day, the entire Port is covered with cars which are re-conditioned and second-hand coming in. This has put a lot of strain in our urban areas due to the number of vehicles which are now within the urban areas. Two things do happen under such circumstances; there are no parking areas and the roads have become narrower and cars have increased and traffic jam in towns like Mombasa and Malindi now have become the order of the day. Look at the way people take advantage of this because there are no parking areas. Most of the cars are either double-parked or are parked in areas which are not supposed to be parked. Under such circumstances, two things happen: The first thing is that both the Municipal council of Mombasa and the traffic police in Mombasa have signed an agreement with the towing companies; they have no work except to go around and if they see cars parked on unauthorised places simply because the parking areas have been grabbed, these towing companies tow the cars to either Municipal Council's compound or to the police station, and the first thing before you are charged you are supposed to pay the towing company the cost of towing. It is a big business. It is a racket which involves both the traffic police and the Municipal Council. Each one of them are competing in how many cars, they can tow in a day and how much money has been made by the towing company because of its effort. This is a fact. This is corruption, involving the police, municipality and towing companies. Some laws when they are introduced, the laws themselves are corrupt. We have to look at the laws very carefully before we pass them in this House because laws themselves can be corrupt.

It is not only the parking spaces which have been grabbed. We also have about 30 or 40 public toilets in Mombasa all which have been grabbed and none has been spared. Public toilets, the culprits being the administration officers; the PCs, DCs, councillors themselves and senior politicians. As I stand here, I have sufficient evidence to show who have grabbed which public toilet in Mombasa.

Markets which have existed in Mombasa since colonial times have also been grabbed. The first one to be grabbed was what used to be coconut wine bar which was popularly known as *Raha Leo* market. *Raha Leo* market, sometimes in 1960s, was converted into a whole sale market when coconut wine was banned. And that *Raha Leo* market has been grabbed by none other than an hon. Member of Parliament from Mombasa in this House. This is a wholesale market situated near Mwembe Tayari in Mombasa. That is not sufficient. Makina market right at the centre of Mombasa, this is the only Municipal Council Market in Mombasa which is located on plot No.20/XX1X/39. This is a big piece of land where the Municipal Council of Mombasa had already negotiated with a willing donor from the Middle East and the architect from Municipal Council of Mombasa had drawn plans and models of a modern market. There were negotiations going on between the Mombasa Municipal Council and a donor from the Middle East to build a huge market with a parking bay. Suddenly, this year, it was seen fit to give this land to none other than a nominated Member of Parliament from Mombasa and now he is putting up a high-rise building in Mackinnon Market; right in the centre of the town. That is unbelievable. That land has been existing in Mombasa since time immemorial. The market is named after a *Kaburu*, Mackinnon. The building has reached now eighth or ninth floor and it is still going up. This is bad and these people are definitely going to hell for the sins which they are committing in this country.

In Majengo Market, plot LR No. 1219/XVI was sold by the Municipal Council of Mombasa and the reason which they gave was to get money so that they can pay salaries. Just imagine that. This year as well, at Mwembe Tayari, which is right at the centre of Mombasa, where we have a market and a huge matatu parking bay on plot No. 488/XVIII, on Jomo Kenyatta Avenue in Mombasa, has also been given out to the same politicians so that they can raise money to support their party. Now a building is going up. It has already reached fifth floor and it is going higher up. I will talk about these highrise buildings in Mombasa which have been constructed contrary to the planning rules in Mombasa and we should try to see what its end effect will be. These are markets and they have been given away at throw away prices. I cannot imagine how the Mombasa Municipal Council can sell a particular plot so that they can raise money to pay salaries. They are selling it to a person who is going to sell it at 10 or 20 times the buying price to another developer immediately within a week after the allocation. This is what is happening.

In Mombasa today, we do not have any more open spaces. All the recreation centres and gardens have been grabbed. Quite a number of the culprits are people who are sitting with us in this House. These are the main grabbers of land in Mombasa. Among the first gardens to be grabbed is the Makadara Gardens at the centre of Mombasa. This is a place where fetes during holidays take place. When a circus come to town they pitch their tents there. Muslims used to have their celebrations there, both the *Idul Hajj and Idul Fidur*. Originally this land did not belong to the Government, but it was donated by people for the sake of having them as gardens. Makadara Gardens have been given away to two Members of Parliament from Mombasa who sit in this House with us. One of them is a nominated Member and the other one is an elected Member.

Mama Ngina Drive was just given out only about two months ago. 10 acres of a gazetted recreational area falling under, plot No. 609/26 were given out through a directive and was de-gazetted and given out.

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Prof. Mzee in order to continue misleading this House without offering any proof that Mama Ngina Drive has been given out?

Prof. Mzee: That is a fact. I have given you the plot number as 609/26. This was given out two months ago when the President came to Mombasa. He instructed that these 10 acres should be given away. These instructions were given directly to the Mayor.

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): On a point of order, Mr. Temporary Deputy Speaker, Sir. What the hon. Member is saying is just an allegation. The fact that he has a plot number is not a proof that, that plot was given out to anybody. Unless he has that proof, I would request that he withdraws that statement.

Prof. Mzee: The hon. Member of Parliament should sit down. What I am talking about is the truth.

The Temporary Deputy Speaker (Mr. Salat): Order! Order, hon. Prof. Mzee. Can you prove that 10 acres of Mama Ngina Drive were allocated to somebody?

Prof. Mzee: I am speaking the truth. In fact, we are even going to court. We have already prepared the documents in order to be able to file a case in court. What else do you want me to do? If you have the Koran there I can swear by it. You are Muslim and I am a Muslim and you know how much----

The Temporary Deputy Speaker (Mr. Salat): The question of faith does not arise here. What you are being asked is whether you can prove the allegation that 10 acres of Mama Ngina Drive as been allocated to private developers. Are you able to prove that? If you are not able, then you had better withdraw.

Prof. Mzee: I am not going to withdraw. God is my witness. This is the truth. If you think Mama Ngina Drive was not given away and you want me to come with the proof here at an appropriate time to prove that Section 26 of Mama Ngina Drive has been given out---

The Temporary Deputy Speaker (Mr. Salat): Order! Order, Prof. Mzee! You are being asked a very simple thing. You are asked whether you are able to prove that, that land have been allocated to private developers. If you are able to prove, produce the evidence. If you cannot prove, then, at an appropriate time when you can prove then, you can allege that. As of now, if you cannot prove, then for God's sake, you can continue with your contributions but withdraw that allegation.

Prof. Mzee: I will bring documents to prove this on Wednesday next week. After I have proved that, this particular Government of grabbers should do something about this matter. It is useless for us to come in here and point out these things without proving them.

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

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

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I am going to prove this on Wednesday, next week, that Mama Ngina Drive in Mombasa, plot No 609, was grabbed through instructions and given to the private developers to develop it. This is easy to do. I will do it on Wednesday and I will require this Government of grabbers, after it has been proved, to do something about it.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I do not know whether we are going to talk about the Opposition of grabbers. But is he in order to call us a Government grabbers, when we are not a Government of grabbers? The grabbers are on the Opposition side.

(Applause)

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I do not know whether he can substantiate that the grabbers are on this side. I doubt if he can do it.

The Temporary Deputy Speaker (Mr. Wetangula): Prof. Mzee---

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think a very, very careless allegation is being thrown across the Floor. Some of us are averse to grabbing. When a statement is made from the Government side that the grabbers are on the Opposition side, and some of us are in this Opposition side, and we have not grabbed anybody's land, can someone substantiate this to exonerate those of us who are innocent?

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am in the same position as hon. Anyona because some of us are on the Government side and we have never grabbed anything. I thought that hon. Prof. Mzee must have learned the word "grabbing" from some of his colleagues in the Opposition.

Prof. Mzee: Where?

The Temporary Deputy Speaker (Mr. Wetangula): Indeed, Prof. Mzee, I was just about to warn you that this House consists only of hon. Members. We have no grabbers in this House.

Bishop Njeru: Grabbers!

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I do agree with you. There are some hon. Members who are grabbers. This is not the end. The reason why I am giving this example is to show that probably the introduction of this Bill might not solve the problem. The problem is in enforcing these laws under the circumstances of grabbing and overlooking at the laws which govern development in this country, this attitude has to change first. If this attitude would change first, then we can come up with meaningful physical planning in this country. If these things are not corrected, then anything we are going to do would be a useless exercise. That is why I am going through this and I promise to bring documents on Wednesday next week to prove that Mama Ngina Drive in Mombasa, has been grabbed.

Mr. Temporary Deputy Speaker, Sir, there is a recreational centre outside the Law Courts in Mombasa. It is actually a pavement in between two roads, a dual carriage. I had never imagined that somebody could grab

that, but reading through the newspaper this morning, a councillor---

The Assistant Minister, Office of the President (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member knows that we cannot use newspaper reports as authority for argument in this House.

The Temporary Deputy Speaker (Mr. Wetangula): Prof. Mzee, a newspaper report is not a basis for advancing any argument on the Floor of this House.

Prof. Mzee: But this is just information which I read in the newspaper and I wanted to share it with my colleagues here.

The Assistant Minister, Office of the President (Mr. Sunkuli): I read it too.

Prof. Mzee: Oh! Then it is something which you know about. This is how serious this issue is. As we breath, eat and walk, grabbing is going on. That is the point which I want to put across. Uhuru Gardens in Mombasa was established in 1963 immediately after we got our Independence to commemorate that particular event. This Uhuru Gardens has been sold by the Mombasa Municipal Council to raise money to pay salary arrears of its employees. This is a very absurd thing.

Now we come to a very, very important issue and this is the Government houses in the plush Kizingo Area. Before Independence non-whites were not allowed to own property in that area. Even if he bought the property, he could not live there. This is where the whole area was used to built Government houses. All the Government houses which were built during that period of time have been condemned and given away. Quite a number of them were condemned when the civil servants were living in them, in the entire Kizingo Area, a very rich area in Mombasa, a low density area near the Mama Ngina recreation centre with a beautiful sea view. It used to have nothing else, but Government houses. But almost all these Government houses have been condemned and given out as presents to some people. This is totally unbelievable. We had the residence of the District Commissioner (DC) in Mombasa at Mama Ngina Drive, and he has a very huge garden which slopes down to Mama Ngina Drive. I cannot believe it that the DC in Mombasa could allow part of his garden to be excised out and given away. That is exactly what has happened. This is the current DC, who has allowed part of the garden of his official residence to be curved out and given away to somebody. It is totally unbelievable.

There is also a plot Number 177, Section 25, which is a parking area between the old courts and the DC's office. This also has been grabbed by none other the DC himself. Recreational playground in Tononoka on plot Number 1234, Section 27, has been given out. Also Tudor Clinic, plot Number 837 Section 11, has been given to a councillor. This councillor is none other than the Chairman of the Planning Committee. The Chairman of the Planning Committee takes away a plot earmarked for the expansion of a clinic! The worst thing which has ever happened to Mombasa, is that all the open spaces in all the Council Housing Estates have been curved away and they are given to private developers. These are council estates in Buxton, Tudor, Makande, Changamwe and Kizingo. The most surprising thing has happened at Kizingo. At Kizingo, the Municipal Council has---

The Minister for Energy (Mr. Mbela): On a point of order, Mr. Temporary Deputy, Sir. Earlier on, you did rule that the hon. Member produces his evidence to support some of the allegations he made a few minutes back. He has continued to make such allegations and some of them can implicate and even damage names of civil servants, like the DC and the civic councillors.

The Temporary Deputy Speaker (Mr. Wetangula): Civil servants like who?

The Minister for Energy (Mr. Mbela): He has already mentioned that the DC, Mombasa has grabbed a piece of land. He is saying all that without any proof, just to simply---

The Temporary Deputy Speaker (Mr. Wetangula): He did not say that, Mr. Minister. He said the DC has allowed a portion of his garden to be hived-off from his residence. What is your point of order?

The Minister for Energy (Mr. Mbela): Mr. Temporary Deputy Speaker, Sir, what you have said is right and one fact, he did say that. When hon. Sunkuli or somebody was consulting with you, he also went ahead to name another plot apart from the DC's residence, which he alleges the DC has taken. That is the one I am saying that the DC is not here to defend himself and, unless he can prove that, the residents might think that the DC is a thief.

The Temporary Deputy Speaker (Mr. Wetangula): Prof. Mzee, did you say that?

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I have already accepted to bring documents to prove that plot No. 609 Section 26 on Mama Ngina Drive has been grabbed.

The Temporary Deputy Speaker (Mr. Wetangula): He is not complaining about that. He is saying that you have alleged that the DC has allowed a portion of his residence to be curved off. You have further alleged that the DC himself has also, over and above that, grabbed a plot. He is challenging you to prove that the DC has indeed grabbed a plot.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I had given the numbers of these plots and they have already been fenced off and private developers have already moved in. They have already changed hands. All I can say at the present time is that these are areas which belonged to the Government and they have been given to somebody and this person has sold them to developers and they have been physically fenced off and developers have moved in and they are building. These are the things which you can see openly.

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): Mr. Temporary Deputy Speaker, Sir, I am happy that he has now accepted what I was complaining about and he is still continuing to repeat the same without substantiating the allegation that the DC has grabbed this plot. If other developers are working on the plot and without proof that the DC himself is involved in the construction, the hon. Member has no right to come and condemn the DC for things he cannot prove.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, this is obvious. All those DCs, PCs, the Mayors and the councillors are grabbing the land. All the time they are in the Office of the Commissioner for Lands.

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think hon. Prof. Mzee is generalising on what he had been asked to substantiate. What he had been asked to substantiate is that the DC, Mombasa has grabbed a piece of land. Let him prove that, and that is all.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I am very glad that a former senior police officer has commented on this and he could probably help us investigate on this matter of land grabbing which is a reality in this country. Tononoka Grounds, plot No. 1234 section 17---

Mr. Salat: On a point of order, Mr. Temporary Deputy Speaker, Sir. Why are you allowing this professor to get away with allegations which he cannot substantiate? Is it in order? Can he substantiate?

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Salat, that is very improper conduct towards the Chair. The Chair has not allowed Prof. Mzee to get away with anything. In fact, I want to pursue him.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, before you took the Chair, he was in the Chair!

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, we are facing some difficulties here. The hon. Prof. Mzee is making what I consider a very important contribution but that contribution is not complete unless and until he gives us details and proof of what he is saying. We cannot sit in this House and say things that cannot be proved. We shall also become a House of rumour and---

The Temporary Deputy Speaker (Mr. Wetangula): Indeed, Mr. Anyona, Standing Order No. 76, which I have no doubt the professors knows, requires him to be responsible for each and every fact he alleges here.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, my point of order is in two parts. One, the hon. Prof. Mzee has undertaken, and I do not doubt, to bring the truth here of the things he says and I hope he has a list of those things he says about the DC.

The second point which I think we have some difficulties is that the Member has also said that some of the people allocated those plots are Members of this House. I do not know how on the one hand we ask Prof. Mzee to substantiate references to people who are not Members of the House and on the other hand we cannot ask him to do that under Standing Order 73 Paragraph 4. I think we have a lot of difficulties because if an allegation is made in this House, a way must be found in which it can either be proved to be correct or wrong and yet we have those allegations here and we have no way out of them.

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Anyona, Standing Order 73 Paragraph 4 says:- "No Member shall impute improper motives to any other Member except upon a specific substantive Motion calling in question the conduct of that Member".

If in my opinion a Member alleges that another Member has grabbed a plot and he has the proof to show it, I do not consider that to be an improper motive. But if he has got no facts to prove it, that automatically becomes an improper motive and I will order Prof. Mzee to withdraw those remarks in relation to Members of this House and other people like the DC and others. I am not going to allow the professor to pile allegation upon allegation with the promise to substantiate later. Either he has the facts or he does not.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I am extremely grateful for that ruling. In my earlier tenure in this House, I have evidence that a Member of this House was involved in an irregular deal and all that I was required to do was to produce that evidence. Now, somehow over the years and since the beginning of this Parliament, it appears that we can no longer bring proof to the House to show that a Member has been involved in something that we allege and I repeat that I am very grateful because I think that interpretation is the correct one that if I make an allegation about a Member and I have evidence, there is no improper motive involved there.

So in this case, since hon. Prof. Mzee has made some allegation that some Members of this House were allocated land, would we be in order to ask who those Members are and ask him to substantiate he cannot then

obviously he has to withdraw.

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Members! If prof. Mzee has evidence against any Member, that a Member has indeed grabbed a plot, I do not consider being allocated a plot a conduct. It is not a conduct and if he has the facts he has to give them here but if he is giving generalised and almost defamatory allegations against colleagues, I shall certainly order him to withdraw.

Mr. Biwott: On a point of order Mr. Temporary Deputy Speaker, Sir. Actually I rise to seek your clarification because what Prof. Mzee has been talking about amounts to what is prohibited under Standing Order No. 87 because what he has been doing are examples of the origin of land allocations and something like that and what he has tended to do is to indulge in this repetition which according to Standing Order No. 87 talks of tedious repetitions either of his own arguments or the arguments induced by the other Members in debate and whether you should not order him to proceed with the substantive concept of the Motion instead of indulging in the same repetition.

The Temporary Deputy Speaker (Mr. Wetangula): And you, hon. Murungi, what is it?

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, I am getting concerned about the new rules we seem to be introducing about substantiation. There is no standing order which requires you to substantiate today. You can make an allegation and substantiate it at the next sitting of the House, or at a certain time.

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Murungi! You are not saying anything new. Standing Order 76, says:-

"A Member shall be responsible for the accuracy of any facts which he alleges to be true or may be required to substantiate any such facts, or to withdraw his allegations."

My understanding of that rule is that, in ordinary circumstances of debate, if you allege something on the Floor of the House, you are presumed to have the facts there and then, to substantiate what you are alleging. But there are certain circumstances where the Chair can bend backwards and allow you, especially in matters involving documents which you may not have carried on that particular day, to bring at a subsequent sitting.

However, it is wrong for you, hon. Murungi, to say that there is no rule that requires substantiation to be immediate. Then we are going to have very disorderly debates here. People will allege anything and then go and look for evidence. You must have the facts that you purport to bring to the Floor of this House with you at every time you stand up to make any contributions, and I do not think I am going to entertain anything on that.

Prof. Mzee, you have heard the objections from your colleagues, that you have made certain allegations against people who cannot defend themselves on the Floor of the House. Indeed, I will not force you to withdraw the remarks that the DC's residence has been hived off. I have personally driven there and I have seen it.

But as for the other allegations about grabbers who you cannot name, unless you have the facts, I am afraid you will have to withdraw.

Mr. Murungi: On a Point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Murungi! I am not engaging in any debate on that.

Mr. Murungi: On a Point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): You are out of order! Proceed, Prof. Mzee!

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I can comply with one condition. All these plots have been grabbed.

An. Hon. Member: Which ones?

Prof. Mzee: The ones which I have mentioned.

The Temporary Deputy Speaker (Mr. Wetangula): Address the Chair!

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, the grabbing mania is a very serious situation. What I am saying, and the message I want to put through to this House is that, irrational land grabbing has taken place in Mombasa making physical planning a very difficult and impossible task. What I can do---

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

Prof. Mzee: Hon. Biwott, I am on the Floor. What can I do? I am withdrawing! Mr. Temporary Deputy Speaker, Sir, you have instructed me, I am responding to a point of order and hon. Biwott is also on the Floor. I am responding to points of order.

The Temporary Deputy Speaker (Mr. Wetangula): Proceed, Prof. Mzee!

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I can withdraw all allegations but where I said this plot has been allocated to so-and-so, but the fact that the plots I have mentioned have been grabbed by somebody I have withdrawn the names of the DCs, the PCs and the Members of Parliament, political patronage. But the fact remains that all these plots which I have described giving their plot numbers and sections, have been grabbed

and there is this "grab-mania" going on, and with this grab-mania, it becomes very, very difficult---

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I think we are getting into more problems. It would be unfair and wrong for Prof. Mzee, to wipe out the names and talk about grabbing. If there are no names, then there is no grabbing.

Now, I think we must demonstrate the seriousness that we attach to this matter. That is why I am personally very grateful about the ruling you made, because that has been the hindrance ever since I have been in this 7th Parliament.

I think, what I would like Prof. Mzee to do is, if land has been grabbed and he has referred to specifications, he should tell us who has grabbed it and then we want to require him to substantiate in accordance with the Standing Orders. That is the only way this Parliament can demonstrate to be serious, because if we make general discussions, then nobody is going to take us seriously.

(Several Members stood up in their places)

The Temporary Deputy Speaker (Mr. Wetangula): Order! hon. Biwott, what is it?

Mr. Biwott: On a point of order, Mr. Temporary Deputy Speaker, Sir. This arises from what I raised earlier on; the fear that the hon. Member who is a Professor and knows exactly---

The Temporary Deputy Speaker (Mr. Wetangula): Come again, I was consulting with my colleague.

Mr. Biwott: I was saying that, my point of order relates to my earlier assertion that the Professor is using---

The Temporary Deputy Speaker (Mr. Wetangula): He is flouting Standing Order No.87.

Mr. Biwott: Yes. And he is using this opportunity to vent his vengeance against his own enemies in Mombasa and subjecting this House to a period of monotonous assertions, unfounded and malicious arguments. Because, if a land is given, it is not grabbed. What you grab is what you have actually stolen.

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

The Temporary Deputy Speaker (Mr. Wetangula): He is on a point of order!

Mr. Biwott: One or two examples will suffice.

The Temporary Deputy Speaker (Mr. Wetangula): Your point of order has to be a short one.

Mr. Biwott: Mr. Temporary Deputy Speaker, Sir, my point of order then, is, I would like to hear from the Chair as to whether Prof. Mzee has contravened Standing Orders No.87 by being monotonous.

Prof. Mzee: I would like to respond to that point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): Order! I want to bring to your attention hon. Members and Prof. Mzee, that in fact, this Bill is not the "Land Grabbing Bill". It is a Bill on physical planning and Prof. Mzee, I want to see you go through the clauses of the Bill and be more relevant instead of engaging us in all these endless points of order that are also causing you to lose track of your argument and falling into the trap of hon. Biwott; being engaged in irrelevant repetitions.

(Several Members stood up in their places)

The Temporary Deputy Speaker (Mr. Wetangula): Order! Prof. Mzee, carry on!

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, as I have said, I have withdrawn all the names of the people I alleged to be grabbers, but the most important thing is that I want to demonstrate to this House and the nation that it is not lack of physical planning, it is not the fact that this Bill will stop the problems which we have, but---

Mr. Gitonga: On a point of order, Mr. Temporary Deputy Speaker. I need your guidance here. If the Professor decides now to withdraw the names which he had mentioned, how can we trust that what he is telling us here is true? Do you not think that he should be given an opportunity to substantiate by giving the names?

The Temporary Deputy Speaker (Mr. Wetangula): Indeed, the Professor was given an opportunity to substantiate an allegation.

Mr. Gitonga: Which he has not done!

The Temporary Deputy Speaker (Mr. Wetangula): Order, Mr. Gitonga! You have been here for four years and you know we cannot both be talking! The Professor was given an opportunity to substantiate an allegation he made. He will do that on Wednesday next week. I have cautioned that we are not going to have a general rule where every Member stands up, makes an allegation and says, "I will substantiate later." We shall be making a mockery of our debates here. In so far as, Prof. Mzee, you are unable to bring any document to give any

names of the so-called grabbers, the presumption will be that in fact, there is no grabbing. The two must fall and you must withdraw the remarks in total and carry on with your debate.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, you should not rule that there is no grabbing just because I have not mentioned the names of the grabbers. I have read out all the plots that have been grabbed, and I have even given the plot numbers. I want to show the seriousness of the situation and to prove that the effect which necessitated this Bill---

The Temporary Deputy Speaker (Mr. Wetangula): Prof. Mzee, are you debating the ruling?

Prof. Mzee: No, Mr. Temporary Deputy Speaker, Sir. I am contributing to the Bill.

The Temporary Deputy Speaker (Mr. Wetangula): I have asked you to withdraw the remarks and then carry on.

Prof. Mzee: I have withdrawn the remarks.

The Temporary Deputy Speaker (Mr. Wetangula): Okay, carry on.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is not a right of the hon. Member to say that; "I am going to say this but I will not name names". I have a right to demand that those names be given, and that is what I am doing right now. He should tell us the hon. Members of Parliament here and substantiate. I am in agreement with your ruling that, whereas, we are required to substantiate here and now, there are circumstances where a Member must be given time. In this particular case, I would prefer that hon. Prof. Mzee is given time to substantiate. I have a right to demand substantiation from the hon. Member.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Anyona, I already said that on an earlier matter, he was given time to substantiate next week. We are not going to give him an "avalanche" where he piles allegation after allegation with an escape route to substantiate next week. You either have your facts when you stand up on the Floor of the House or you do not. In the event you do not, you have no business alleging anything. I am satisfied that Prof. Mzee has withdrawn the remarks and he must now carry on uninterrupted.

Mr. Salat: He has not withdrawn!

The Temporary Deputy Speaker (Mr. Wetangula): He has withdrawn, hon. Salat!

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I have withdrawn, but let me not see hon. Salat in Mombasa looking for land. Hon. Salat is in Mombasa almost every month looking for open space and plots. If he comes to Mombasa---

Mr. Salat: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have just asked Prof. Mzee to withdraw allegations which he could not substantiate. Now, he repeats the same allegations and even goes further to name me in person as having gone to Mombasa to look for plots. I have not been to Mombasa for the last eight months. Can he substantiate that I have gone to Mombasa to look for land or open space?

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I withdraw my remarks about hon. Salat, even though only two months ago, Mr. Salat invited me to have a drink with him in a Mombasa hotel. He cannot deny that.

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to seek your guidance on a matter that you have ruled. You correctly said that this Bill is not about land grabbing. It is about Physical Planning. However, how can we talk about planning if all the land we are talking about has been grabbed? Therefore, they are inter-related.

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Ndicho! I think it is, probably, a question of communication. I cautioned Prof. Mzee that this is not a Bill on land grabbing. I never told him that if he has evidence about land grabbing, he cannot table it here. I did not. I have just warned everybody in the House against engaging in reckless allegations that cannot be proved. Carry on, Prof. Mzee.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, we had a lot of land which had been ear-marked for schools, hospitals, parking, road reserves, recreational centres or gardens. All these were in physical plans which were drawn according to the Town Planning Act, Cap 134, by the Mombasa Municipal Council. Even though these plans exist, this land has been put to other uses. If we are serious in physical planning, we need to have this trend reversed. It is very important that this trend of converting land which is meant for a particular purpose to other uses be stopped at once. For example, land which is meant for parking is used for building houses, or land which is meant for schools is---

Mr. Kariuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am a bit worried with what we are dealing with here. I want your clarification and guidance because the word "grabbing" has been "prostituted" enough. What I want to know---

The Temporary Deputy Speaker (Mr. Wetangula): You said the word grabbing has been done what?

Mr. Kariuki: It has been prostituted enough.

The Temporary Deputy Speaker (Mr. Wetangula): That is unparliamentary language, Mr. Kariuki.

You must withdraw!

Mr. Kariuki: I withdraw and apologise, Mr. Temporary Deputy Speaker, Sir. However, what I would like your guidance on is this: When land is allocated and legitimately given to an individual by the State, how does the word "grabbing" come in? I thought the word grabbing comes in when somebody allocates himself land without official documents or, somebody with authority sits down and allocates himself land. Maybe, that can be termed as grabbing. However, when land is legitimately given to Prof. Mzee, whether it was an empty land or open space, is it really grabbing? What I am trying to find out from you, Sir, is whether we can now get away from this language of "grabbing" which, really, does not make any sense.

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Kariuki, I am unable to find the definition of grabbing in the Standing Orders.

Prof. Mzee: We have the Physical Planning Bill, 1996, which covers the entire country.

The Temporary Deputy Speaker (Mr. Wetangula): Prof. Mzee, if you want to contribute without interruption, go back to the Bill.

Prof. Mzee: I am with the Bill, 100 per cent. I am not going to look at anything else but this Bill. This Bill is about physical planning. I am raising caution from experiences of the past because, physical planning is nothing new in this country. It is not just being born now with this Bill. Physical planning was there even before Independence. Areas have been allocated for certain amenities. However, what I am saying is that, in the last 10 years, all these regulations have been flouted. Parking areas, recreation centres and other social amenities have been given to individuals to carry out private developments. We have to have recreation centres, gardens, green-belts and parking areas in our physical planning. If we keep our areas unplanned, only to allow people to convert them to other uses, then it is useless to have a Physical Planning Bill.

Mr. Temporary Deputy Speaker, Sir, as you suggested, I would like to go through the Bill. The first thing I would like to refer to is the preliminary part, particularly, Clause 2 which says:-

"The provisions of this Act shall apply to all parts of the country except such areas as the Minister may, by notice in the Gazette, specify".

I cannot see any reason why we should have that. Why should certain areas of the country be excluded? There is a danger and a hidden agenda here. I thought this Bill is meant to provide for physical planning for all urban areas, rural areas, forests, parks and even agricultural areas. Therefore, there should be no exceptions whatsoever.

Mr. Temporary Deputy Speaker, Sir, I cannot understand why Clause 2 should be there at all. After all, the planning is for the entire country and not part of the country. If I leave the preliminary part and go to Part II, Clause 4(1) page 31, it states:- "There shall be appointed by the Minister a Director of Physical Planning and such other officers---" Why should a Minister appoint this civil servant and not the Public Service Commission? Why make that exception? This is not something very special. The Public Service Commission can put up the required qualifications for the Director of Physical Planning and then appoint him and send him to the central office in Nairobi to do his job as specified by this Bill. The type of Ministers we have, do not have any idea what physical planning is all about. They would not even know what type of qualifications the Director of Physical Planning would be required to have.

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): On a point of order, Mr. Temporary Deputy Speaker, Sir. That allegation is wild and has no respect to hon. Members, especially on the Government side. If the hon. Member did check on his records, he would have found that there are so many Ministers who know physical planning and some of them are qualified physical planners. If he wants to find out this, he can read from the records available. I will request that, that allegation be withdrawn.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I know that there are a lot of qualified people but there is a procedure which has been laid down---

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): I am complaining about the allegation that all Ministers are not qualified to understand anything to do with physical planning.

The Temporary Deputy Speaker (Mr. Wetangula): Indeed, Prof. Mzee, you are wrong.

Prof. Mzee: The Minister referred to here in this Bill is the Minister for Lands and Settlement, the current one. He is the Minister who is going to make this appointment.

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): In any case, that is imputing improper motive on the part of the Minister.

The Temporary Deputy Speaker (Mr. Wetangula): Indeed, Prof. Mzee, you have no evidence that Gen. Mulinge does not know anything about physical planning. He is the Minister in charge of that. You must

withdraw and apologise.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I do respect that he is a retired General. He is very good in military work but---

The Temporary Deputy Speaker (Mr. Wetangula): You must withdraw that allegation Prof. Mzee. That is indeed an improper motive.

Prof. Mzee: I withdraw that, but Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Wetangula): Order! The Chair needs no help. The professor has withdrawn the scandalous remark he made against the Minister and I am satisfied that he has done so. So he will carry on. We are not debating the Minister for Lands and Settlement, we are debating the Physical Planning Bill.

Prof. Mzee: I do not want to labour on this Clause 4. I have just made my point that the Minister may not be the right person to appoint the Director. I think this should go to the right people and that is the Public Service Commission for obvious reasons which probably if I say them now, I may be ruled out of order. So I will not say them now.

The Temporary Deputy Speaker (Mr. Wetangula): Professor, do not inhibit yourself. Say what you want to say provided it is within the rules.

Prof. Mzee: Now, coming to Clause 4 (2) it states---

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Saina): Professor for worms!

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Have you heard hon. Saina insulting Prof. Mzee by calling him a professor for worms? Can he withdraw that remark because Prof. Mzee is not a professor for worms. It is him who is possibly and Assistant Minister for worms. In fact, worms are in his Ministry.

The Temporary Deputy Speaker (Mr. Wetangula): Order! The Speaker ruled this afternoon that the Chair has appointed no prefect to assist it in hearing what is being said privately on the Floor of the House. I did not hear that remark and I cannot make any ruling on it. Prof. Mzee, carry on.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Mr. Saina): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am sure you heard hon. Ndicho say that I am the Assistant Minister for worms. I do not carry any worms at all.

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Members! I think you Members are eroding the dignity of this House by engaging in utterances that are not befitting hon. Members.

QUORUM

Mr. Moiben: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House.

The Temporary Deputy Speaker (Mr. Wetangula): We are short of one person, ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Wetangula): Order! We have a quorum now. Proceed, Prof. Mzee.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I think I will go very first. I will go to Clause 5, page 31. I had a quarrel with Clause 5(1)(a) because it gives the responsibility of preparation of all regional and local physical development plans to the Director alone. It shuts out completely the local authorities. Kenya is a huge country with different specializations. If I come from Faza which is found in Lamu archipelago, and then I have somebody in Nairobi deciding for me how my island should be planned, I will not like it at all.

The Temporary Deputy Speaker (Mr. Wetangula): Why can you not just call it an island.

Prof. Mzee: It is an archipelago. There are many islands found there and not just one. There are about three or five islands here. It is a very huge area with a lot of people. What I am trying to say is that, the participation of the local people who have preserved that area until now should be included in the physical planning for the future of that area, and not just having the people in Nairobi do it on their own. Also in urban areas like Mombasa, there are certain areas where one cannot just plan for them. For example, if a person in Nairobi says that areas where mosques or cemeteries are found should be converted into industrial areas, that is not possible because, according to the believe, once a mosque is built somewhere you cannot convert it into something else. It has to be a mosque for ever. It has to remain land for a mosque for ever, on which a mosque

can be built at any time. So, there should be a special requirement that the local authorities and the local people have to participate seriously in the physical planning of their areas. You cannot just say that such planning will be done by the Director and his experts in Nairobi.

Mr. Temporary Deputy Speaker, Sir, these so called experts fly to Manda Island, one of the islands in Lamu; from there, they board luxurious boats to Faza Island. On getting there, they possibly go for lunch at the district officer's (DO) residence. After talking to one, two or three people, they come back to Nairobi posing as big experts. They can then do anything they want in planning for that area. This is an impossibility! Yet there are people with knowledge, even though they may not have gone to school. We know that you do not have to go to school to become a councillor. Any illiterate person can become a councillor. Such people might have vast experience in the environment of their areas. Therefore, they can contribute effectively in the physical planning of their areas.

I do not want to see a situation where, after visiting an area for only a short time, people come back to Nairobi and pose as experts who can draw up a plan for the entire country. Such a plan is too complex for such people. An example, is where somebody walks to some place where he sees a good forest and then he decides the forest could be converted into a tea zone. Overnight he gives an order that such and such forests should become tea zones. Then agricultural equipment is moved there and tea is planted. Such a person will not know that tropical forest land is very fragile and unfertile. Such land has been rained on for years and if you plant a cash crop---

Mr. Gitau: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member on the Floor implying that the creation of Nyayo Tea Zones was poor planning? Nyayo Tea Zones?

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Gitau, obviously that is not a point of order! Carry on Prof. Mzee.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, we have to learn from the experience of others. For example, in Brazil bureaucrats in its capital city decided that the Amazon Forest land could be exploited. They then built a high way there and opened up the area to their people. They did not know that tropical forests are very delicate. They did not know that over the years, minerals in the forest ground had been exposed and that only the forest itself was self-sustaining. Once you clear the forest area you can only grow crops on it once or twice. That is what has happened in Brazil.

The implications of decision like this one do not only affect the country which makes the decision alone. This is because one third of oxygen used in the world comes from the Amazon Forest. The carbon dioxide that we breath out is converted into oxygen in this tropical forest. If somebody with very little knowledge about tropical forests sitting in Nairobi decides to convert a tropical forest into a tea zone, or something else, he might make a very big mistake. The end result will affect not only Kenya but the entire world by creating what we call green-house effect. There are no more plants to convert carbon dioxide into oxygen. This is exactly what is happening in the Amazon Forest. That is what will happen in this country tomorrow if somebody decides that some of our tropical forests should be converted into agricultural land. This is what I am fearing might happen if we give power to the so called experts in Nairobi to make decisions.

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): Prof. Mzee, do you want information?

Prof. Mzee: Yes, Sir, I will entertain it.

Mr. Temporary Deputy Speaker: Mr. Kagwima, give him the information.

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): Mr. Temporary Deputy Speaker, Sir, I thank hon. Mzee for giving me the Floor. Instead of stopping at clause 6 of the Bill, if he went to clauses 7 and 8 he would see that there is provision for regional and district sub-committees, which will assist the Director in planning. So, it is not only the Director who will sit in Nairobi and plan for the whole country. Those other committees are provided for in this same Bill.

Prof. Mzee: I am talking beyond the committees. I am talking about expertise, specialised knowledge or experience from other countries, where things are done at the central point; where people think since a lot of say, salt has come do, not make mistakes. I want the Director of Planning to guard himself by involving as many experts as possible. He should look for experts to help him to solve problems that he has not thought of before and in deciding what would happen in a particular area. It is important to involve the Maasai when we want to do planning for their land. They have been living there and they have protected it for all these years. If somebody else goes tomorrow, and this has happened, and say that an area could be very, very good for wheat, and he plants and harvests good wheat for the first few years, and do nothing more, he will have destroyed all the

wildlife and ecosystem. You cannot get back to where you were before. Physical planning is such an important thing, and it should be for the whole country. Sub-section 1 sub-clause 1 (a) gives the responsibility for the preparation of original, local physical and development plans to the Director.

I was on the opinion that the director should hold responsibility under sub-sections (b) and (c). He should be formulating national, regional and local physical development policies. This is what should happen. He should formulate policies and leave the work of different issues to the experts.

Mr. Temporary Deputy Speaker, Sir, it is so easy to upset a balance of an ecosystem. An ecosystem might be sustained by a very, very small thing. I will give you an example of an emphatic ecosystem. This is the Mzima Springs. The Mzima Springs ecosystem is sustained by the hippopotamus. By the hippopotamus grazing and defecating in the Mzima Springs, that starts the entire ecosystem there. You have fish and birds coming to the springs because of the defecation from the hippopotamus. You also have other species coming because of one chain or another. If somebody wants to ruin the ecosystem and removes one part which is a very important chain, he destroys that ecosystem. The Mzima Springs ecosystem is sustained by the presence of hippopotamus. Imagine if somebody comes and says he does not want them because they destroy crops, and he removes them? The entire ecosystem is destroyed.

So, different areas need different expertise. In one area, you may require environmentalists like Prof. Ouma to give advice. In other areas you may require biologists who know about the ecosystem to give advice. In some areas, you may require agriculturists to give advice. Therefore, every area has its own specific requirements and it cannot be covered by bureaucrats in Nairobi alone. It has to involve even the common man in that area, who is making daily observations. I can tell you that we can learn a lot from an illiterate Maasai somewhere in Maasai Mara, who has made observations which are very accurate.

Mr. Temporary Deputy Speaker, Sir, these things are very important and this type of work, preparation of all regional and local physical development plan, if it is left to the Director alone and his bureaucratic advisers in Nairobi, a lot of mess will be caused in this country. There should be a certain amount of decentralisation. Work has to start and planning has to start at the grassroots right from the so-called illiterate man, who has been there for ages and who knows what he is doing.

Mr. Temporary Deputy Speaker, Sir, at one time I was watching slave ants.

The Temporary Deputy Speaker (Mr. Wetangula): Slaves?

Prof. Mzee: There are certain ants which do not want to work and they invade other ants, collect their progenies and bring them into their own hives and when they grow up, these progenies work for them as their slaves. They go to collect food and allow them to eat.

The Temporary Deputy Speaker (Mr. Wetangula): Ants?

Prof. Mzee: Yes, ants! They collect "slaves". These ants have strong mandibles and are good fighters. They go in and attack other colonies of ants, kill them and they take their progenies, the young eggs. They bring these eggs into their own nests and once they grow up, they collect food for the masters to eat. I was asking myself: Why do these slave makers have to go and attack every time and why do they not breed the slaves? After deep thinking, I realised that if they start breeding slaves, they will loose their strong mandibles, they will be useless and become very weak. Then the slaves will turn against them. So, they need to practice their art daily of catching and fighting so that they can have the young ones brought. Things which seem to be very simple are very complicated and you will only get to know that they are complicated after expert thinking. That is why I am advising the people who are responsible for this Bill to start work at the grassroot, get inputs from the local people and then go into the central place, then the expert in the central place will look at it and learn quite a lot and decide whether to adopt these things or not.

Mr. Shidie: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Prof. Mzee in order to impute improper motive? He is trying to draw an analogy of ants and then he brings in physical planning. There is a parable which clearly indicates he is saying that the physical planner is the one who will become the parasite. That is the analogy that I am trying to refute. Is he in order?

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, that is exactly what that analogy means.

The Temporary Deputy Speaker (Mr. Wetangula): I have enjoyed the lecture, but I do not know the relevance. On which Clause are you giving us the ants story?

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I am on Clause 5, page 31, but I am moving to Sub-Clause 1(c).

I support this Sub-Clause 1(c) which says:

"The Director's office should initiate, undertake, direct studies and research into matters concerning physical planning."

All these examples which I have given show the necessity of having this research, having these people out where they want to plan collecting data and making observations and looking at things. So that they come back with this information from the local people; they can come up with something comprehensive with a lot of input from the local authorities and other people, especially the people we consider to be illiterate, but who have been preserving this environment for ages until we came along.

Mr. Temporary Deputy Speaker, Sir, I would like to move to Clause (6). Physical planning is a very, very touchy thing. Somebody might have his own desires, ideas or interests in converting something which he had planned and already acquired. If the Director, for example, knows in advance that he wants to convert a certain area into an industrial area, he knows that, that is the plan before announcing it to anybody else. He might ask first his friends or relatives to buy that area or he himself might purchase that area although he knows that area at present is worthless, but he can buy it at very low price. But later on after a decision has been made to convert that area into an industrial area, the value of that area will go up a thousand times. If he has done that, he has leaked the information even before the decision has been made because he has it in his mind. The seed of greed has been planted in his mind that, this area will be very valuable because of the physical planning. And he will start advising his friends: "You know you can buy this area and so on---" These people should be held responsible for their own actions, and this Clause should be removed so that we can take them to court.

The Temporary Deputy Speaker (Mr. Wetangula): Which Clause are you referring to?

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, Clause 6:

"The Director or any officer appointed under section 4 (1) shall not be personally liable to any action or other proceedings for or in respect of any act done or omitted to be done without negligence and in good faith in the exercise or purported exercise of any of the functions conferred by or under this Act."

This Clause is very dangerous. It may allow total exploitation by these people we have given the power to decide on how we are going to use a particular area. They know in advance that this area is earmarked for that purpose and so on. And if it is meant for that purpose, its value is going to be such and such. If they know that well in advance, they will go and pass over the information to their friends, relatives or even to themselves in their companies. This can easily happen and we say we cannot hold them liable for his action. This is very wrong and I hope this Clause 6 should be removed. I hope hon. Members are listening because it is a Bill like this one which we pass knowing very well that we have "voting machines" here.

The Temporary Deputy Speaker (Mr. Wetangula): Order, Prof. Mzee! We do not have any "voting machine" in this House; we only have hon. Members!

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, some hon. Members come here to vote [**Prof. Mzee**] and immediately after voting they leave.

The Temporary Deputy Speaker (Mr. Wetangula): They do not become "machines." We only have hon. Members in this House, we have no voting machines!

Prof. Mzee: Mr. Temporary Speaker, Sir, in the past we have passed Bills--- Even myself, I am a professor of genetics, I find it very difficult to understand certain sections of this Bill. I can tell you that there are many like me in this House and there are some who are worse than me who may not understand the implications and may vote for this Bill. And if they vote for this Bill without these changes, we are inviting problems. And I am warning my hon. colleagues to ask the experts to give this Bill back to the experts because every speaker, and we had very good speakers, for example, hon. Ligale who looked practically at every clause and tore it apart. Hon. Ligale is an expert, we had hon. Wetangula who is an expert in law who looked into many of these clauses and tore them apart. We have a lot of other people who looked at this Bill. Therefore, there has never been a Bill in the House which has been torn so much apart like this one. I am warning my colleagues that when they vote for this Bill, they should take very good care of what comments have come from intelligent people on the Government side. There are principally two intelligent people on the Government side and those are hon. Wetangula and hon. Ligale, who did an honest job for love of this country, because they felt that we should not have a Bill like this one being passed without returning it back to the experts to look at it. I do not compare in any way with those two experts.

I am really surprised that a clever man like hon. Ligale is not a Minister. He would have made a very competent Minister in the Ministry of Co-operative Development.

Mr. Kiliku: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Prof. Mzee to arrogate himself the powers of appointing Ministers on the Government side?

Prof. Mzee: We had a meeting of the Opposition Alliance today and I think we will be appointing Ministers very soon.

Clause 8 talks about the Liaison Committees. Quite a number of people have commented on this and I am not going to spend too much time on it. But, what baffles me is that this is a Committee which will be listening to cases of appeal. The Director of Planning will be sitting in this Committee and yet he is the one who will be making the decisions which you will be appealing against. How can that happen? How can one appeal to the person who had aggrieved him? Sub-clause 1(b) says: "The Director or his representative---" When one has been aggrieved and he has appealed against the decision of the Director and he appears before the liaison committee he will find the Director sitting in that Committee. The complainant can even write a letter of appeal without appearing in the Committee personally. How can I expect him to help me? That has to come out. I think they have three liaison committees with different compositions for different areas. We have liaison committee for Nairobi Province which has the largest number of people and then we have a liaison committee for the districts and then a liaison committee for the municipality.

A town like Mombasa, might attain the status of a city after the Omamo Commission completes its report. Therefore, this Bill is not forward looking. It did not take into consideration the fact that the Omamo Commission had been appointed to look into how best we can reorganise our towns and local authorities and that things might change. But my biggest quarrel is that the Director who has been accused by an aggrieved person will be sitting in the Committee to listen to these appeals. That is not right.

Mr. Temporary Deputy Speaker, Sir, the other issue is the Permanent Secretary of the Ministry responsible for physical planning. These PSs, first of all, are not experts and they keep shifting from one Ministry to the other. For instance, somebody might be appointed a PS in the Ministry of Health and the next day he moves to the Ministry of Finance or Ministry of Planning and National Development. The next day he will be chairing a meeting purporting to be an expert as a chairman. This is why we need experts. When there is a problem, we need experts to solve these problems, not these Jacks of all trades. I know that these PSs are so busy and they are everywhere. For example, they are sitting in the universities councils and in every conceivable place where there is something to "eat". And if there is nothing to "eat", they may send a representative. Quite a number of times they send a representative when there is nothing to "eat". This Bill does not give any provision for representatives. The PS himself should go and sit in that meeting.

Mr. Temporary Deputy Speaker, Sir, with all honesty, the Provincial Administration, which the next Government of FORD(K) is going to dismantle, is causing a lot of havoc. The PC of Nairobi Province is mentioned here. It is true that civil servants are supposed to be politically neutral, but not the kind of crop which we have at the present time. They have been trained and have the experience that they have to be not only loyal, but they ought to participate in the politics of the ruling party. A civil servant, like a PC, with no specialisation, has no business being in a committee like this. We should have more room open for co-opting experts, so that they become part of the liaison committees, both for the province, district and the municipalities.

Mr. Temporary Deputy Speaker, Sir, we are leaving out the most important people on these liaison committees; the elected Members of Parliament. The MPs who are speaking on behalf of the people and look after the interests of the people should be represented in these liaison committees; including the Mayors. In actual fact, I would even go further. Instead of having these liaison committees, we could have a tribunal. We should scrap all these liaison committees and have a tribunal which can sit permanently to look at these problems of physical planning.

The Temporary Deputy Speaker (Mr. Wetangula): Prof. Mzee, are you through?

Prof. Mzee: No, Mr. Temporary Deputy Speaker, Sir. I want to skip some of these Clauses because they have been covered by other speakers. Also when we look at the municipal liaison committee, the DC has no business there.

We should have talked of locally elected representatives on those liaison committees, to be very fair. Now if I can leave all other Clauses and go directly to Clause No. 15.

(hon. Salat and hon. Farah consulted loudly)

The Temporary Deputy Speaker (Mr. Wetangula): Order hon. Salat and hon. Farah.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, Clause No. 14 is like the previous Clauses which says:-

"No Member of a Liaison Committee shall be liable to any action, suit or proceedings for or in respect of any act done or omitted to be done in good faith in the purported exercise of the functions conferred under this Act".

This Clause has no business being there. These people had the opportunity of having prior information which they can misuse. So, if they misuse this information, they should be liable if it can be proved before the law courts. I

will not talk about the period because thirty and fifteen days, as a lot of people have complained, is a very short period of time. I would not like to repeat but what others have said, I have agreed with them that this period given here for the entire country in a place like Kipini or Faza, is too short a period of time to get these appeals done. So I will appeal without going through the details by saying that the number of days which given in here should be revised.

Mr. Temporary Deputy Speaker, Sir, here we come to a very critical point. We come back to the Minister who in the first instance may not have any special knowledge. Let us face it. The Minister may or may not have special knowledge of physical planning. He depends on advisers. His chief adviser is the Director. He appoints the Director and the Director makes a decision. Somebody finds a decision is bad and he appeals to the Liaison Committee on which the Director sits as well. And then he goes back to the Minister whose adviser is the Director again, who will make a final decision. It sounds like Catch 22. It is the same pattern since we are going round and round and coming back to the same pattern in our attempt to appeal and getting things moving. The Minister himself has an adviser and an adviser is the Director who has made the wrong decision in the first place and we are appealing to the Minister. This has to be changed. They say the Minister may reverse, confirm or vary the decision of appeal again. There is no Clause there to say that he gives reasons for his reversal and it becomes political once more. We are coming back again to autocratic rule because we want to centralise all these things by giving all the powers to one man. Everything rotates under that person and appeals go to him in the ultimate end to make a decision. This will not work. That is why I say in order for things to be sensible, all the liaison committees have to be replaced by a permanent tribunal which looks at nothing else but this. It is very important.

Mr. Temporary Deputy Speaker, Sir, I did note that you had said that, there is a term here which I had to go to the experts and ask what it means. This term is in clause 15, sub-clause 3, which says *mutatis mutandis*, which I did not know what it meant, but I was told it means; you cannot do anything except to follow the orders which have been put forward. That you either listen to the director first and then you go to liaison committee, after liaison committee you go to the Minister and after the Minister you go to the High Court. This is what I was told it meant. But as I said, we are going round and round in circles around the same person and that is the director. We are not moving away from the director until we go to the High Court. We should, as Members of Parliament have some experts here who should assist us to understand Bills like this so that we can contribute effectively.

Mr. Temporary Deputy Speaker, Sir, in Clause 16 on page 36, we may have a direct conflict with the Constitution as far as private land is concerned. Clause 16, could go contrary to what is provided for in the Constitution, where private land is concerned.

The Temporary Deputy Speaker (Mr. Wetangula): Which section of the Constitution?

Prof. Mzee: The Chair has taken me by surprise but I am looking through the clause in the Constitution which gives a person the right to own land and to be able to do whatever he wants to do with it. This is Section 75 of the Constitution. Clause 16 might go contrary to Section 75 of the Constitution. I would like those people who drafted this Bill to look very carefully at this clause and to see that private land is protected as private land.

The Temporary Deputy Speaker (Mr. Wetangula): Prof. Mzee, it does not contravene section 75 of the Constitution, but carry on, those are your views.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, I said it may. I am requesting those people who came up with this Bill to look into and make sure that clause 16 does not contradict any part of the Constitution.

The Temporary Deputy Speaker (Mr. Wetangula): The Chair is satisfied that it does not, but carry on.

Prof. Mzee: Mr. Temporary Deputy Speaker, Sir, you are an expert lawyer. Now, if we go to clause 20---

An hon. Member: The Chair is not a lawyer, the Chair is the Chair!

Prof. Mzee: We are fortunate to have a Chair with an expert in law. I will be very, very comfortable if I have a case in court and I am represented by the present Chair.

An hon. Member: Prof. Mzee, you are tired!

Prof. Mzee: I am not tired, I am moving into---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Members, it is now time for the interruption of Business and the House, therefore, stands adjourned until Tuesday, 14th May, 1996 at 2.30 p.m.

The House rose at 6.30 p.m.