

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 17th June, 1997

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The 1997/98 Estimates of the Recurrent Expenditure for the Government of Kenya for the year ending 1998 Volumes I and II and Development Estimates for the year 1997/98 Volumes I and II.

(By the Minister for Finance)

Sessional Paper No.4 of 1997 on AIDS in Kenya.

(By the Minister for Health)

NOTICES OF MOTIONS

NON-APPROVAL OF SESSIONAL PAPER NO.5 OF 1997

Mr. Orengo: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, pursuant to Section 52 of the Guarantee Loans Act, Cap.461, this House declines to approve Sessional Paper No.5 on Government Guarantee of a loan to Kenya Posts and Telecommunications Corporation laid on the Table of the House on 10th June, 1997.

ADOPTION OF SESSIONAL PAPER NO.4 OF 1997

The Minister for Health (Gen. Mulinge): Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, this House adopts the Sessional Paper No.4 of 1997 on AIDS in Kenya laid on the Table of the House on 17th June, 1997.

ORAL ANSWERS TO QUESTIONS

Question No.153

NUMBER OF SUSPECTS SHOT BY POLICE

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

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

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I beg to give the following reply.

- (a) Eighty seven (87) suspects were shot by the police in 1996.
- (b) Fourteen (14) police officers were killed in the course of duty while trying to arrest suspects during the same period.

Mr. Gatabaki: Mr. Speaker, Sir, I must state categorically that the answer given by the Assistant Minister is deplorable. Everybody knows that Kenya has become a police state. Everyday, somebody is shot by police. The other day, we saw that even the street children are not save from police. We are talking about policemen killing policemen, policemen killing their police husbands and so on. Can the Assistant Minister deny that this country is a police state and there are more people killed by policemen than the Assistant Minister has given me? In other words, I am questioning the authenticity of the answer given by the Assistant Minister. There are more Kenyans killed by policemen and more policemen are killed. Can he deny that?

Mr. Sunkuli: Mr. Speaker, Sir, I must begin by denying that Kenya is a police state.

The hon. Member for Githunguri should actually trust the Government because we are the ones who have the figures. The rest exist only in his imagination.

Mr. Wamae: Mr. Speaker, Sir, we are all aware of many incidents of police shooting wananchi or criminals and some innocent people. This is daily occurrence, even in today's newspapers, yesterday and the day before.

So, the figure the hon. Assistant Minister is giving cannot be true. It must be from his own imagination not from the record!

Mr. Sunkuli: Mr. Speaker, Sir, 87 people are very many and that is why I am saying that it is the correct figure.

Mr. Gatabaki: Mr. Speaker, Sir, on Monday, the Human Rights Commission published a document on police violence on street children and police violence to policemen.

Can the Assistant Minister tell Kenyans what is the Government stand on this policy of "shoot to kill" by policemen? Is it still the policy of the police establishment?

Mr. Sunkuli: Mr. Speaker, Sir, there is no such policy like shoot to kill and there is no such directives given to the Kenyan police. But in the exercise of maintaining security in this country, the police must exercise "reasonable force". Sometimes the robbers or the suspects are better armed than the police and the police must meet these suspects with enough force to be able to maintain the security of this country.

Mr. Mulusya: Mr. Speaker, Sir, can the Assistant Minister tell this House and the public at large, why is it that all the cases involving the police or where the police have shot innocent citizens and the Attorney-General has decided that they should be charged for murder and so on, it takes too long to be determined?

Mr. Sunkuli: Mr. Speaker, Sir, I do not know whether the hon. Member for Kangundo knows that that is a proper Question to be directed to the Minister in charge of the Judiciary.

There is a slow process going on in the courts and it is not for me to reply.

Mr. Ndicho: Mr. Speaker, Sir, the Assistant Minister has mislead this House and Kenyans because in 1976, from the Dispatch Box, Charles Njonjo stood there and gave the "shoot to kill" directive. I think it is only in order for him to tell us when that was retracted by the Government? It is still there because Njonjo gave it!

Mr. Sunkuli: Mr. Speaker, Sir, I think a careful perusal of the records will show that Mr. Njonjo is not a Member of this Government.

Question No.070

CANCELLATION OF HARAMBEE PERMIT

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

(a) whether he is aware that Mr. Joseph Mutua, a former student of Kiriti Mixed Secondary School, applied for a permit to raise funds to assist him join a college on 14th October, 1996, and that the application was approved by District Officer Kasarani Division, on 21st November, 1996;

(b) why the same permit was cancelled at the 11th hour vide letter KASS/ADM/15/10 of 29th November, 1996; and,

(c) since Mr. Mutua had incurred huge expenses in organising this Harambee following the laid down procedures, what steps is the Government taking to compensate him for this loss.

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

(a) Yes, I am aware.

(b) The permit was cancelled because Mr. Mutua initially indicated in his application that the guests in his Harambee would be family Members, but later, the DO learned that he was collecting money from the public. Summons by the DO to Mr. Mutua so that he could explain the discrepancies went unheeded. The DO, therefore, had no alternative but cancel the harambee.

(c) The Government cannot compensate Mr. Mutua because he gave erroneous information in his application and failed to turn up to clear the issue with the District Officer when summoned.

Mr. Muite: Mr. Speaker, Sir, the answer given by the Assistant Minister is incorrect. I have here with me

the letter of application and when the Minister says that initially, the applicant had said that the guests of honour were going to be family members, that is not true. This letter clearly says: "The Harambee will be presided over by immediate family members, friends and well wishers." So, the DO knew from the word go that friends and well wishers will be there. The DO confessed privately that the only reason why the Harambee was cancelled was because the guest of honour was a Safina founder member and there were other Safina Members assisting the guest of honour. Can the Assistant Minister own up that, that was the reason why the Harambee was cancelled?

Mr. Sunkuli: Mr. Speaker, Sir, the reason why the Harambee was cancelled was because it stopped being a Harambee and became a Safina function.

Mr. Mulusya: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Assistant Minister to mislead this House and act cheekily by saying the reason was because he gave the wrong information initially and later say it turned out to be a Safina function? Can he tell this House what exactly took place.

Mr. Speaker: Mr. Mulusya, it is not very clear even to yourself as to what you want. Mr. Murungi, proceed!

Mr. Murungi: I wish to thank the hon. Assistant Minister for being honest at least for once, to say that this Harambee was cancelled because it was a Safina function. But the only thing which made it a Safina function was that the guest of honour, Mr. Robert Wafula Buke is a founder Member of Safina. Now, can the Assistant Minister be honest and tell us why they have refused Safina Members the letter refusing to register the party? What are they afraid of? Why are you so afraid of Safina that you cannot even give it a letter refusing its registration?

Mr. Sunkuli: Mr. Speaker, Sir, the hon. Member knows that before Safina is registered, it is still an illegal organisation. It is not yet a registered party.

Mr. Muite: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister who is a lawyer to say that until Safina is registered it is an illegal organisation when he knows that the position in law is that until such time that Safina receives a letter declining to register it, and in fact, the appeal is dismissed, Safina is a legal party? Is it in order for the Assistant Minister to mislead this House?

Mr. Sunkuli: Mr. Speaker, Sir, you do realise that the question which was dealing with a family issue has become a Safina issue.

Mr. Kapten: Mr. Speaker, Sir, the Assistant Minister must be serious. Here is a case where a student wanted a permit to collect money to enable him to proceed with education. The application form has been laid on the Table of this House and it states amongst others, friends and well wishers would be there to assist. Why should a student who wants to collect money to pursue his education be refused a permit simply because one person who is a founder member of Safina is among those well wishers?

Mr. Sunkuli: Mr. Speaker, Sir, what my learned friend should ask hon. Paul Muite is this simple question: "Why should a function which is intended to help a poor person be turned into a political rally?"

Mr. Maore: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to keep on erroneously misleading the House when he knows very well that, what we are talking about here is not a permit? The application was done on 14th November, 1996, the DO gave the license on 21st November and the cancellation was done on 29th December and harambee was scheduled for December 7th. At what stage did turn out to be a political rally?

Mr. Sunkuli: Mr. Speaker, Sir, the hon. Member has not been following the conversation between me and the hon. Members.

Question No.076

ESTABLISHMENT OF A UNIVERSITY

Mr. Speaker: Mr. Nyagah is not here? We will skip that question for now. Next Question, Mr. Shidie!

Question No.439

SCHOOL FEES WAIVER

Mr. Speaker: Mr. Shidie is not here? I will defer that Question.

(Question deferred)

Question No.065

REHABILITATION OF COFFEE AND TEA ROADS

Mr. Murungi asked the Minister for Finance:-

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

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

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

(a) We have in the current budget, 1996/97 Financial year a sum of Kshs350 million allocated for the rehabilitation of access roads to coffee and tea growing areas. The funds are available for implementation by the Ministry of Public Works and Housing. The Ministry does not have Kshs5.7 billion in the Indosuez Bank for this exercise as stated by the hon. Member.

(b) The financing agreement which was to permit the usage of the funds was done on 11th December, 1996 and this is why the amounts have not been used so far.

Mr. Murungi: Mr. Speaker, Sir, I am very surprised by this answer because the Kshs5.7 billion was given to me by the same Assistant Minister in an answer to a Question on the coffee and tea roads last year. All this is in the HANSARD. So, I am very surprised that he is now denying that there is Kshs5.7 billion in Indosuez Bank. I have made my own investigations and the money is in that bank. This money was given by the European taxpayers to help tea and coffee farmers in this country. Can the Minister now tell us where the Kshs5.7 billion which he talked about in around November last year has gone to? The amount he is talking about now concerns Roads 2000 which hon. Kiluta told us about. So, he should not confuse us with Roads 2000. This is a different sum of money. He should account to us the Kshs5.7 billion which he told us about.

Mr. Keah: Mr. Speaker, Sir, the STABEX Agreement has been a continuing process since the negotiations opened, way back in 1993. What we have agreed upon with the European Union is a figure amounting to Kshs700 million which is available, and that is the figure I can talk about. With regard to the Kshs5.7 billion referred to, I am afraid, if he has details of that bank account, and it relates to the European Union STABEX FUND, he can give them to me. I am afraid I do not have that information with me. I will gladly take the information he has so that I can follow it up.

Mr. Murungi: Mr. Speaker, Sir, this is all in the HANSARD and I can give a copy of the HANSARD to the Assistant Minister. He is the one who gave me this figure. Can the Assistant Minister tell this House whether he was telling lies to the House last year when he answered this Question, or whether he is telling this House lies now?

Mr. Speaker: Hon. Murungi, we do not do that in Parliament! Do we?

Mr. Murungi: Mr. Speaker, Sir, let me re-phrase the Question. Can the Assistant Minister tell the House whether he misled the House last year or whether he is misleading the House deliberately now?

Mr. Keah: Neither, Mr. Speaker, Sir.

Mr. Kamuyu: Mr. Speaker, Sir, can the Assistant Minister tell this House who the signatories of this particular account are? Can he also produce a statement to this House as to what happened between November last year up to date, in connection to this controversial figure of Kshs5.7 billion? Can he promise us when he will produce that statement to this House so that his facts and hon. Murungi's facts do not seem to clash?

Mr. Keah: Mr. Speaker, Sir, that is a heavily loaded question. You know very well that, with all due respect, the Treasury is the signatory. It would be really not fair to produce to the House all the bank accounts, including these STABEX account, as demanded by the hon. Member.

Mr. Muite: On a point of order, Mr. Speaker, Sir. I rise on a point of order because this is a serious matter. When a Question is asked in this House, it becomes the property of this House. The hon. Member for Imenti South has said that last year, the Assistant Minister gave an answer in this House which is in the HANSARD, that a sum of Kshs5.7 billion had been given for the rehabilitation of these roads. Today, the Assistant Minister is giving a figure which is different of several hundred millions.

Can hon. Murungi be asked to lay on the Table a copy of that HANSARD? Can the Assistant Minister then clarify to this House whether the figure he is giving today is the correct figure, or whether the figure he gave last year was the correct figure?

Mr. Speaker: Do you have it, hon. Murungi?

Mr. Murungi: Mr. Speaker, Sir, I have it in the car, but I cannot trace my driver. Can I do it tomorrow?

Mr. Speaker: I also cannot trace your driver! Can I?

Mr. Murungi: Mr. Speaker, Sir, I will be ready with the HANSARD statement tomorrow morning.

Mr. Speaker: What is your reaction, hon. Keah?

Mr. Keah: Mr. Speaker, Sir, my reaction is very honourable. If he can remind me of that figure, which I

do not recollect through the HANSARD, I promise to give an appropriate response.

Mr. Kamuyu: On a point of order---

Mr. Speaker: Order, hon. Kamuyu! I think there is a mutual agreement between the hon. Members, that we should have sight of what was said last time. Hon. Murungi, can you bring the HANSARD to the House tomorrow?

Mr. Murungi: Yes, Mr. Speaker, Sir.

(Question deferred)

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

Mr. Speaker: Hon. Kamuyu, I have deferred the Question!

Mr. Kamuyu: On a point of order, Mr. Speaker, Sir. I asked the Assistant Minister a question, which he refused to answer! He did not even refer to it when he stood up to answer. I asked whether he could produce a statement. He did not even refer to that one, or even give a reason as to why. This is so important it cannot just--

Mr. Speaker: That Question is no longer on the Floor! Next Question, hon. Kavisi!

Mr. Kamuyu: I did not hear your ruling!

Mr. Speaker: I said the Question is no longer with us!

Mr. Kamuyu: But he said nothing there!

Mr. Speaker: Order, hon. Kamuyu! I think hon. Kamuyu, you must obey the laws of gravity. Next Question! Is hon. Kavisi there?

(Applause)

Mr. Kavisi: Mr. Speaker, Sir, I thank my colleagues for the applause.

Mr. Speaker: Order! What is it?

Question No. 409

TARMACKING OF MAKUTANO-KITHIMANI ROAD

Mr. Kavisi asked the Minister for Public Works and Housing when the Makutano-Kithimani Road will be tarmacked.

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

There are no immediate plans to tarmac the Makutano-Kithimani Road due to lack of funds. However, this road is priority number one in Machakos District. Since this is the road that I use, I will make sure that it is tarmacked.

Mr. Kavisi: Mr. Speaker, Sir, that kind of reply is very common in this House. It is very unfair for my people in Mwala, who are also taxpayers in this country. However, can the Assistant Minister tell this House how long it will take the Government to implement the decisions of the District Development Committee (DDC)? This is because Machakos DDC recommended the tarmacking---

Mr. Speaker: Can you ask your question?

Hon. Members: Let him continue!

Mr. Speaker: Order!

Mr. Kavisi: This is because the Machakos DDC recommended the tarmacking of this Road in the year 1993. Can the Assistant Minister tell us how long it will take the Government to implement this decision?

(Applause)

Col. Kiluta: Mr. Speaker, Sir, the rules of this House require that maiden speeches should not be interrupted. I think that the hon. Members are violating that rule.

However, since I have got to answer this question, I would like to say the following: The priority for Machakos district was the Kangundo-Nairobi Road, which is now being done, and the second one is the Makutano-Kithimani Road. After the Kangundo Road, we will do the Makutano-Kithimani Road.

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

Mr. Kavisi: Mr. Speaker, Sir---

Mr. Speaker: Order! Hon. Kavisi, when did you ever become hon. Nthenge? Proceed, hon. Nthenge.

Mr. Nthenge: Mr. Speaker, Sir, can the Assistant Minister be frank with us, and tell us why such a very old road has been overtaken by roads which are far much younger?

Col. Kiluta: Mr. Speaker, Sir, I have never known the ages of roads. If he can tell me the "youngest" road which has been done, then I may be able to compare the ages.

Mr. Munyasia: Mr. Speaker, Sir, does the Assistant Minister know that--- I am saying this because I have lived in Machakos District for five years when I was teaching there in the 1970s--- I know the area well. Does the Assistant Minister know that people of Mbuyuni and Mwala when they are going to the district headquarters which are located in Machakos during the rainy season like now, have to go through Thika Town or Nairobi? In view of the Government's policy of bringing the administration closer to the people, why then does this Assistant Minister not take this as an urgent matter to tarmac this road during the next Financial year?

Col. Kiluta: Mr. Speaker, Sir, I think the hon. Questioner's information is outdated. I used the same road last week on Monday and it was in very good motoring condition.

Mr. Ndilinge: Mr. Speaker, Sir, arising from what the Assistant Minister has told the House, could he tell us whether his Ministry has set aside some money for this road? This is because according to what the Questioner said, Makutano-Mbiyuni road was discussed by the DDC in 1993 and given the first priority. Is he trying to tell the House that since 1993 up-to-date, nothing has been done concerning roads in Machakos district?

Col. Kiluta: Mr. Speaker, Sir, in due respect to my hon. friend, if he only listened to what I said, I said that priority number one in Machakos district was Kangundo-Nairobi road which is under construction and will be completed towards September. Makutano-Mbiyuni road is priority number two and it will be done after the Kangundo road.

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

Mr. Speaker: Order, Mulusya! Order, Ndilinge!

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

Mr. Speaker: What is your point of order?

Mr. Mulusya: Records must be set straight. The hon. Assistant Minister is misleading this House deliberately. Kangundo-Nairobi road is being recarpeted. There is no new construction taking place on that road at all and he hails from that area. The DDC of which he is a member had prioritized---

Mr. Speaker: Order, Mulusya! I do not think you are inviting me to send the two of you to go and check the road.

Question No.115

NUMBER OF LAWYERS EMPLOYED BY CITY COUNCIL

Mr. Ruhiu, asked the Minister for Local Government:-

(a) how many lawyers and advocates are employed by Nairobi City Council and what are their salaries and allowances;

(b) how many other lawyers have been contracted by the Council to do legal work and what are their names; and,

(c) how much revenue has been collected by these contracted lawyers and not remitted to the Council

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

(a) The Nairobi City Council has employed eight Counsels namely:-

(i) One Assistant Town Clerk (legal)

Salary £10,155 - £15,867 per annum House Allowance Kshs5,300 per month

Non-practising allowance - Kshs4,000 per month.

(ii) Two Principal Counsels

Salary - £8517 - £12,303 per annum

House Allowance - Kshs4,000 per month

Non-practising allowance - Kshs4,000 per month.

(iii) Five counsels

Salary - £7,059 - £10,443 per annum

House allowance - £Kshs3,300 per month

Non-practising allowance - Kshs4,000 per month

(b) The Council has contracted twenty four other lawyers to assist in the legal work of the Council. These

were contracted during/after 1996.

These are:-

1. Kipkenda & Chebet Advocates
2. Kenta Motalele Advocate
3. Oronga Esonga & Co. Advocates
4. Njora Waweru Advocates
5. Oraro & Rachier Advocates
6. Salim Dhanji Advocates
7. Mugambi & Co. Advocates
8. Mutakha Onduso & Lutta Advocates
9. Kamande & Co. Advocates
10. Kahari & Kiai Advocates
11. Mburu and Co. Advocates
12. C.J. Kittony Advocates
13. Njoroge and Musyoka Advocates
14. Ngatia & Associates Advocates
15. Lucy Njiru Advocates
16. Surefa Chana & Co. Advocates
17. Kimani Waweru & Co. Advocates.
18. Okunga & Co. Advocates
19. Nancy Baraza Advocates
20. Paul Mwangai Advocates
21. Kyalo Mbobu & Co. Advocates
22. J.M. Mugo Advocates
23. Iseme & Kamua Advocates
24. Winnie Kamande Advocates

(c) Before 1995, the Council had contracted the following law firms to do legal work for it. The legal firms were to collect Kshs716,135,643.60 in form of revenue for the Council. They have not surrendered nor remitted the money to the Council.

| <u>(i) Name of Law Firm</u> | <u>Amount to Collect (Kshs)</u> |
|---------------------------------|---------------------------------|
| 1. M/S Njoroge & Musyoka | 122,503,286.75 |
| 2. M/S Mereka & Co. | 354,348,802.35 |
| 3. M/S Amolo & Gacoka | 36,155,830.85 |
| 4. M/S Meenye & Co. | 43,510,820.60 |
| 5. M/S Musyoka & Wambua | 22,187,584.60 |
| 6. M/S A.G.N. Kamua & Kimani | 6,103,055.30 |
| 7. M/S Geda & Co. | 4,220,653.10 |
| 8. M/S Mwinga & Co. | 7,925,152.30 |
| 9. M/S Mjogu & Ngugi | 3,835,850.10 |
| 10. M/S F.O. Abaja & Co. | 1,684,699.10 |
| 11. M/S V.A. Nyamodi & Co. | 1,973,942.05 |
| 12. M/S Otieno Piacha & Co. | 2,379,164.80 |
| 13. M/S Hayanga & Co. | 3,275,441.55 |
| 14. M/S Kiragu & Co. | 3,275,441.55 |
| 15. M/S Waruinge & Waruinge | 855,123.60. |
| 16. M/S Musyoka Annan & Co. | 409,726.80 |
| 17. M/S Kirundi & Co. | 3,162,294.00 |
| 18. M/S Kembi & Muhia Co. | 11,728,517.55 |
| 19. M/S Kagia & Gitura Co. | 13,419,259.00 |
| 20. M/S Kembi Gitura & Co. | 9,920,033.85 |
| 21. M/S Kaburu & Co. | 9,259,155.40 |
| 22. M/S Onalo & Co. | 11,816,691.55 |
| 23. M/S G.E.O. Oluochi & Co. | 6,279,360.00 |
| 24. M/S Mbari Kioni & Co. | 16,468,995.90 |
| 25. M/S Lumumba & Ojwang' & Co. | 722,380.75 |

26. M/S A.L. Shiganga & Co. 6,133,197.25
716,135,643.60

Mr. Speaker, Sir, the Council has found it extremely difficult to establish exactly how much money the advocates have collected partly due to their dishonesty and partly due to the poor records kept by the Council in respect of the collections.

Mr. Ruhiu: Mr. Speaker, Sir, I will be very brief because the hon. Assistant Minister's reply has been a lengthy one. The amount being collected by the lawyers is not a little amount of money, but monumental. He has answered part "c" of the Question in relation to how much revenue they were asked by the Council to collect. I asked the Assistant Minister how much money they have collected so far, not how much revenue they were asked to collect. Can he tell this House how much money these lawyers have collected so far and remitted to the Council? How much money were the lawyers, who were contracted in 1995, supposed to collect in 1996?

Mr. Kamuren: Mr. Speaker, Sir, the money that I have already indicated before the House is the amount of money collected by the lawyers---

Mr. Speaker: Order! Order! I think we can get this thing very quickly out of them. What Mr. Ruhiu is asking is: Of the Kshs716,135,643.60 which the Council asked the various lawyers to collect, how much of that has been collected and remitted to the Council todate?

Mr. Kamuren: Mr. Speaker, Sir, that is quite a simple question. The money that has been collected and remitted to the Council has not been indicated.

Mr. Manoti: Thank you, Mr. Speaker, Sir. This money has been collected from 'Nairobians' who have been denied their essential services because these lawyers have refused to remit this money to the Council. Since the Attorney-General is here, could he take up this matter and take these people to court?

(Applause)

Mr. Kamuren: Mr. Speaker, Sir, that is quite a valid supplementary question. Since they have not remitted this money, action is now being taken by the Ministry, to make sure they remit the money immediately.

Dr. Otieno-Kopiyo: On a point of order, Mr. Speaker, Sir. The Assistant Minister has said that it is very difficult to find out how much money has been collected by these lawyers and remitted to the Council because of poor records. Where did he get the records from of the list he gave us?

Mr. Kamuren: Mr. Speaker, Sir, the records are in the file.

(Laughter)

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, arising from the answer by the Assistant Minister to hon. Dr. Otieno-Kopiyo's point of order, could the Assistant Minister tell the House how much money the lawyers are supposed to be given by the City Council in order to collect this revenue because there might be a very low incentive by the City Council to these lawyers to collect this revenue and that is one of the reasons why the lawyers are not doing any work, anyway? Secondly, if the lawyers have not collected the money and given it to you, what authority did you have to take them to court? You are already taking them to court on what basis?

Mr. Kamuren: Mr. Speaker, Sir, the lawyers have been asked by the Ministry to surrender all the money they have collected to the Council. If they do not do it within a certain specific period of time, then the Attorney-General would be referred to assist us to make sure the lawyers are given that chance to remit the money.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. In the first place, some time last year, this same Question came up in the House and the hon. ole Ntimama gave us exactly the same answer and made an undertaking that the Ministry would take swift action to get the money recovered. Today, we are hearing nothing about that. But in any case, can this Assistant Minister now tell us whether those lawyers have been paid and whether they still retain their services in spite of this fraud?

Mr. Kamuren: Mr. Speaker, Sir, there is no lawyer who can work without payment. The lawyers have been paid and that is why they have been told to surrender all the money collected to the Council.

Mr. Speaker: Mr. Owino-Achola's Question.

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

Mr. Speaker: Order! Order! Mr. Kamuyu, when you are called to order, you are obligated to be orderly. There is no amount of your persistence will force the Chair to do what the Chair does not want. So, would you, please, remain orderly! I have given a fair amount of time to this Question, it is time for us to proceed. Next Question.

Mr. Kamuyu: On a point of order, Mr. Speaker, Sir. You have noticed that part "c" of this Question was not answered at all, especially in relation to the amount of money remitted to the Council. May I, through the Chair, request that this Question be deferred until such a time when the Assistant Minister has an answer because he has also indicated that he did not have enough time to do research because the records were not kept well? This is a very sensitive matter to the people of Nairobi.

Mr. Kamuren: Mr. Speaker, Sir, I have already answered part (c) of the Question.

Mr. Speaker: Order! Order! I think to the best of my hearing, the Assistant Minister did say, in reply to part(c), that there was no amount indicated as remitted. Mr. Owino-Achola's Question.

Question No.054

INVESTMENT POLICY OF NSSF

Mr. Achola asked the Minister for Labour and Manpower Development:-

- (a) if he is satisfied that the investment policy being pursued by the National Social Security Fund (NSSF) is beneficial to the majority of contributors to the Fund; and,
- (b) what the investment portfolio of the Fund is.

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Speaker, Sir, I beg to reply.

(a) I am satisfied that the investment policy being pursued by the NSSF is sound and beneficial, not only to the majority of contributors, but to all contributors.

(b) The investment portfolio covers the following broad categories: Government securities, bank deposits, stock market securities and real estate.

Mr. Achola: Mr. Speaker, Sir, let me say from the onset that I have a little respect for the Minister who has just attempted to answer the Question, but I have no respect whatsoever, for this rotten and entirely corrupt Government. How can he say that he is satisfied that the investment policy of the NSSF is correct when, for example, over 60 per cent of all the investment funds of the Fund are spent on overvalued land?

Mr. Speaker: Will you put the question now?

Mr. Achola: Yes, I will put it and it is a very serious one. What I am saying is that he cannot be satisfied under the circumstances which I am just about to mention. For example, the Fund spent Kshs180,940,000 on a piece of land which it bought from a corrupt individual, whose value at that time was only Kshs21 million. Could the Minister tell this House how that can be beneficial to the workers of this country?

Workers are going without tenant-purchase houses when their funds are being misused by a few corrupt Government officials!

Mr. Masinde: Mr. Speaker, Sir, the hon. Member asked me whether I was satisfied. I said I was, and, therefore, he cannot force me to say that I am not. However, as far as the investment portion of the Fund is concerned, this is decided by the Board of Trustees. Among the trustees are representatives of the workers, who are the contributors, and the employers. If they think that, that is the best way to invest within the legal framework, why not allow them to do that?

Mr. Akumu: Mr. Speaker, Sir, I have respect for the Minister, but let him not destroy that respect. He has made statements elsewhere to the effect that he is amending the NSSF Act because of misuse of the funds of the Fund. For example, View Park Towers Building, which was bought with NSSF funds, is nearly collapsing. He knows that he and I have discussed the land question. Can he agree that he is not satisfied and that is why he is amending the NSSF Act in Parliament?

Mr. Masinde: Mr. Speaker, Sir, the Act is being amended so that the Fund can benefit the contributors more than it is doing at the moment. Also, if we convert the Fund into a pension scheme this will assist the contributors. This is because instead of getting lumpsums and, probably, squandering it and eventually ending up without money, they can be paid on a monthly basis until they die. So, the Act is not being amended because the funds are being misused.

Mr. Manoti: Mr. Speaker, Sir, it is known that the NSSF has spent a lot of money in some projects which are not viable. Can the Minister tell us how the contributor will benefit from those investments?

Mr. Masinde: Mr. Speaker, Sir, I do not know of any project that is not viable. I think all the projects that we have are viable.

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. Is the Minister not deliberately misleading this House by saying that he does not know of any projects that are not viable? Can he tell the House what is viable about Mr. Stanley Githunguri selling plots at Embakasi to the NSSF for Kshs1.2 billion when the plots were worth about Kshs20 million? What is viable about that?

Mr. Masinde: Mr. Speaker, Sir, unfortunately, I was cut short before I gave the full answer to the previous question. If we were not making money we would not be able to give 15 per cent interest to each contributor as we are doing now. Also, as far as I am concerned the amount of land which was bought is being developed. We will continue developing the remaining amount of land as and when decided by the trustees.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, this is a very important Question. Hon. Achola has asked the Minister whether he is satisfied with the investment policy being pursued by the NSSF, and he said that he is satisfied. Can I ask the Minister a very simple question: On what factors does he base his satisfaction? Can he tell the House how much returns the NSSF gets from its investments, and hence whether from his own calculation he is satisfied that they are getting enough returns for their investments?

Mr. Masinde: Mr. Speaker, Sir, I think that a large part of that question was answered here when I said that we are able to give 15 per cent interest to each contributor. As far as I am concerned, there is always room for improvement. We are definitely going to improve on the investment. In fact, I hope hon. Members will help me when we begin debating amendments to the NSSF Act so that we create a new NSSF.

Mr. Achola: Mr. Speaker, Sir, I would like the Minister to confirm or deny whether the NSSF is really not operating like a satan's bank for all the corrupt officials of various parastatals. For example, land grabbers have been offering land to NSSF at an overvalue. Can he deny that the Fund is a satan's bank rather than an instrument for the assistance of the workers in this country?

Mr. Masinde: Mr. Speaker, Sir, I do not know whether it is a satan's bank. I have never seen any satan's bank anywhere or heard of one.

Question No.146

IMPLEMENTATION OF PIC REPORTS

Dr. Otieno-Kopiyo asked the Attorney-General how many parastatal executives have been arraigned before courts of law in implementation of the Public Investments Committee's Fourth and Fifth Reports.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to reply.

The Public Investments Committee's (PIC) Fourth and Fifth Reports did contain recommendations on certain corporations to the effect that the Attorney-General be furnished with information and documents to enable him to investigate with a view to prosecution where sufficient evidence was disclosed.

By letters dated 11th July, 1994 and 19th June, 1995 the Attorney-General asked the Auditor-General (Corporations) for detailed briefs together with supporting documents against each recommendation on all the matters contained in the 4th and 5th Reports, respectively, and on which the Attorney-General was asked to act. The Auditor-General (Corporations) replied by letters dated 24th November, 1994 and 26th October, 1995, respectively. Except where the Auditor-General (Corporations) informed the Attorney-General that the matters had been resolved, the Attorney-General, in terms of Section 26 of the Constitution, directed the Commissioner of Police to investigate the said matters and let him (the Attorney-General) have the investigation report.

The Attorney-General received the report on Alfred Birgen, the then Chief Executive of the Tana and Athi Rivers Development Authority (TARDA) and as there was *prima facie* evidence, the Attorney-General authorised prosecution. Mr. Birgen was prosecuted, convicted and sentenced to three years imprisonment.

I understand from the Criminal Investigations Department (CID) that other matters are at various stages of investigation.

Let me assure this august House, that as and when the Attorney-General receives an investigation file on his desk on these matters from the Police Department which disclose credible and *prima facie* evidence sustainable in a court of law, he will authorise prosecution without fear or favour.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, the Attorney-General is once more, doing what he knows best; speaking very well, but really saying nothing. This Mr. Alfred Birgen who is being quoted as the only example of a corrupt official who has been prosecuted was prosecuted because he disagreed with one Nicholas Biwott, not because he stole anything. Indeed, he is the only official who paid back the money.

There are nine people whose names have been submitted to the Attorney-General. How many of those nine people have been prosecuted?

The Minister of State, Office of the President (Mr. Biwott): On a point of order, Mr. Speaker, Sir. Is hon. Dr. Otieno-Kopiyo in order to drag my name in something which I have nothing to do with, and can he substantiate? Can he lay the facts on the Table? I would suggest that he should desist from dreaming about Biwott all the time.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, once upon a time, Mr. Alfred Birgen was---

Mr. Speaker: Order, Dr. Otieno-Kopiyo! Can we keep our own ideas of each other outside this House? I will not allow hon. Members to go personal in this House. More often than not, if we were to allow that to happen, hon. Members will throw mud at one another, irrespective of the factual accuracy of their statements. In any case, it is a procedure of Commonwealth Parliaments that hon. Members treat each other with due respect and dignity, and that debates shall never be personalised. So can we have that rested there?

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, I am grateful to you for that ruling. It just so happens that the PIC Report is a report of this House and it contains facts and figures, and there is nothing that I have brought from my own personal memories to this Question here.

Now, the Attorney-General has refused deliberately to prosecute people. We have given him nine names, including Messrs. Paul Ndarwa, Kipng'eno arap Ng'eny, Philip Mulei, Cyrus Maina, Lawi Kiplagat, Fred Wafula, George Lusweti, Philip Magut, Mr. Ahmed Yusuf, and the former Permanent Secretary for Lands and Settlement, Mr. Josiah Sang. What is he doing about these others? Is he afraid of them because they are connected with the people who hired him?

Mr. Wako: Mr. Speaker, Sir, as far as Mr. Birgen is concerned, the Attorney-General only looked at the file, there was *prima facie* evidence, he authorised prosecution, he was convicted and sentenced. As far as these other persons are concerned, I will refer the Questioner to the letter I wrote to the Deputy Leader of Opposition, Hon. Orenge, where I touched on the detailed action that the Attorney-General had taken on each and every of those cases. But just to mention a few, if you are talking about the Kenya Posts and Telecommunications Corporation, the Attorney-General instructed the police, by letter to investigate those matters on 5th September, 1996.

An hon. Member: What is the outcome?

Mr. Wako: I have not got the investigation file yet. If you are referring to Nzoia Sugar Company Ltd., the Attorney-General wrote the letter, under Section 26 of the Constitution, to the Police on 1st February, 1995. It must be recognised also that there could be difficulties with the police because some of the documentations may or may not be there.

As far as Nzoia Sugar Company Ltd. is concerned, the good part of the Government is this: That the events that occurred later, particularly, those which arose as a result of a Special Audit last year, for example, ended in the key officials of Nzoia Sugar Company at that time, being charged before the Kakamega court. The key officials include the Managing Director, the Factory Manager, the Engineering Manager and the Chief Accountant.

Again as a result of further investigations in this matter, only this year, there was another criminal case on Nzoia Sugar Company. So, on matters which are current, we are moving fast, on matters which are past, sometimes the investigations can encounter difficulties.

Mr. Kituyi: On a point of order, Mr. Speaker, Sir. Is the Attorney-General in order to mislead this House to use the matter of persons who have been charged on a recent happening in Nzoia as an excuse not to implement the recommendations of the Committee of Parliament in an earlier matter regarding an earlier management team? The Attorney-General is talking about a team that was managing Nzoia after the team which was supposed to be charged for theft. He is talking about the team which was recommended by the PIC Report.

Mr. Speaker: Very well, can you give him chance?

Mr. Wako: Mr. Speaker, Sir, as usual, if the hon. Member had listened very well to my answer, he would have heard me say that the other matter is not excused. The other matter is still being investigated, and the Attorney-General has already instructed the Commissioner of Police to investigate. Why did I talk about this one? I talked about this one to show this august Assembly that at times events that happened a long time ago can have difficulties in investigations. When the matter is current, and this one is current since it relates to 1996-97, the police do move with due speed and the key officials of Nzoia Sugar Company are charged and are facing charges before the court today.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, the Attorney-General has appeared before a Committee of this House and informed us more or less along the same lines what he is telling Parliament now. How many letters has he written to the Commissioner of Police and on how many occasions has the Commissioner taken action?

Mr. Wako: Mr. Speaker, Sir, I do not have the figures, but what I can say is that I do send reminders to the Commissioner of Police from time to time, and they do tell me of the stage of investigations. That is why my answer here was how many people have been arraigned before the court. You cannot arraign people before the court before investigations are complete.

Mr. Speaker: I will give the final Question to Mr. Mak'Onyango.

Mr. Mak'Onyango: Mr. Speaker, Sir, in accordance with the adage that justice delayed is justice denied, would the Attorney-General agree with me that it has taken long for some of these cases to be investigated and

appropriate action taken? What action is he taking to ensure that the needful is done within appropriate time so that there is no delay because a delay means a great deal of losses to this country?

Mr. Wako: Mr. Speaker, Sir, actions are being taken on many fronts. As members of the Public Investment Committee would be aware, part of the problem is that the audited reports are reports which relate to years gone by. So by the time they come to the attention of the Attorney-General or even of the Auditor-General (Corporations), a number of documents have been lost, and the people involved have since ceased to be in employment and so on. So, really we must increase the capacity of the Auditor-General (Corporations) to carry out his audits in a very tenuous manner.

Secondly, we have more or less agreed with the Auditor-General (Corporations) that in the course of his auditing, if he comes across any suspicious matters, he can refer them to us so that we can carry out investigations immediately.

Thirdly, the Government is increasing the capacity of the police to investigate.

Fourthly, the Task Force on Penal Laws and Procedures is going into this issue of economic crimes.

Hon. Members: Ah!

Mr. Speaker: Mr. Norman Nyagah's Question for the Second Time!

Mr. P.N. Ndwiga: Mr. Speaker, Sir, I would like to ask the Question on behalf of Mr. Nyagah.

Mr. Speaker: Do you really have permission? You are not even aware of the Question!

Question No.076

ESTABLISHMENT OF A UNIVERSITY

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

(a) bearing in mind the importance of higher education in national development, whether he could consider establishing a University in Eastern Province by upgrading Kangaru High School, Kangaru Girls' School, Embu Agricultural Research Station and Kigari Teachers Training College; and,

(b) how many students from Eastern Province have been enrolled into the five public universities from 1988 to 1995.

The Minister for Education (Mr. Kamotho): Mr. Speaker, Sir, first of all, I wish to apologize because I was not here in time.

Mr. Speaker: He was not here either!

The Minister for Education (Mr. Kamotho): Thank you, Mr. Speaker. Secondly, I would like to ask the indulgence of the House to allow me to answer this Question next time because the information I have is both unsatisfactory and inadequate.

Mr. Speaker: Very well. I will defer the Question to next week.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

BOYCOTT OF DEVELOPMENT ACTIVITIES

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

(a) Why did the Nyamira District Commissioner, the District Officers for Manga and Rigoma Divisions and all Chiefs and Assistant Chiefs in Kitutu Masaba boycott the Harambee for Kitutu Masaba Women and Youth Groups held at Tombe Primary School on 6th June, 1997 and conducted by the Abagusii Members of Parliament?

(b) What action has he taken against the District Commissioner, District Officers and the Chiefs for the boycott and sabotage of the development activities and initiatives of Members of Parliament?

(c) What is the policy of the Government with regard to the participation of the Provincial Administration in the development initiatives of Members of Parliament on both sides of the House?

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I beg to give the following reply.

(a) The District Commissioner sent the District Officer, Manga Division, to represent him during the function.

(b) Arising from my reply in "a" above, part "b" therefore, does not arise.

(c) Provincial Administration plays a co-ordinating role in all development activities within their areas of jurisdiction.

Mr. Anyona: Mr. Speaker, Sir, that answer confirms that this Government is bent on marginalising the Gusii Community. How can the Assistant Minister say that the DC sent the DO of Manga Division to represent him, when he knows that the DC set up a network of rumours that there was no permit issued for that Harambee? The DO, Manga Division on Madaraka Day, made a public announcement that: (a) there was no permit (b), that anybody who attended that meeting would be arrested and (c), on the day of the meeting---

Mr. Speaker: Order! Dr. Kituyi, what is it?

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. It is difficult to follow what is happening. I think there is something defective about the public address system. We are hearing some other conversations going on through the public address system.

Mr. Speaker: Which conversation?

Dr. Kituyi: You should ask somebody to tell me.

Mr. Speaker: Dr. Kituyi, I do not know. Order! I asked the Member what is happening because, as all Members know, I have no speaker next to my ears. So, when I ask you "which conversation?" you should assist the Chair. Can I ask the officers who check the public address system to make sure that these facilities are primarily for the House and Members, and that there should not be any unauthorised interruption.

Mr. Anyona: I do not know whether what I said went on record in view of what hon. Dr. Kituyi has said.

Mr. Speaker: Proceed with your question, Mr. Anyona.

Mr. Anyona: Mr. Speaker, Sir, what I was saying is this: The DC Nyamira, Mr. Gakuo himself, set up a network of rumours that there was no permit inspite of the fact that the permit had been issued. Secondly, the DO, Manga Division, the one the Assistant Minister is talking about, on Madaraka Day, made a public announcement that: (a) that there was no permit, (b) that anybody who attended that meeting would be arrested and (c), on the day of the meeting the DC, the DO and the Chiefs stopped the members of the public from putting up a dais and they threatened people in the tea factory and the schools managements not to provide chairs and anything for the meeting. When the meeting had started, and it was half-way through, the DO emerged and when we told him to sit next to the guest of honour, he declined and sat somewhere at the back and was furiously taking notes. Can the Assistant Minister tell us whether this Government is interested in and cares for the Gusii people or not, so that we can make a decision? You were saying that we were going to make a declaration at Tombe, we are going to make one but, can you tell us if the Government is interested in our people or not?

Mr. Sunkuli: Mr. Speaker, Sir, what I can say is only what is within my knowledge. I do know, as a fact, that a permit was issued for the meeting. Also, I do know, as a fact that, that meeting was well attended and that there was nobody who was arrested in the meeting. The Government is interested in developing all parts of this country.

Mr. Obwocha: Mr. Speaker, Sir, the answer given by the Assistant Minister is very misleading to this House. We have held three joint Harambee meetings in Kisii, involving all Members of Parliament from the Gusii community. One was held at Marani which the DC failed to attend, the other one at Ekerenyo which he refused to attend. This one also which hon. George Anyona is asking about which was held at Tombe, he refused to attend. Now, there is an harambee in my constituency scheduled for 27th, June, 1997 but he has already moved a DDC meeting which was scheduled to take place on Monday to be on Friday so that he has an excuse not to attend. Can this Assistant Minister transfer that DC from Nyamira because he is frustrating development efforts in Nyamira?

Mr. Sunkuli: Mr. Speaker, Sir, the hon. Member is creating an impression that the District Commissioner must attend Harambees. The District Commissioner's sole responsibility, with respect to those Harambees is to license them, and to ensure that there is security in those Harambees. Beyond that, everything else is voluntary and a matter of courtesy.

Mr. Ndicho: Thank you very much, Mr. Speaker. What we are getting from Kisiiland is very interesting because where you get a Cabinet Minister attending an harambee or even an Assistant Minister, a DC always attends such Harambees. Can the Assistant Minister now tell us why in this particular instance the DC refused, on those three occasions particularly this one which is quoted in this question? He refused to attend this particular harambee knowing very well that the Minister, hon. Simeon Nyachae, was there. Are you not considering him now as a Cabinet Minister in your Government?

Mr. Sunkuli: Mr. Speaker, Sir, all of us hold Harambees and I hardly see my District Commissioner attending Harambees. It is very important to know that the DCs of this country do not have to attend Harambees, they do attend on a voluntarily basis and there--

Mr. Ndicho: No! The Assistant Minister is misleading this House.

Mr. Sunkuli: Mr. Speaker, Sir, if the hon. Member can allow me to complete this statement. I am not misleading, I am saying that the District Commissioners do not have to attend the Harambees. What does happen is that the DC does have his programmes and the politicians of the District do have their own programmes. If the

convenience of duty allows the DC to attend, he does attend, but that is a matter of policy.

Mr. Anyona: Mr. Speaker, Sir, the Assistant Minister is misleading the House. First of all, he is generally talking about District Commissioners. In this case, we are talking about the DC for Nyamira, Mr. John Gakuo. He is saying that the DC does not have to attend these meetings. How come yesterday when a KANU meeting was organized by groups of rejects at Nyambaria, the DOs, chiefs and the DC were there?

Mr. Sunkuli: Mr. Speaker, Sir, when I said that the DC does not have to attend Harambee, I did not mean that he is excluded from them.

Mr. Speaker: Question No.2 by hon. Mwiraria is deferred.

ARREST OF HAWKERS

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

(a) Why has the Police been arresting hawkers in Meru Municipality almost on a daily basis during the last fortnight?

(b) Since many of the hawkers have been carrying out their business in the municipality for the last ten(10) years or so, what corrective action, if any, are they required to take so that they continue with their business uninterrupted?

(Question deferred)

SEALING OF JAMIA LANE

Mr. Maore: Mr. Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that half of Jamia Lane, adjacent to MacMillan Library, has been sealed off by a private developer?

(b) Who is the said developer(s) and under what circumstances was the lane allocated?

(c) What urgent and comprehensive measures has the Minister taken to repossess all public utility plots in all residential and commercial areas as well as road reserves for proper planning or urban centres?

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

(a) I am aware that part of Jamia Lane adjacent to Macmillan Library has been sealed off by a private developer.

(b) The developer, Jamia Mosque Committee, P.O. Box 40629, Nairobi, has been allocated Jamia Lane temporarily, not permanently to undertake construction of a mosque and associated facilities on their adjoining plot L.R. No. 209/10328 as per approved building plans Reg. No.D045 and DC 407. It is mandatory for all construction works taking place in the Central Business District (CBD) or any other urban areas where security of people or pedestrians and properties would be threatened to construct hoardings. Construction of such hoardings sometimes entails using parts of streets, roads, lanes *et cetera* adjoining the plot under construction.

(c) My Ministry will endeavour to work very closely with the Ministry of Lands and Settlement local authorities and any other Ministries to repossess all illegally allocated plots or land and to ensure that in future such allocations are done in accordance with the laid down procedures.

Mr. Maore: Mr. Speaker, Sir, there are eight parking meters and all of them are not in use because the whole lane has been sealed of. Can the Assistant Minister table in this House the letter authorising the temporary allocation of this lane? What appears there is nothing temporary. In relation to part "c" of my Question, can the Assistant Minister take specific measures to ensure that public land in form of road reserves, private land and so on are not taken away? This is a statement coming from a political podium and not a statement to the House. **Mr.**

Kamuren: Mr. Speaker, Sir, I do not have that letter and if there is any area which has been interfered with along the road side, then that will be looked into by Nairobi City Council. **Mr.Mbeo:** Mr. Speaker, Sir, is the Assistant Minister aware that the Jamia Mosque group has already paid Kshs16 million as down-payment as 10 per cent of the Kshs160 million for that particular plot which is supposed to have been given to them temporarily? If that is the case, why is the allocation temporary when they have actually bought it and the lease agreement has already been signed?

Mr. Kamuren: Mr. Speaker, Sir, I have no record of any payment being made by the Jamia Mosque group on this particular plot.

Mr. Mbeo: On a point of order, Mr. Speaker, Sir. The Assistant Minister has just said that he has no knowledge of any payment that has been made in relation to this plot. Is it in order if I produce documents tomorrow to

prove that this particular plot has already been bought by Jamia Mosque? Do you authorise me to do that?

Mr. Kamuren: Mr. Speaker, Sir, if the hon. Member can produce the document, then I will look into it.

The Assistant Minister for Commerce and Industry (Mr. Galgalo): Mr. Speaker, Sir---

Mr. Speaker: Mr. Galgalo, you want to ask a Question and yet you are an Assistant Minister?

The Assistant Minister for Commerce and Industry (Mr. Galgalo): I want to rise on a point of information.

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

Mr. Maore: Mr. Speaker, Sir, the Assistant Minister's statement was to the effect that he is not aware of anybody encroaching on the lane. My Question was very specific, it referred to Jamia Lane. It is a lane which is supposed to be two-way; left and right. The Assistant Minister has just said that he is not able to allocate a public road. So, can he clarify what he meant by that statement?

Mr. Kamuren: Mr. Speaker, Sir, this plot is allocated to Jamia Mosque and the lane that the hon. Member is talking about has been taken care of.

Mr. Salat: Mr. Speaker, Sir, the plot that Jamia Mosque bought is on Kigali Lane which is occupied by the curio dealers. That is not the plot which is in question now. What the hon. Member is asking is the Jamia Lane, that is, the entrance to Jamia Mosque. That lane has been closed down by the developer because Jamia Mosque is under construction. Nobody has allocated that piece of land to anybody.

Mr. Speaker: Mr. Maore, you have been adequately answered by your colleague.

Mr. Maore: On a point of order, Mr. Speaker, Sir. I did ask the Assistant Minister to lay before this House a document authorising the temporary allocation of Jamia Lane. He has said he has one.

Mr. Speaker: Is there such a document? As a matter of law, is there such a document? Next Question!

ESTABLISHMENT OF IDASSA GODANA RANCH

(Mr. Kofa) to ask the Minister for Lands and Settlement:-

(a) Is the Minister aware that the six Kilometres of the western bank of River Tana in Ndera Location of Tana River District has been converted into a ranch called *Idassa Godana Ranch* and that all the villagers living within this ranch have to vacate their premises since they have been made squatters?

(b) Is he further aware that members of this ranch have obtained a 90 year lease from the Government and that they are negotiating the sale of this ranch with Kenya Wildlife Service (KWS) for Kshs.1 million?

(c) Could the Minister take urgent steps to stop the imminent sale of this ancestral farm land and save the villagers undue evictions?

Mr. Speaker: Mr. Kofa not there? Next Order.

(Question dropped)

POINT OF ORDER

MINISTERIAL STATEMENT SOUGHT: DEATH OF MR. KIBUCHI

Mr. Gitonga: Mr. Speaker, Sir, I rise on a point of order to demand a Ministerial Statement from the Minister of State, Office of the President in charge of security with regard to an incident which took place the day before yesterday at Kijabe. This is highlighted in today's dailies. A senior police officer shot dead a Mr. Kibuchi while they were drinking in a bar. The police officers were also drinking in that particular bar. This man who was shot dead by the police is a father of four. In addition to that, the police later robbed the dead man of Kshs60,000, not Kshs40,000 as indicated in the newspapers.

Yesterday, I visited the scene of the incident and this morning I visited the parents' home and his wife. The story given in the newspapers and what I have gathered appear to be true. Would the Minister of State issue a Ministerial Statement to clarify why this man was murdered in cold blood by police officers? It is important that we know what the police are doing because they are supposed to protect the citizens of this country.

BILLS

Second Reading

THE NATIONAL CRIME RESEARCH CENTRE BILL

*(The Attorney-General on 10.6.97)**(Resumption of Debate interrupted on 12.6.97)*

Mr. Speaker: Who was on the Floor? Mr. Ndicho.

Mr. Ndicho: Mr. Speaker, I was just concluding my contribution because I know my colleagues also want to contribute to this important Bill, about establishing a research centre on the causes of crime in this country and how to prevent it. I had talked about ways and means of controlling crime. I had just said that the Government has started---

(Loud consultations)

Mr. Speaker, Sir, there is a lot of loud consultation among the Members.

I was just saying that the Government has done a commendable job of establishing the National Youth Development Fund which is going to help the youth of this country to get money and start doing jobs, so that they are not going to be---

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): On a point of order, Mr. Speaker, Sir. I do not want to interrupt my hon. friend, but I think there is a problem today in this House as far as the communication system is concerned, because there are some whispers that can be heard. I am not sure whether we are safe in this House today or we have been bugged by a hostile nation or forces!

Mr. Speaker: Order! I will direct that the officers who have been entrusted with the duty of allocating the microphones to Members of this House do so only to them. I further direct that no stranger or strange voice of whatever nature and from wherever, should interfere with the business of this House. Will that be complied with forthwith?

Proceed!

Mr. Ndicho: Thank you very much, Mr. Speaker, Sir. I was saying that, that Fund was meant to help the young people of this country, so that they become employed and they keep away from criminal activities. But, I was giving the example of Thika, where this harambee was done last year in December and now we are in the month of June and this money has never been distributed to the young people.

Mr. Speaker, Sir, I would like to ask the Government to ensure that this money is now given to the youth, so that it is not construed to mean that it is meant for campaigns later in the year. Otherwise, it was a commendable job and if the youth of this country can benefit, then the Government must ensure that this money is distributed, so that the young people can engage themselves in income generating projects.

Dr. Kituyi: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Has he accepted that information?

Dr. Kituyi: Yes, Mr. Speaker, Sir, he has accepted.

Mr. Speaker: Order! Order! Dr. Kituyi will you take order?

Dr. Kituyi: What has happened between you and me today?

Mr. Speaker: Order! Order! I do not mean we are here leniently. It is the duty of the Chair to inquire from the Member intended to be informed, whether or not that Member accepts that information. That is the duty of the Chair and you must allow the Chair to do that. Now that he has agreed, will you proceed?

Dr. Kituyi: Thank you, Mr. Ndicho. In spite of the Chair, I wish to inform the hon. Ndicho that the charade of fundraising for Youth Development Fund was just a charade. The DO, a Mr. Sigei, who was collecting Kshs150,000 in hon. Magwaga's constituency and never surrendered ostensibly for Youth Development Fund, is now collecting money in Kimilili ostensibly for women fund and he does not surrender any money at a harambee although he has collected and people can prove that he has collected. I am sure there are so many other DOs like that who use this as a season of harvest.

Mr. Ndicho: Mr. Speaker, Sir, I have been informed that, but I think the Government is in a better position to be informed, because it is important that this money goes to help the youth as it was intended.

Mr. Speaker, Sir, I was just concluding by saying that this Bill is very important in view of the fact that there are a lot of criminal activities going on in this country. The hon. Gitonga has just told us how a police officer shot at

close range, one of his constituents after a drinking spree. The Attorney-General must know that police are committing more crimes in this country than even criminals. It is a mockery therefore, that one of the persons who has been set up here as a member of this centre is the Commissioner of Police himself. Can he tell his boys - if he is serious about establishing this Bill to eradicate crime - and that, his men are killing people in cold blood? This is a very big crime and they should be investigated.

Mr. Speaker, Sir, police in this country and especially in Nairobi are killing people like animals. I have with me here, some few incidents where police have shot people in cold blood. We have just been told that Mr. John Kibuchi Kanini was killed on Sunday night at Kijabe by the Chief Inspector or the OCS Of Kijabe Police Post in cold blood. I do not know what crime is bigger than when a policeman who is supposed to protect the lives of his people within his locality, is now the one going to open his gun and kill the same people that he is supposed to protect.

Mr. Munyasia: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Do you accept, Mr. Ndicho?

Mr. Ndicho: No, because I want to finish. He can get his time later.

Mr. Speaker: I am sorry he has declined!

Mr. Ndicho: Mr. Speaker, Sir, on Friday last week, police officers in Nairobi shot dead a street boy. The same Friday, police officers shot a young man called Daniel Njihia for stealing a headlight on Kenyatta Avenue. On Saturday, the following day when we were reading in the Press how the police officers killed a young man the previous day, a group of hawkers in Nairobi killed a street boy for stealing one sweet from another street boy.

Mr. Speaker, Sir, I agree with the Attorney-General that there is a lot of crime in this country which must be investigated and where research must be conducted in a bid to prevent it.

Mr. Speaker, Sir, yesterday, a street boy was beaten by a mob for allegedly snatching a necklace from a woman. I have got this cutting of this street boy being kicked about by Kenyans just for stealing. There is no bigger crime that has been perpetrated to the streets boys in this country by Kenyans than this. In today's *East African Standard* newspaper, there is a picture of a young boy of five years who has been tortured by his own father and step-mother to the point of being inflicted with very serious wounds on his body. There is no bigger crime than what is being meted on children in this country by adults. With me here, is a picture of this young man who was shot by police officers.

I am going to ask the Attorney-General, if the police are going to misbehave with their guns, they should be withdrawn because they are killing our people with impunity. Last week, the Administration Police killed a young man by name of Odhiambo at Odeon Cinema.

In 1994, a police reservist killed a young man from Thika called Simon Kanatiri. In 1993, police shot dead somebody called Murefu inside Thika Police Station and later on misled the public by giving false information that this young man was escaping from police cell.

In all these incidences, we have not had any explanation from the Attorney-General why policemen are shooting, wounding and killing street children and other innocent people. The Government just reads in the newspapers in the morning just as I do, and as I keep my newspaper down and concentrate on other things, the Government does the same. The Government is doing nothing to protect innocent people or punish a policeman so that others can learn a lesson. What is going to stop another policeman from shooting somebody?

The Attorney-General (Mr. Wako): On a point of information, Mr. Speaker, Sir. I would like to inform the hon. Member that the Government does take seriously any excessive use of force by law enforcement agencies and, in particular, helpless street children who are not necessarily armed. You may recall that, in fact, a murder charge was preferred by my office against a police reservist who had shot and killed a street child some times ago. But according to the duo presence of law, the court acquitted that particular police reservist. Right now, there are about two or three inquests going on regarding the loss of life by street children. Particular with street children, whenever any report reaches the Attorney-General's office, action is taken.

Mr. Ndicho: Mr. Speaker, Sir, the Attorney-General is opening up old wounds. We know that a reservist police by name Singh who shot this young man was being tried by an Asian Judge and we expected, as obvious, that there was no way that Judge could convict his kinsman.

Mr. Speaker, Sir, it is very serious because even after the policeman shot that street boy and spat on him, he was just released and that is why even other policemen are following suit. All that I am saying is that the policemen in this country are more or less misusing their guns more than the criminals themselves and yet they are part of the Government.

Mr. Speaker, Sir, the Attorney-General is seeking authority of this Parliament to enact this Bill so that he is allowed to establish the National Crime Research Centre. I would like to tell him that the best thing to establish first is not a research centre on crimes, but establish a centre to rehabilitate the street children in Nairobi because these are young people growing to become criminals in future. Unless, he does that then this would be a vicious circle. He

will establish this centre and crimes will still continue to be committed irrespective of it. Why can the Government, if it is serious on this Bill, not establish a home for all street children in this country and train them, induct them on various courses where they are going to be converted into useful citizens instead of being let later on to go into crime world?

The Government must not spend a lot of money which the Attorney-General in his Memorandum of Objects and Reasons says:- "It is, however, not possible to indicate at this stage the amount of money anticipated to be spend on this project."

Mr. Speaker, Sir, the Attorney-General want this Bill to be passed by this Parliament and after passing it, he tells us that he does not know the amount of money he require to spend on that project. I think this is a faulty Bill and that is why we suggested other day that the Attorney-General ought to bring Bills in this Parliament before he brings them at this stage because KANU being more than ourselves, this Bill will pass. The Attorney-General makes this House a rubber-stamp which just stamps Bills and enact them into laws. We can advise and through our contributions, the Attorney-General can then come up with a clean Bill.

Mr. Speaker, Sir, the Crime Research Centre, and I was trying to imagine that the Attorney-General should not call it a centre. He should call it a bureau. I was trying to look at the definition of a centre and a bureau. According to the *Oxford Advanced Learners Dictionary* defines a "centre" as "a place from which administration is organised, where certain activities or facilities are concentrated." While a "bureau" is "an organisation or an office that provides information and facts". For example, the Federal Bureau of Investigation in the USA. This depends on him. However, it is a matter of semantics, whether he adopts it or not, it is my contribution. But I thought that he is looking for a place where information is going to be brought, evaluated and assimilated to the areas that need to prevent crimes in this country.

If you look at the trend of crimes in this country, it tends to favour one group and against the other group of people. The biggest criminals in this country are the rich people. If you are rich, it does not matter what level of crime you commit, but you are going scot free. If you have no money like the street children and majority of wananchi in this country and you commit a very small crime, you will find your way to jail.

Mr. Speaker, Sir, I was jailed at the Kamiti Maximum Prison and three-quarters of the prisoners there are innocent people. If you listen to their tales about how their cases were "framed" by police because of refusing to bribe them, some were charged on trumped-up charges and so on, you are going to sympathise with the situation in this country.

I urge the Attorney-General, if he is serious, to investigate some of these cases because most of the people in our jails are innocent. Why was not Kamlesh Pattni who stole Kshs18 billion a free man? Now he is moving around establishing homes for our street children. How can he steal our money in terms of billions---

Mr. Speaker: By the way, that case is not concluded, Mr. Ndicho. You are not a judge, are you? Now, you keep away from that.

Mr. Ndicho: Mr. Speaker, Sir, let me leave that issue of Mr. Kamlesh Pattni and come to that of Mr. Somaia. Mr. Somaia was given Kshs400 million to purchase security equipment for this Government which he never did. What bigger crime than that would the Kenya Government expect to be committed? This man has gone scot-free. When somebody steals Kshs10 or a necklace, he is executed. This trend must change and this Government must be serious now. That is why we are saying the Government must accept to change the rules of the game that govern this country. The Constitution must be changed because if we have a better Constitution than we have today, some of these things that are happening will not happen and we are having the problems that we have because the way the Constitution is, it is favouring one side and dis-favouring the other.

We are only asking the Government to allow the Constitution to be amended to give us minimum changes. What we have today is a playing field which is like Mount Kilimanjaro where KANU's goal is at the top of Mount Kilimanjaro and our goal and as the reformers, is at Arusha. There is no way we are going to score any goals on the KANU side as far as the Constitution is concerned. There is no need for us to go and kick the ball and then watufunge mabao 17 kwa bila! So, we are requesting that the Constitution should be amended, so that we can be sure that even crime in this country will be checked.

Finally, I would like to say that it calls for good governance to eradicate crime and similarly, a bad Government breeds crime. We do not have a good Government in Kenya. That is why we have got all these problems and now we want changes. Constitutional changes should be put in place, so that the Government that will come into place provides for a coalition Government - so that everybody in this country from the Coast to Turkana and from Mandera to Moyale is involved in the governance of this country. What we have today is a small clique of people somewhere, who are ruling this dynamic and gigantic country. Unless that one is done, there is no way we are going to have crime reduced because the people who are being governed by the current Government are annoyed with it and they are going to exhibit their annoyance to this Government by committing more crimes. So, it is upon the

Government or the Republic of Kenya, to ensure that if it wants better things to be done, they must listen to the voice of the people.

Mr. Speaker, Sir, there was a rumour that was circulated last week in the City. We do not go by rumours but it was in the Press, KBC radio and TV and it was denied by the Commissioner of Police. It was said that some people telephoned Marlborough House, the Ford(A) headquarters and circulated it all over Nairobi that the Ford(A) Chairman, Mr. Matiba was injured very seriously. We know that this was started by the Special Branch and they only wanted to see the reaction of Ford(A) Members.

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. The hon. Member has just stated that the origin of that particular rumour was from the Special Branch. Could he substantiate that to the House?

Mr. Speaker: Order! Mr. Ndicho, you began by saying that what you were talking about is rumour which you also admit that a rumour is not supposed to be a subject of debate in this House. You further went on, at your own will to discuss it. The ruling of the Chair is that you will not speak about any rumour, either from the telephone, newspapers or from yourself. So, can you go to a subject that is valid?

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. Our concern is not the rumour but the allegation he made that the people who started the rumour were the Special Branch officers. We are concerned with the source of that particular rumour. So, could he substantiate?

Mr. Speaker: Order! Order, Mr. Munyasia! I have already said that it is also likely that he is spreading a rumour. Can you proceed!

Mr. Ndicho: Mr. Speaker, I know that this House hardly goes by rumour. But I said that the Commissioner of Police through KBC radio and through the print media the next morning---

Mr. Speaker: By the way, can you now come away from rumours to facts on the Bill?

Mr. Ndicho: What I am saying is that if anybody touches hon. Matiba, then we are going to see consequences that we have never seen before. That is all I am saying - whether it is called a rumour within or without the country. Our leaders must be protected. I was saying that some people wanted to test how the waters could be in the event of such an happening. It could have been very serious. The Kisii people have told me that if hon. Nyachae is touched by anybody, then there is going to be a very big crime in this country. This is what we are telling the Attorney-General - to avoid all these hullabaloo and brouhaha -he must ensure that the Constitution is amended as per the wish of Kenyans and the way that document is at the moment, you can rest assured that it is going to bring a lot of problems to this country.

Mr. Speaker, Sir, I was just concluding my contribution that the Government knows the perpetrators of most of the crimes against mankind in this country and yet, it drags its feet. It is not willing to deal with this crime. As Members of this House from both sides of the House, we are glad that this Bill is going to be enacted. As I said last time, criminals do not know who is from KANU and who is from the Opposition when they strike, they hit all of us. So, we support this Bill fully but we are advising the Attorney-General on why crimes and crime related incidences are rising in this country. I remember saying that one of the biggest crimes that the Government has committed is to deny Sheikh Balala his citizenship, when his mother and six other brothers and sisters are citizens of Kenya. How can the Government now draw a line between one member of a family and the others and declare him a non-citizen and leave the others? If Balala is not a citizen of Kenya, his brothers and sisters should be declared non-citizens and evicted from this country. Otherwise, history will judge you harshly against a crime you are committing on that Kenyan, because his policies and politics are merely different from what KANU thinks.

With those few remarks, I wish to support the Bill.

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): Thank you very much, Mr. Speaker, Sir, for allowing me to say a few words on this Bill on National Crime Research Centre, 1997.

This Bill has come at the right time because Kenyans are now mature. Since they are mature, they should know about their constitutional rights, and what they should do or not do. It is important that this Bill is passed because it will enable the security organ of this country which is responsible for the management of all sorts of crimes that go on in this country to be effective. This is because if they have no data, details and well-researched information on how and why crime is being committed in this country, the security organ cannot manage crime properly.

Currently, we know very well that there is no unit which deals with research as far as crime is concerned. We know that in our institutions of higher learning, we have some little research being carried out, and which I will call *ad hoc research*. But this unit will be independent and it will be able to advise the Police, Special Branch and CID on the *Modus operandi* of crime in this country. This unit will make the Government to spend less money because once you know why crime is committed in a certain area, you can control the crime there by establishing preventive measures.

We know very well that there are a lot of street children in this country. If we do not know why they are there, then it is very difficult to control or manage them. It was only the other day when we passed a Motion in this

House that asked the Government to establish some institutions for these children to be rehabilitated so that they can become good citizens. Without a research centre or papers, we are not likely to know the reason why these children are increasing in number in the streets of our urban centres. They are not only in the urban areas, we are now experiencing the same situation in the rural areas. Although people call these children chokora, as soon as they become adults, they will cause problems in this country. To be able to stop that, we need a unit like the one we are going to establish so that we can stop, at an early age, the increase in the number of street children.

Dr. Lwali-Oyondi: On a point of information, Mr. Speaker, Sir. Thank you very much hon. Sumbeiywo. The increase of street children is due to increase in poverty, due to economic deterioration of this country. That is the only thing that we can look for.

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): Thank you, Dr. Lwali-Oyondi. The increase of street children is not only due to economic deterioration of this country alone, but it is worldwide.

The other thing is that once this unit has been established, we might even go back to our old system of good morals by bringing in some elders, grandmothers and grandfathers who used to counsel our youth in the old good days.

We used to be advised to be good children and citizens. But today, due to urbanisation and influx of people to the urban areas, the youth have lost touch with their elders, grandfathers and their grandmothers. The social behaviour of Kenyans today has changed completely. This needs to be looked into so that we can know the source and causes of crime in this country, and how we can prevent crime, or at least, bring it to manageable levels. The centre that is going to be established is very important because it will be able to advise the Attorney-General, Commissioner of Police and the Probation Department. The Probation Department in this country is supposed to be doing a very good job. But I think that department is either under-staffed or it is not functioning because of one reason or another. It should be able to come up with reasons as to why people behave in a certain manner which is unusual.

Mr. Speaker, Sir, mine was to support the Bill and say that it is going to help the Government to prevent and reduce crime to a manageable level, and also come up with a long term plan for managing crime in this country. I would like to suggest that most of the members of the governing council of this centre should be drawn from the elite who have undertaken courses in sociology, anthropology and behavioral studies. They should also include people who have learnt and attained a certain level of academic qualification in the subject of criminology. We should not only include lawyers, but we should also go for people who have studied criminology in this country or outside this country, so that this centre will be useful to our country or to Kenyans in general.

Mr. Speaker, Sir, as I said earlier on, I had very few points to make, and I have made them. With those few remarks, I beg to support the Bill.

Dr. Lwali-Oyondi: Thank you very much, Mr. Speaker, Sir.

To start with, this is a research centre and according to my understanding, a research is done when you are looking for the unknown. You do research when you are looking for the unknown. But the cause of crime in this country is very well known. Therefore, according to me, this Bill is an expensive Bill. It is like applying very, very, expensive equipment similar to the one that is used on extra-terrestrial bodies like the moon, venus when one is trying to look for traces of water, carbon or to establish whether life exists there or not. It is expensive to use such equipment to look for traces of water under the sea. Of course, there is water under the sea. So, here we are looking for traces of water under the sea although it is obvious that the sea has water. Therefore why look for water under the sea?

Mr. Speaker, Sir, the reason why I am saying this is because at the moment, crime is due to poverty. Petty crimes are committed out by the parking boys and so forth. The reason for this is due to the fact that our economy is falling. Our economy is falling because we are not managing our economy. The reasons are so obvious. You do not need to be a specialist in any form to know why we are having all these sort of petty crimes, muggings, house-breakings and so on. There is another reason that the Government should know. For example, if a Municipal Council licenses somebody to operate a kiosk and then the same municipal council at one time or another comes in without him and decides that it is no longer wanted, although he knows that his licence is valid and does not expect anybody to demolish his kiosk--- Sometimes one wakes up only to find that his kiosk has been demolished and he has lost all that he had. This is the kind of management that is quite strange. It is no wonder when the owner of that kiosk having lost all that he has worked for throughout his life, is tempted to do something in order to make his livelihood. Usually that is done in form of stealing, mugging and so on. Therefore, now we are looking for a cause of crime when we are the cause. That is why I agree with the past speakers that most of the crimes are actually caused by those who are supposed to be preventing the crimes, and that is the Government. The local Government, for example, are governments. The municipalities, county councils are the Governments. They are supposed to be looking after people according to the laws of this country and if they run around and go against their own laws and start demolishing kiosks and other trading facilities which they have themselves licensed, then they are the cause of crime.

Mr. Speaker, Sir, one of the ways which we could follow to curb crime easily is to tackle unemployment. Unemployment cannot be finished without making conditions in the country conducive to investment both locally and

internationally. Nobody can invest in a country where there is deteriorating infrastructure like roads. For example, we pay a lot of money in form of petrol tax which is supposed to be used in repairing roads and yet, they are not being repaired. They had started repairing roads in Nairobi and I do not know what happened. It has all stopped. I do not know what happened and yet, we were told that there were billions and billions of shillings which had been brought by the World Bank to repair roads in Nairobi, Nakuru and all the other urban centres. In Nakuru, for example, we were told that recarpeting of roads would start by September last year. So far, nothing has happened. There are too many potholes in Nakuru and, therefore, anybody scouting around in order to think of investing in Nakuru or in Nairobi for that matter, is unlikely to do so.

We have a poor infrastructure or a deteriorating infrastructure in the form of telephone lines. Nobody can any longer be sure of making a successful telephone call from our telephone booths. I have tried it several times and found out that after the booth accepts the money, the line cuts itself off. Telephone booths do not function at all. We are also not sure of our electricity anymore. It has started being rationed, probably due to inadequate rains in the last few weeks. Now, this will not allow investors to come and put up their machines which are supposed to work day and night, thereby increasing employment. As long as we have this poor infrastructure, we are not going to have investments. Since we are not going to have investments, then we are not going to have employment and one reason why Governments fear unemployment, is because it results into crime. Here in Kenya we do not fear unemployment. One reason why Governments fear poverty is because it will result into crime. At the moment, official figures indicate that about 45 per cent of our citizenship lives below the poverty line. Why should the Attorney-General wonder why there is an increase in crime when he knows very well that there are no jobs and there is no hope of improving on the job situation. Therefore, the best alternative is try to improve on this problem of unemployment instead of bringing a Bill. A Bill will not improve the infrastructure and, therefore, it is unlikely, that it will bring about the employment. Therefore, it is unlikely, with all the knowledge that we have in criminology, to stop crime because the conditions are conducive for it.

Mr. Speaker, Sir, the Government should also stop this hand-to-mouth sort of practice in that you deal with the crime as it arises. It is funny that, for example, when we try to fulfil our rights as far as Section 80 of the Constitution of this country allows as far as the freedom of association is concerned, all the police are mobilised. But when there is cattle rustling somewhere, it goes on for weeks and it is amazing that somebody or some people can drive away 2,000 or even 10,000 animals without anybody seeing them in the desert. This happens and yet, we have the Army almost making rounds all over Kenya from time to time. Instead of staging those funny acrobatic shows performed during the agricultural shows and so on, they should be scouting around and see who is having a lot of animals and, then call the police so that they can arrest them. So, it is amazing that crimes can go on with impunity while we are confronted very violently and beaten up, simply because we want to explain our policy to our people with the hope of getting votes from them.

Another thing that the Government should stop is to defend heavy-weight criminals, like Ketan Somaia, Pattni and many other people who have been mentioned in our PIC and PAC reports. We should get hold of them because these people steal in billions. They take away taxpayers' money in billions, not in thousands or millions. These are the ones that cause poverty and then later on, they become philanthropists by trying to assist the children they have helped to become poor and destitutes. We applaud them. That is accepting crime that Kenyans, generally, at the moment think that it does not matter where you have got your wealth from and those who have stolen funds from taxpayers are looked upon as heroes, not only by those who sponsor them; but I am afraid to say, even wananchi. This is the sort of thing that we should not allow to continue.

If I obtain wealth through unorthodox means, I should be brought to book so that others may learn from my punishment, so that they cannot repeat it. I am asking the Government and wananchi not to hero worship those who have stolen; not only for wananchi, but even hon. Members will support anybody who has money. We are seeing this from our daily experience with the electorate. If you ask them in private, they would tell you that, "I do not support that person, but he has money and he can mobilise people" and so on. So, we are not taking things as being right, but on relatively being right because it is more convenient to support somebody who has money.

Another way that we have actually increased poverty in this country and which needs no research was the printing of money in 1992 General Elections. The Assistant Minister for Finance is here, and I hope they will never print money again. When they printed about Kshs25 billion, that brought down the shilling. This forced the Minister and the Treasury to mop up excess liquidity on the market which had been distributed by people like Jirongo in Kshs500 bills. This resulted into too much inflation and, of course, the first casualty of inflation is the lowly-paid person. So, I hope this time round, the Government will not print money again. It is better if they can get that money from elsewhere or even misappropriate money that has been worked for, but the worst thing they can do to this country is print money again.

The Assistant Minister for Lands and Settlement (Mr. Sumbeiywo): On a point of order, Mr. Speaker,

Sir. You heard the Member for Nakuru Town say that in 1992, the Treasury printed money in form of Kshs500 bills and that it was being distributed by Jirongo? Is it true and, if it is true, can he substantiate that the Treasury printed money to the tune of Kshs25 billion?

Mr. Speaker: I do not know.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, I think the hon. Member is relatively new in this House and this was said by the Minister for Finance. The money was printed and distributed. Everybody knows about it and they call the Kshs500 bill "Jirongo" because he was the one who was distributing it from the boot of his car. So, we do not need to substantiate the obvious.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. I thought something that is of common knowledge does not require substantiation? The Minister for Finance told the Chair and this House that they were busy mopping up excess liquidity from the market. Are we to go on talking about something we know? The hon. Member was not in Parliament---

Mr. Speaker: Mr. Shikuku, I thought Mr. Sumbeiywo had made his point? Are you disputing what he said?

Mr. Shikuku: No, Mr. Speaker, Sir. I am trying to respond to the point of order by the hon. Member asking the Member on the Floor to substantiate a matter that is of common knowledge. It was also in the Budget where the Minister knows that there is excess liquidity and he is mopping it. What was he mopping?

Mr. Speaker: Mr. Shikuku, did you follow what the Chair said when Dr. Lwali-Oyondi said that, and Mr. Sumbeiywo asked me whether I know, I said I do not know!

(Laughter)

Dr. Lwali-Oyondi: Thank you very much, Mr. Speaker, Sir---

The Assistant Minister for Finance(Mr. Keah): On a point of order, Mr. Speaker, Sir. Is the hon. Dr. Lwali-Oyondi imputing that the Minister for Finance stated that he printed Kshs500 notes? To the best of my recollection, the Minister for Finance has never said that he printed notes of Kshs500. It is different to say that there is excess liquidity in the market because excess liquidity does not mean that there has been money printed. Is he, therefore, in order to continue misleading this House by a statement which is not true?

Mr. Speaker: Order, everybody! I think we are diverting now from the Crime Research Centre Bill to liquidity which we should wait until next week. We shall be talking "money, money" from next week. So, can we now talk about crime?

Dr. Lwali-Oyondi: Thank you very much, Mr. Speaker, Sir. I brought in that point because it was extreme liquidity which brought in poverty due to too much liquidity that brought about crime because of high inflation. I did not even say it was the Minister who printed the money, but the Central Bank of Kenya is the one that prints money and it induced people to bring back the money that they had received by offering them high interest rates on Treasury Bills up to 85 per cent. It is a very abnormal sort of interest rate because you cannot trade at that interest rate anywhere in the world, even including in gold. That was because of the printing of excess money which brought poverty, which in turn brought crime.

Mr. Speaker, Sir, other places where the Government should have done something or seems to be abetting crime is the question of using youths. Youths have been used everywhere, especially in Nakuru to beat up people.

They beat people when the infamous Mr. Asanyo was the KANU Chairman in Nakuru. Again they have started beating people. The most infamous beatings were inflicted on members of the unregistered Safina Party. Mr. Leakey and journalists were beaten very badly in Nakuru while the Government watched and in front of a court. That was criminal and yet, the Government seemed to have supported it. The youths were actually transported to the place of action in GK vehicles.

Today, there are two rival groups in Nakuru which have started organising beatings. This time the rival groups fought among themselves. Unfortunately they really hurt each other. They broke their rivals' legs and hands. In fact, one of the leading people, who was seen in a newspaper photograph beating up Dr. Leakey, is dead. He was beaten during the feuds between KANU operatives in Nakuru. So, it would appear that since he was never punished by law, God has punished him. When such things are done, then we abet criminal activities. When youths are told by people in the Government who are supposed to be looking after us, to do criminal things, they are likely to take what they do to be normal.

Today the youths are charging people for entering bus stations. They are taking money from hawkers in Nakuru. In his policy statement the Minister has told us that it is only local authorities that are supposed to charge and collect revenue from members of the public and not the youths. Yet, this is going on and the police, the special branch

staff, the DC and the PC know it. The youths are getting their fill. They also rob people at night. Now it is very dangerous to alight from a bus in Nakuru Town Bus Station. This is because you will be accosted by youths who will call themselves 'special branch officers.' They usually have handcuffs and will try to handcuff you and ask for money in lieu of taking you to a police station, or to their office where you are likely to have a beating.

Mr. Speaker, Sir, having said that, I wish to turn to the reforms which we have been talking about, and which have resulted in the police dealing with the public using unorthodox ways. The public, Members of Parliament and councillors have been beaten up because they were asking for reforms. Many people have been talking of constitutional reforms while most of the changes that we are demanding are not constitutional, but statutory reforms. The Public Order Act, whose repeal we are demanding, is a statutory, and not constitutional, provision. It can be struck out in five minutes in this House. The Preservation of Public security Act is also a statutory provision. The Chiefs Authority, the Societies and Vagrancy Acts, whose repeal we are also demanding are statutory provisions passed by this House and can be repealed by it with a simple majority. Why is there resistance to our demand? Sometime back, Mr. Muite brought here a Motion for the repeal of the Preservation of Public Security Act but it was rejected. We do not know why it was rejected.

The people in KANU should know that sometimes, we change sides. Sometimes you fall out with the powers that be, as Messrs Nyachae and ole Ntimama have just realised. Mr. ole Ntimama used to ride on the crest but now, he is lying low like an antelope, not like an envelope, because he is too big to lie low like an envelope. These things are affecting everybody. The Government should allow us to do away with the law which allows chiefs to hang around everybody and become a nuisance. If the Government is abit hesitant to effect the constitutional reforms required, which are very light indeed, it should effect statutory and administrative reforms, which we are demanding.

Mr. Speaker, Sir, I do not want to take too long on this Bill but I would like to ask the Attorney-General to bring here, Bills which will reform these Acts, if he is afraid of reforming the Constitution. If the word "Constitution" really worries him, let us start with statutory reforms and then he will gain confidence as time goes by to change the Constitution. For example, in the case of the Electoral Commission, he should ensure that all sides are represented on it. That is just a matter of common sense and decency. When you want fairness you have to make sure that all sides are represented. That is why we represent our constituents here. We should have nominees of the Opposition, churches and non-governmental organisations (NGOs) appointed to the Electoral Commission. In this way we shall have a balanced Electoral Commission.

What I am talking about here is what we wanted to tell people in the meetings we have been calling. We did not want to tell them to hang anybody. We only wanted them to understand what we resolved at our Limuru Conference.

With those few remarks, I wish to oppose this Bill.

QUORUM

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

Mr. Speaker: I will find out from the Clerk-at-the Table.

(Mr. Speaker consulted the Clerk-at-the Table)

Apparently, Mr. Achola, is right. We have no quorum. Can you ring the Division Bell?

(The Division Bell was rung)

Mr. Speaker: Order! We have a quorum now. You may proceed, Mr. Keah.

The Assistant Minister for Finance (Mr. Keah): Thank you, Mr. Speaker, Sir, for the privilege you have given me to contribute to this National Crime Research Bill, 1997.

I support this Bill, and in supporting it, I want to make a number of observations, including the fact that the Bill correctly observes that in this country, there is so much crime on the increase and it is important that we establish the causes of crime, together with the ways and means of ensuring that crime is reduced, if not eliminated.

Mr. Speaker, Sir, I also want to say that this Bill is therefore, very timely.

[Mr. Speaker left the Chair]

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

It is timely because such crime data collection centres are today world over, recognised as the most appropriate institutions to effectively co-ordinate crime research. For this reason, I want to commend the Attorney-General for considering it fit and appropriate to bring this Bill at this time.

There are various elements of crime and it is important that we go to the root causes of these crimes. There is crime of police against the citizens, citizens against citizens, and crimes of *uchawi* or witchcraft, where people are hacked to death simply because someone has declared them wizards or witches. These criminal activities must be stopped. But in doing this, I want also to ask the Attorney-General, and I would like the Attorney-General, in his response---I wish the Attorney-General could listen to this, because he does not even have somebody there taking notes.

(The Attorney-General stood up in his place)

I want the Attorney-General, when responding, to comment the following few questions:-

How come petty offenders are in this country punished more than the heavy offenders? Big time offenders get away with it, but those who steal Kshs10 and very petty items, are heavily punished.

I also want to ask the Attorney-General to look into ways and means of ensuring that the Prisons Act is looked into and, possibly, prisoners made to produce revenue rather than locking them up in the prison cells and using hard earned funds to maintain them. These criminals in prisons should be made to produce revenue rather than have them locked up there. At this point, I also want to say that when the Centre has been established, I hope there will be total protection, transparency of the dissemination of that information, and that no information will be held back.

Mr. Temporary Deputy Speaker, Sir, let me now specifically turn to the Bill. I will go through this Bill page by page, and the first is the title itself. I would like the Attorney-General to consider changing that name of "The National Crime Research Centre Bill" to "The Kenya Criminal Research Bureau." I think that is a better terminology, and it is a better nomenclature. I would like him to consider that name as a better name than The National Crime Research Centre. When we have "Kenya" prefixing this title wherever we go, that is known as our own home grown Act.

Mr. Temporary Deputy Speaker, Sir, let me now go to Clause 4 on page 177 which says: "The objects of the Centre shall be to carry out research into the causes of crime and its prevention, and to disseminate research finding to such institutions as the Council may, from time to time, determine for appropriate action." I would like the Council to be accountable to this research. There is no Clause in the Bill, which makes the Council accountable to this country for the dissemination of this information. I went through the Bill, but I did not find any Clause where the Council is compelled to do that. In fact, the Council may, from time to time, determine for appropriate action. That "may" in my view is weak

(Mr. Rotino was applauded as he entered the Chamber)

Mr. Temporary Deputy Speaker, Sir, could you protect me from that loud consultation which is a very strange one? That "may" denotes that the Council could, if it so wishes, pass that information or it may withhold it. I find that this particular Bill, therefore, is wanting in that respect. Such researched information must, certainly be made available and must, indeed, be utilised. I would like to see, either in this Bill, or in the rules governing the administration of this Act, something to that effect.

As regards to come to Clause 5(g), which says:

"The Centre shall, for the attainment of its object, communicate its research findings and recommendations to the agencies of Government concerned with the administration of criminal justice---"

Here, I am concerned about the timing. When? Is it at the end or periodically? I would like to see this very important exercise being done with some measure of periodicity and efficiency entrenched in this particular Act. That is a suggestion, but it does not have to come to the Act itself, it could be in the rules and regulations that will administer this Act.

Mr. Temporary Deputy Speaker, Sir, I want to go Clause 6 on page 178 and I notice that the establishment and membership of the Council seems to be adequate, save for the fact that I feel there should be, perhaps, one educated lay person who is not necessarily trained in criminology or does not have knowledge and experience in specific aspects of crime oriented fields. Why I suggest that there should be one eminent gentleman or lady who is

well educated enough, but not necessarily professing this particular profession, is to bring in some kind of balance from the lay people. In my view, I think, this is good because such a person will bring in the views of those who are not necessarily criminal law experts. That is my view.

Clause 7, spells out the functions of the Council. I would like to suggest that the object of disseminating the research information should be entrenched specifically in the functions of the Council, but the Attorney-General may well consider that, that is adequately articulated elsewhere. So, I want to suggest that in Clause 7, we should add an additional sub-section (D) which will be: "Disseminate research information to users as a function of the Council." There is also a sub-section (E) where I wanted a new Clause brought into the functions; that element of accountability of the Council. Accountability of the Council is, to me, imperative here and, the Council should be accountable to the Minister and to Parliament, in my view. That accountability is important unless the Attorney-General thinks that accountability is provided for in another Clause.

As regards Clause 8, it says:- "The Council shall meet at such time as the Chairman may determine, which shall not be less than once every three months." This means that this is, at least, four times in a year. My experience shows that meeting four times in a year by the Council is not adequate. Although this is a tradition in Kenya, for such parastatals and such organisations to be meeting once every three months, I think, this period should now be changed to two months. They should have, at least, six council meetings in order to provide effective management and supervision of this research work. Clause 8(4) talks about the quorum and, I think the quorum is adequate because seven out of eleven is good enough and I have no quarrel with that.

Clause 11(C) says:

"There shall be a Director of the Centre who shall be appointed by the Council on such terms and conditions as the Council may determine. The Director shall be the Chief Executive of the Centre and shall be responsible to the Council for the management and custody of the assets of the Centre."

I know it is easy to refer to the assets, but there are also liabilities and I would like the Attorney-General to consider that the Chief Executive should also be responsible for the management of the liabilities of the Centre. So, that is the point I would like the Attorney-General to take serious note of and, I think, it is possibly typographical error but the liabilities should also be managed in one way or another by the Chief Executive.

Clause 15(2) says that:

"The Council may place on deposits with such bank or banks as it may determine any monies not immediately required for the purposes of the Centre."

I would like to make an observation there that, some of the banks and financial institutions have really been wanting over the recent past and I would like to say that we should ensure that the banks in which these funds will be invested in are financially sound banks and are well managed, so that we minimise the risk of losing any deposits which are placed in those banks. So, I would like some adjective or a qualification to be put before the word "bank" to connote that, that bank or financial institution will be a sound financial institution. Here I would not necessarily limit myself to a bank because we have non-bank financial institutions which are equally good, sound and well managed and which would be used for purposes of the investment. I would like the Attorney-General to consider qualifying such banks or financial institutions.

Clause 16(2)(F), on page 182, provides for the annual estimates which shall make provision for all the estimated expenditure of the Centre for the financial year concerned and in particular, it shall provide for the payment of salaries, pensions, proper maintenance, cost of research activities of the Centre and to meet future and contingent liabilities of retirement benefits.

The Temporary Deputy Speaker (Mr. Wetangula): The cost of specific research activities is provided for under (E).

The Assistant Minister for Finance (Mr. Keah): Sorry, Mr. Temporary Deputy Speaker, Sir, that is okay. I had not seen specific research activities, but it is there in (E). So, I would stop there. But on the next Clause, I have a comment to make. It says:-

"Annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and they shall be submitted to the Minister for approval within a period of three months after the commencement of the financial year and after the Minister has given his approval, the Council shall not increase."

I would like the Attorney-General to make a clarification on that Clause because I think, it is ambiguous. When do these estimates become effective? Do they become effective on their approval by the Council or on the approval by the Minister? If it is on the approval of the Minister then, what does the Council utilise them between 1st July, and within the three months the Minister approves.

I think something is missing. It is a little bit ambiguous. I agree that there should be approval by the Council. The Council must approve those estimates before they are submitted to the Minister. The Minister must then approve

them, but what happens in the intervening period? Does the Council cease to operate? Whose approval is effective for the utilization of the Council's funds? That is the question I am posing. I will read further:

"The Council shall cause to be kept, proper books and records of accounts of income, expenditure, assets and liabilities of the Centre".

That is fine. Then we have another problem here.

"Within a period of three months from the end of each financial year, the Council submits to the Auditor-General (Corporations) accounts of the Centre together with

(a) Statements of income and expenditure during that year; and--

I have no problem with part "b" but there is an item which is missing after part "b". I am proposing that there should be part "c" which should read as follows:

"A statement of sources and application of funds".

That is another technical matter which the Attorney-General should look into. This is a normal statement that we have in a set of financial statements. We have the income and expenditure statements, a statement of assets and liabilities and a statement of source and application of funds. I would recommend that we have that as part "c".

Clause 17(7), on page 183, reads as follows:-

"Within a period of two months from the date the books and records of account are submitted to him under subsection (2), the Auditor-General (Corporations) or the auditor appointed by the Council, as the case may be, shall examine the accounts of the Centre and shall report his findings thereon to the Council and to the Minister---"

From experience, I find that the two months are inadequate. I think it is proper to give the Auditor-General (Corporations) or which auditor may be appointed, a period of three months. I am, therefore, suggesting that the Attorney-General considers a period of three months rather than two months, even though I am conscious of the fact that we need to have these accounts audited as soon as possible. To be realistic, I think three months is more appropriate.

From there, I do not seem to have any quarrel with the rest of the Bill, but I would like to make some concluding remarks about crime and research in general. It is my greatest concern that the rate at which crime is increasing in the country is alarming. Even now, during the voter registration exercise, we have seen elements of crimes being committed. For example, the habit of "exporting" and "importing" voters is a very serious criminal offence. I want to take this opportunity to condemn this business of "exporting" and "importing" voters. What is the rationale of bringing people to vote for you in a place where you are not going to serve them in the next five years? This has happened in Kaloleni Constituency. People from the Island have invaded the Constituency and it has created problems. This voter has to be transported to the place he registers three times. I think this is something which is obnoxious. I want to take this opportunity to condemn this habit and I call upon the Chairman of Electoral Commission to take stern action in order to curb this crime which is very rampant at the moment. I am sure it is even rampant in Nairobi. I believe there are people being brought here from as far away as Kisumu, Nyeri, South Imenti and so on. This habit must stop. I call upon Kenyans to also make sure that they are not "bought" for Kshs500 for five years. This is, indeed, very serious.

Finally, I want to conclude by making some comments on the much-talked about constitutional reforms in this country. It is, indeed, a crime when certain members of public disobey law and create a situation where lawlessness is the order of the day. I am talking about disobeying law in the form of calling for civil disobedience. This is not acceptable and I must condemn it.

We have been told that there is need for a coalition government. We need to commit time to educate our people on what coalition is all about. At the moment, the experience is not good because members of the same party cannot have a coalition amongst themselves. If there is a disagreement within one party, how then can you expect to have a coalition within all the parties? I am saying that we cannot have a coalition government because, first of all, we need time to educate our people on the need for this coalition. Yes, we can pass a Bill on this within a matter of a few hours, but what about the people out there? Certainly, I need time to educate my Kaloleni people and to convince them on the necessity of this coalition government. How am I expected to convince them when FORD(A), KANU "A", KANU "C" and so on cannot agree among themselves? How then can you have a coalition of parties, when within one party there is disagreement? These are some of the issues that we must thrash out. There is therefore, no hurry for these constitutional reforms. I would also like to talk about the 50 per cent majority. All we are catering for here---

Mr. Murungi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Are you satisfied that the 50 per cent that the Assistant Minister is talking about and the coalition government have anything to do with the National Crime Research Centre Bill? I think he is veering on irrelevancies.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, they are basics for

crimes. We have seen stones being carried to electioneering fields. We have seen Stones, pangas and rungus being carried to Thika and other such election areas and yet, we are talking about coalition. Maybe, this research bureau can look into the reasons why people carry stones, rungus and pangas to elections within one party, when in particular we want different parties to have a coalition and form a government. This is really what I am talking about.

Mr. Mak'Onyango: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister not misleading this House that when you carry rungus and all these other things, you are only carrying them for illegal purposes, when this Assistant Minister is part of a government whose policemen carry rungus and the rest to beat innocent wananchi? Is it not correct that the rungus can also be carried to maintain peace and not to create disorder?

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, we are talking about a coalition government. We are not talking about the coalition of the police and political parties. We are talking about the coalition of one political party with another for purposes of forming a government and this is what I am talking about. These constitutional reforms require a lot of time for us to study them, so that the effect can be understood by the people.

Mr. Temporary Deputy Speaker, Sir, the message has been received loud and clear, and before I conclude, I would like to say two more things on this Bill. I have not seen anywhere in this Bill, a provision or a clause where it will be imperative or something to that effect, whereby the research findings are definitely put into use. We do not want to have research for its own sake. We want research that will be practical, useful and be utilised. I would like to be sure that the law we are enacting provides for the research findings to be put into effective and practical use. I do not see any clause here that provides for that and I would like to ask the Attorney-General to make sure that, that is provided for as well as the protection element of the researchers. That the researchers are well protected by the law so, that when findings have been made, they are not excluded simply because they affect a particular group or set of people.

Mr. Temporary Deputy Speaker, Sir, I hope the Attorney-General has taken note of those remarks and with these, I support the Bill.

Mr. Munyasia: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for this opportunity. I want to begin by making some brief comments on what the previous Member who has been on the Floor has said. People who are not familiar with teaching are frightened about how long it might take to pass across simple concepts and messages like the issue of coalition. I would like to assure them - those who have been Accountants are unlikely to know that it is a very simple matter.

Mr. Temporary Deputy Speaker, Sir, I am talking with 23 years experience as a teacher before I retired. So, you do not have to fear. If we had the opportunity to organise the civic education teams to go round this country, it might not take us even a fortnight to get the country to understand the simple concepts that we would like incorporated in the minimum reforms that we are talking about.

Mr. Temporary Deputy Speaker, Sir, at the outset I want to say that I support this particular Bill. I would like to state that it is very much in line with other research centres that we have. We know that the universities are offering degrees like Bachelor of Science in Agriculture and the rest, and even giving Doctorate degrees. So, they are carrying out research in agriculture, but that has not stopped us from having agricultural research institutes. There are many other research institutes. So, in a similar vein, I think it is important that we have a particular centre that is going to concentrate its efforts on research in this particular area of crime. Maybe, it might be a little bit more authoritative, since it is a centre charged exclusively with that particular task of researching into the area of crime. I am hoping that when that has been set up, this particular centre will also be concerned with issues like the economic cost to a society for preventing crime. This is because, many times, I see that we spend so much money trying to prevent crimes that society does not seriously think are injurious to the interests of that society. Sometimes, I see us trying to protect a hen by killing a cow. In my own thinking, it would be better to let the hen die and save the cow.

Mr. Temporary Deputy Speaker, Sir, I am saying that I hope this particular research centre will be concerned with studying the changing attitudes of society towards crime. I have been particular with this issue of holding public meetings.

In times of war, it might be a matter of high value for society to use every means to stop dissent or the spread of dissent. So, we might use what they nowadays call "necessary force" when actually, they mean maximum force.

The Temporary Deputy Speaker (Mr. Wetangula): Reasonable force!

Mr. Munyasia: I have heard that the police are nowadays using "necessary force". Others say "reasonable force". But they use it to prevent certain crimes. So, when a country is in a state of war and that particular country is under a dictator, the dictator might be allowed - because it is of higher value for that particular country, that the war with an external enemy is won. So, we might have to prevent dissent by all means. But, when a country has accepted multi-party democracy, the higher value is the democratic participation of the people in that particular society. That means that, the people must be allowed to communicate. So, when a people are gathering merely for purposes of

communication, for anyone to use "reasonable", "maximum" or "necessary force", to call all the police squads from Embu, Mombasa, Mtito Andei or Kisumu in order to prevent a peaceful meeting at Kamukunji or Uhuru Park, then society itself does not see that, that particular prevention is helping it in any way, I think this is the time when we can say: We are wasting the economic resources of that particular country.

I am saying so because I witnessed what happened in the Kamukunji grounds. We had asked members of the public to come. They were frightened out of it, but they did come. It means that the high value for them was that democratic participation. Then here is the Government that comes with two helicopters hovering over Nairobi all through. There were many policemen that had been called around with *rungus* and so on and they began injuring citizens. People cannot put that into economic terms, but what we are doing is that we are destroying the citizens' time to participate in economic activities.

Mr. Temporary Deputy Speaker, Sir, similar meetings have been called for Kisumu, Mombasa, Eldoret and Garissa. This Government is again threatening to call the police from all over and it is going to send helicopters which should be used in the Marsabit or in North Horr to fight the bandits. They will be there hovering over Kisumu, Eldoret, Mombasa and Garissa the whole day. How much money do we waste? How do we account for this economic waste? I am hoping that that particular Crime Centre will be concerned with these kinds of things. That they will be able to persuade those who enforce the law that there are some areas where you need not spend too much of the resources of this nation to prevent crimes that are not crimes.

We are supposed to be a civilised group, a civilised society. The attitudes of society, as I said, have changed.

Indeed, we are truly a multi-party democracy. The only people who are lagging behind because of their education and training are the Provincial Administration. And they are a shame to this particular country. When everyone everywhere is talking of democratic participation, they are saying that they are going to use every force. We have heard it from Kisumu, Eldoret and so on. I think, they need to be told that we shall go there because we know, as far as this society is concerned, the attitude towards that particular "crime" has changed. It is not a crime. If we had that Centre, Mr. Attorney-General, I am sure you would have been advised and you would have advised the Provincial Administration that this country is slightly more civilised than they are now; that they do not need to spend so much money preventing that particular meetings from being held.

Mr. Temporary Deputy Speaker, Sir, this is a common thing. Sometimes crimes are committed because the methods that are approved by society to reach certain goals cannot be met by the majority of the citizens.

The creation of wealth is a worthy course. Many people would like to be wealthy, but when the methods that are approved for reaching wealth cannot be realised or adopted by the many of the common people, they tend to deviate. That state is called "the state of anomy". This is being realised in these days of famine. The famine that has gripped this country has forced people to adopt all kinds of ways to survive. In Kitui, an exclusive KANU zone, children have been forced even to eat dog-meat in their attempt to survive. We know that some have died as a result of famine.

In other areas, people have adopted other methods in order to survive. This Government has failed to alleviate famine in spite of all the money that was voted to it as contingency from the Consolidated Fund. At home, this Government feels no shame in giving a Sub-location in Bungoma District 10 bags of maize when such an area has about 20 villages and each village has roughly 300 families. What kind of famine is 10 bags of maize likely to alleviate? The situation is so bad in Bungoma District. We have drawn the attention of this Government to it but it is like talking to a deaf Government. So, people have had to innovate on how to save themselves. We grow sugar cane for Nzoia Sugar Company which is hardly paid for, after harvest. There are people who are owed money by Nzoia Sugar Company for cane that was harvested about three years ago. But they still grow cane. So, the people are surviving on cane. They chew cane and they give cane to their children which is starch and some of them are surviving because of it. But look at what this Government is doing right now. In league with Nzoia Sugar Company which has defaulted in paying these farmers, they are going around with the police arresting anyone they find on the roadside chewing cane. The police stations in Bungoma are full of this kind of people and the Attorney-General will keep the records and bring statistics here and say thefts in Bungoma were so many. Those found chewing cane are going to be called thieves but they are not chewing cane that they have stolen. It is for the farmer whose cane has not been harvested after the contract period. The farmer who has been having his cane on the farm for about 36 months is facing famine and so, he sells the cane piecemeal, so that he may be able to acquire a *gorogoro* of maize for his family.

Those who cannot afford the price of maize because it is now Kshs46 per *Gorogoro*, find it easier to buy sugar cane. So, they are surviving on this. That is a normal trade on the basis of a willing buyer, willing seller. But the Attorney-General is now prosecuting hundreds of my people for the crime of chewing cane.

Mr. Temporary Deputy Speaker, Sir, I know that the Attorney-General knows that there is something that they call compromise with crime. There are people sitting on this Front Bench that are guilty of certain crimes but they have compromised. They are still here! We see some of them here. Why do you not compromise with these

people who are accused of chewing stolen cane, if it is a crime at all? Nzoia Sugar Company says it contracted the cane. This particular cane was not meant for chewing but for the factory and anybody found chewing it is guilty of stealing Nzoia Sugar Company cane. That is what they are doing. The Attorney-General should plead with the administration in Bungoma and Nzoia Sugar Company that, that crime, if it is a crime at all - is the kind that must be compromised. We have heard about the statistics of crime given. Some of the statistics are false but they are the cause of the introduction of this particular Bill here. They appear alarming but how are some of these crimes caused?

Mr. Deputy Speaker, Sir, we criminalize practises and habits that are quite normal. In Bungoma district, since I came to this House in 1993, we have been asking the Government to enforce the Traditional Liquor Licensing Act. Under Section 3 of this Act, it says: There shall be - I am not a lawyer but a teacher. When I was teaching English at one time, I used to say; "shall" makes it mandatory. I am sure that the lawyers say the same thing. "Shall" makes it mandatory and it is not optional. There is no choice. So, in Section 3, it says:

"Each district shall have a Traditional Liquor Licensing Board, to give licences to those who wish to brew and sell traditional liquor.

In Bungoma, the traditional liquor is busaa. That Act is Section 25, Cap. 22, if the Attorney-General wants to put it down. It says that:

"If one is caught brewing and selling busaa without a licence, he shall be considered to have committed an offence, and he will be liable to a fine of not more than Kshs6,000."

In Bungoma, that is the maximum fine that is being given nowadays. So, people are being caught in Bungoma, a few are taken to the police stations while those who bribe the police along the way are left to go free. Those who reach the police stations are being charged with brewing and selling busaa without a licence. But we have told this Government that there is no one who can give the licence. So, where there is no provision for the Board that will issue the licences, and then you catch people for selling busaa without a licence is deliberating criminalising an act. I do not know what to do with a Government that deliberately refuses to appoint a Traditional Liquor Licensing Board, but then allows the police to go ahead and apprehend those who are selling the brew under a certain section of that Act which, they themselves have refused to implement. I will be seeking advice on what to do with such a Government.

Last year, we asked the Attorney-General about this issue and he said he did not know about it. Look at how long it takes this Government when they realise that this is wrong. Up to now, they will still say: "Oh, you mean they have not appointed the Board?" One hand of this Government does not know what the other hand is doing. This is why we are feeling fed up completely with this Government.

We are hoping that the Attorney-General will act on this matter. So, what I am saying is that the rate of crime in Bungoma, for instance, if it is seen to be increasing, the picture is somewhat false. This is because there are certain parts of the Act that are not enforced and others are enforced, whereas they are supposed to be dependent on each other.

Mr. Temporary Deputy Speaker, Sir, then there is the issue of the oppressive chiefs. The chiefs induce obedience by committing crimes themselves. I do not know whether the Attorney-General or maybe the police have ever investigated this matter. But I am quite sure that if this centre will be given a free hand to carry out its research, it is bound to come up with this: That many of the people that are arrested are merely people who think freely, and they sometimes point out to the chiefs that they are wrong in a particular manner.

Mr. Temporary Deputy Speaker, Sir, for instance, the chief of Namwela location is specifically known for this. This chief had one of his people arrested on account of so-called terror. This fellow was put in and then the wife started feeling insecure. People were throwing stones and sand on the roof every night. She could not sleep. So, she went to see her husband in jail in Bungoma and told him that she was suffering this insecurity. What happened then is that the prison warden reported the matter to the chief of that particular area. He said: "Could you please help this lady?; She is now staying alone without a husband; Could you help her because she is feeling insecure and people are going to her compound at night and throwing things on her roof." The chief said that was a simple matter and he would help her.

Mr. Temporary Deputy Speaker, Sir, when the husband was later released from prison, he found there was a new baby in the home called Situma and the father was the chief. That is how some of these chiefs are looking after our people. So, people now are complaining and saying: "Now, what is the chief doing?; Now, the chief is going to father children for us when we are away. Is this the kind of security that we expect from the provincial administration?" Now, he must scare the people. The chief says: "If I hear you say that again, then you will see." So, you will be put in. He will send his APs and arrest you and then they will plant bhang or opium on you. You are arrested and it is said that you were found with bhang.

Mr. Temporary Deputy Speaker, Sir, this kind of things are very common. It is common also in North Nalondo. The chief there also scares people like that. He says "If you do this, I will get you." So, where are they

keeping this opium? I thought that there was a law in this country against this drug, but it appears that the provincial administration and the police have stores of it. They are ready to plant this drug on people to criminalise people who otherwise were law-abiding and the only crime they have committed is that they speak freely and complain when they see an injustice being done to them. Things like these should be investigated.

Mr. Temporary Deputy Speaker, Sir, I think the other thing that appears to encourage crime is letting people get away with crime. Maybe, this Centre will come up with it because what we are doing now is merely thinking. What is giving us hope is that this Centre must find out what some of us already know. When we see some people commit crimes, we look the other way and we let them get away with it. There have been people here who went to court and they were given bibles and they swore before the court that they were going to say nothing but the truth and they called upon God to help them. Then they went ahead to say that they were witches and they had been called upon at a particular time to administer the oath and that they administered some oath. They impressed the court that they were simple rural men incapable of concocting a story because, right through the questioning, they had remained firm. The court said that an oath was indeed administered.

Then we asked the Attorney-General to prosecute them. You do not go anywhere else for any evidence when there is a judgement, and the three judges of the High Court have said: "No, we are impressed. This is a true story". All we are asking the Attorney-General to do is to put these people in for having committed an offence under the Penal Code; that is administration of oath, under the Witchcraft. Here is now another story that is coming. Now, they want to go in and prove whether these people are witches, and they are asking: What constitutes a witch? So, they go and arrest these people and then they say, "We found you with charms". Who is this finding them with charms? The offence was admitted in the High Court, but now the issue is being turned round. Now it is not that they administered the oath, no, they want to say, these people said they were witches and we caught them with charms.

But the kind of things that are difficult to prove are charms. If you are not an expert in witchcraft yourself, what are you going to say is a charm? You must say: This particular one, when you twist it like this or mix it with this and that, it is likely to have such and such an effect. Who is an expert here, the police or the Attorney-General? They are not, Mr. Temporary Deputy Speaker, Sir.

What they could have done and what we expected them to do was merely to say: "Yes, you administered an oath at the invitation of so-and-so's home, and you said in court on oath and the three judges of the High Court found you to be truthful. So, on account of that, we are now putting you in for 10 years". That is what we expected.

The Attorney-General(Mr. Wako): On a point of information, Mr. Speaker, Sir. I think we are aware of that case and it was subject of a Question here sometimes ago. At that time, I said that we gave instructions to the police to carry out the investigation and I gave the reasons for those instructions. The facts are as outlined by the hon. Member, and the police finalised their investigations and charged these persons before the court. The point of information is that the Attorney-General has called for the file and, therefore, he will advise appropriately.

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, this is what I have been talking about. The judgement was made in November, 1994. When we were having submissions in hon. Kapten's petition in October, 1995, an officer from the Attorney-General's Chambers told the judges when they were asking: "What are you people in the Attorney-General's Chambers doing? You are always sited here, but you do nothing about these fellows that we do find guilty of offenses! That particular lady informed the judges that they were now ready with their investigations and soon those particular witches would be in court. Do you hear that now, June, 1997, the Attorney-General has called for the file of things that were completed by October, 1995? So, when we ask, "what kind of job are you doing, Mr. Attorney-General," it is because of things like this. We say no, but there was an offence committed. It was proven, so, why is action not being taken? That is why I told you sometimes people look the other way when certain people are committing or have committed certain offenses.

I know that they have a particular interest in that petition of Webuye and they cannot get away from it. It was their work. This is why they are unable to prosecute those particular people for the offence that was found in the court during the hearing of that petition because they would be going on the promise they had made to those people when they were concocting the petition in that particular case.

Mr. Temporary Deputy Speaker, Sir, there were also other cases--- And as always people fear mentioning names. There was, for instance, this matter of a magistrate in Busia who has been buying court exhibits. He has been auctioning them to himself at prices that he himself chooses. This man is called Ong'ang'i and is now very safe at Kericho. If he can auction things to himself in Busia and he gets away with it, do you think he is not doing the same in Kericho now? What have you done to prevent this kind of crime? He must be educating others. He must be telling them: "If you are a magistrate and you do not benefit from simple things like these ones--- The cheapest things you can ever get are court exhibits. You should auction them to yourself at a time and place that you choose". Why do we wait with fellows like this one? How can this not be encouraging the spread of particular crimes?

What I am saying is that I am highly hopeful that when this Centre is established, it will investigate matters

like this one. Maybe, it will be more authoritative in pressurising those forces that are supposed to help us in the prevention of crime.

The last thing I wish to say about this Bill - so far I have been talking about only clause 4 which is about the victims. How much attention has been given to the victims, either real or potential? How much guidance have we been given on how we can prevent crime by avoiding being victims of crime? I think the Ministry of Health advises people on prevention of diseases. They get information and come out to the people and wage campaigns. They tell people about how one can avoid malaria, typhoid and so on. How do you avoid rape or assault? I do not know whether the staff will be advising: When you see that another man is very furious with you, adopt the Attorney-General's style: Give him a broad simile, and you will disable him". That might be one of the things to be learned.

But I am saying that those who are likely to be victims of crime should be helped. Might be, the Centre staff will come up with some education for us. Maybe they will tell the people what they have to do to avoid crime. At the moment, it appears that the only thing the rich men have to do is to go and buy the strongest wire gauge and put it in their windows. But they have discovered that this is not actually fool-proof, and so there should be something else.

What about compensation for the victims? We also expect that this particular crime research centre will concentrate on those areas of victimisation. This is because some offences leave "wounds". How do you compensate or rehabilitate a victim, so that he can forgive those who have committed offences against him?

The only thing I would like to say now is that I welcome Clause 18 which provides:-

"(1) The Council shall within four months after the end of each financial year make a report to the Minister on the activities of the Centre during the financial year and its research programmes for the following year.

(2) The Minister shall within 14 days after receipt of the report lay the same before the National Assembly".

The Minister here is the Attorney-General and he will make the reports available to the National Assembly. That is what I emphasising. I am also saying that I am sure that these law makers will be very keen on getting the research findings. I would suggest that even the research findings and papers be made available free of charge to hon. Members of the National Assembly.

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

Mr. Murungi: Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Moiben: Mr. Temporary Deputy Speaker, Sir, with all due respect to the Chair, I stood very calmly to "catch your eye", but being short, maybe you did not see me.

The Temporary Deputy Speaker (Mr. Wetangula): What is your problem?

Mr. Moiben: Mr. Temporary Deputy Speaker, Sir, do you mind considering me? I switched to the Government side in good faith.

The Temporary Deputy Speaker (MR. Wetangula): That means you did not "catch my eye".

Mr. Moiben: Mr. Temporary Deputy Speaker, Sir, I stood up very calmly.

The Temporary Deputy Speaker (Mr. Wetangula): Carry on, hon. Murungi.

Mr. Murungi: Thank you, Mr. Temporary Deputy Speaker, Sir. First of all, I would like to go on record as opposing this Bill. For quite sometime now, we have been complaining about the quality of Bills that are emanating from the Attorney-General's Chambers. We have been complaining that the Bills are badly drafted, and to use the phrase; that the Bills are flawed. Let me depart from that tradition, and actually congratulate the Attorney-General for the high quality of draftmanship, which is exhibited by this Bill. We have to congratulate him for the simple language which has been used, the drafting style and the way it is clear and unambiguous. We are asking him to make sure that all future Bills look like this one.

Mr. Temporary Deputy Speaker, Sir, I am just talking about the style of drafting, I am not talking about the contents of the Bill. For those of us who have been following the Attorney-General, especially the way he thinks and operates for sometime, it is quite clear that the Attorney-General is very much like that character in Shakespeare's play, *Hamlet*. You remember, Hamlet's father had been killed by his uncle called Claudia, and ghosts had told Hamlet that his father had been killed by the uncle by pouring poison through the ear. But instead of Hamlet seizing the opportunity to kill the uncle in revenge, he took the long route of research. He organised a play, which he called the Mouse Trap, with which he hoped to catch the guilt of the uncle. Despite various opportunities granted to Hamlet to take some positive action to avenge this cruel death of his father, he actually did nothing. He just schemed and schemed, procrastinated and planned, but in the end, he actually did nothing.

It is quite clear that when the Attorney-General is faced with serious problems, he goes to look for mouse traps, and this Bill is one of the Attorney-General's mouse traps. When he is faced with serious problems of rising crime in this country, he takes us on a lengthy route of obstruction, intellectualism and research, instead of taking some

positive action to reverse the tide of crime in this country.

Mr. Temporary Deputy Speaker, Sir, this is not the first time, that the Attorney-General is using this strategy. He has used it all the years that we have been here since 1992. When he was faced with serious gross abuses of human rights, the Attorney-General set up a mouse trap called the Standing Committee on Human Rights, headed by Prof. Mutungi. You would recall that Committee is not doing very much, they are just doing public relations work for the Office of the President. They have not responded to anything. They say that they have investigated over 180 cases and they have reported the matter to the President. But Kenyans are yet to be told what concrete action that Committee set up by the Attorney-General, has taken.

In fact, when Amnesty International was around last week, we thought that it is that Standing Committee on Human Rights which would respond to the criticisms levelled against this Government by Amnesty International. But instead, they got an economists, Prof. Saitoti, to go and respond to Amnesty International. What the hell is Prof. Mutungi doing?

Mr. Temporary Deputy Speaker, Sir, when the Attorney-General was faced with major problems in the Judiciary, he brought before this House another Bill called: "The Council of Law Reporting Bill," which we debated and passed. Almost one year has passed but this Council has not published even a single report to date. It was another mouse trap for the Judiciary.

Mr. Temporary Deputy Speaker, Sir, we also have a problem of these colonial repressive laws. In fact, it was during Mr. Kamere's time, when he was the Attorney-General, that they set up the Law Reform Commission. So, they created a very good body but they tied its hands because it cannot recruit its own staff. The staff at the Law Reform Commission have got to be seconded from the Attorney-General's Chambers. The Law Reform Commission has no funds of its own. It depends on the little amount we vote for the Office of the Attorney-General for its own survival and its own work. What we did in creating the Law Reform Commission was to produce a still-born baby. In fact, when it was faced with questions regarding the Public Order Act, the Chief's Authority Act, and all these laws that we are complaining about; the Law Reform Commission was found wanting, it could not handle problems of such magnitude. The Attorney-General created other mouse traps; the so-called Task Forces. He also came here with a bright face and his usual smile and told us that he is looking into all these things and that we need not to worry. He was reviewing the Chief's Authority Act, the Public Order Act and all that. We were impressed. You know he has a very flowery language. Five years down the line, these Task Forces have turned out to be hollow. We have yet to see a report produced by any of these Task Forces. The Attorney-General says that they have reported to him and he is using the report to prepare Bills. But as for the Bills that are being prepared, it is quite clear that they have not benefited from the Task Forces. I appeared before the Task Force on Security Laws in this country; we had a very good exchange with them and I understand they produced a very good report, but the Political Parties' Bill which the Attorney-General says came from that Task Force was totally different from the recommendations made by the Task Force.

Mr. Temporary Deputy Speaker, Sir, we understand that, now there is a big task force within the Cabinet which looks at all these laws. They are even ignoring the lawyers who the Attorney-General has appointed and we understand that sometimes the Attorney-General can present some good Bills to them but, they throw them out and recommend dictatorial provisions which are now brought here and unfortunately, the Attorney-General, by the nature of his work, cannot tell us what he gave to them and what came out from them. So, what we are facing in this country are major problems and these "piritons" which the Attorney-General is trying to use to solve those problems will not work. The reason why I am opposing this Bill is because the National Crime Research Centre is one of those piritons; it is half-hearted, it is a cosmetic solution to a major problem in this country. So, we are asking the Attorney-General to seek root causes, to have radical solutions and not these hole and corner reforms. We want him to take this issue of rising crime in the country more seriously. Investigating and writing reports and all that will not solve this problem because tonight, some burglars may come through the roofs of houses even including the Attorney-General's house. The National Crime Research Centre is not going to stop those burglars from coming through his roof today or tomorrow, these are solutions for the future.

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Murungi, if you wish to carry on, be here at 2.30 p.m.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Wetangula): Order! Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday, 18th, June, 1997 at 9.00 a.m.

The House rose at 6.30 p.m.