

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 14th May, 1996

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

## PRAYERS

## ORAL ANSWERS TO QUESTIONS

*Question No. 248*

### REPATRIATION OF DANIEL LEKIMENCHO

**Mr. Ruhiu** asked the Minister for Foreign Affairs and International Co-operation:-

(a) whether he is aware that Mr. Daniel Lekimencho, a 25 year old Samburu Moran Dancer, was repatriated from the United Kingdom on Friday, 8th September, 1995, after marrying a British house wife, Ms Cheryl Mason; and,

(b) if the answer to "a" above is in the affirmative, he could tell this House whether he has communicated with Her Majesty's Government to find out why this Kenyan National was unceremoniously expelled from Great Britain.

**Mr. Speaker:** Is anyone here from the Ministry of Foreign Affairs and International Co-operation? We will leave that Question until the end then. Next Question! I understand the next Question was transferred to the Ministry of Energy.

*Question No. 330*

### MISUSE OF CENTRE'S FINANCES

**Mr. Magwaga**, on behalf of **Rev. Ommani**, asked the Minister for Energy:-

(a) whether he is aware that the management at Kakamega Energy Centre, Bukura Station, misused finances, machinery, vehicles and materials, which were to be used in the station between 1992 and 1994; and,

(b) if he would tell the House why the officers, who were concerned, were not prosecuted for mismanagement of public funds.

**The Assistant Minister for Energy** (Mr. Marita): This Question was transferred to my Ministry.

Mr. Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) The officers were not prosecuted because there was no evidence to warrant prosecution, and there was nothing extra-ordinary in the management of Bukura Energy Centre.

**Mr. Magwaga:** Mr. Speaker, Sir, it is very unfortunate that the Assistant Minister is saying that he is not aware. At the same time he is saying that the officers will not be prosecuted because there was no evidence. Can we believe this kind of answer, that he was not aware, and there was no evidence? Can he tell this House, which is which?

**Mr. Marita:** Mr. Speaker, Sir, if I can give more information about this issue; in the period between 1992, 1994 and up to date, there have been three managers running the Centre. There was Mr. Charles Mbarete who ran the institution up to 1993. He used to absent himself and was dismissed on 29th July, 1995. The other one was called, Mr. Onyango. He ran the institution between 1993 up to 1994 and then he was posted to our new District Energy Centre in Busia. He was to open it up and oversee the Kenya Wood Fuel Programme in that area. The last one was Mr. Musumala who is currently in charge of the Energy Centre. He is running it in a satisfactory manner. So, we have no knowledge of what the hon. Member is alleging.

**Mr. Speaker:** Next Question, Mr. Gatabaki!

*Question 158*

NUMBER OF IMPORTED VEHICLES

**Mr. Speaker:** Is Mr. Gatabaki not here? We will leave his Question until the end. Let us [**Mr. Speaker**] move on to the next Question.

*Question No. 180*

ALLOCATION OF GAZETTED AREA

**Mr. Speaker:** Hon, Members, Mr. Orenge has requested that due to his inability to ask this Question at this time, the Question be deferred until Thursday. Therefore, the Question is accordingly deferred.

*(Question deferred)*

*Question No. 073*

ALLOCATION OF LIBRARY PLOT

**Mr. Sifuna** asked the Minister for Lands and Settlement:-

- (a) whether he is aware that Bungoma Municipal Council has allocated the plot previously allocated to Kenya National Library Services for construction of the District Library to an individual; and,
- (b) if he could direct the Council to reverse that decision and allow the Kenya National Library Services build the library as per the Bungoma District Development Committee's Resolution.

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

(a) I am not aware that Bungoma Municipal Council has allocated the plot previously allocated to the Kenya National Library Services to an individual. However, my Ministry is taking up the matter with the Municipal Council to find out the present position of the plot. In the meantime, I would request the hon. Member to take up the matter with the Bungoma DDC where he is a member.

**Mr. Sifuna:** Mr. Speaker, Sir, while I sympathise with my friend who is a new Assistant Minister, when answering questions in this House, should he say that he is not aware? It is true that I am a member of the DDC. We raised this issue during the DDC meeting and we were told that the Ministry of Lands and Settlement has already allocated this plot to an individual. Now, the Assistant Minister is telling us that he is not aware. Could he tell us the allottee who was allocated that plot? We were told during the DDC meeting, by the Clerk of Bungoma Municipal Council, that it is the Ministry that allocated this particular plot. Can we now be told who this allottee is?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, I said earlier on that the Ministry is not aware that this plot has been allocated to an individual. However, during a Municipal Council meeting held on 3rd of July, 1991, the plot number 502 was recommended to be allocated to the Kenya National Library Services, under Minute No 4 of 1991, but not to an individual.

**Mr. Kamuyu:** On a point of order, Mr. Speaker, Sir. I start by congratulating the Assistant Minister for making such a good effort. But, since hon. Sifuna said that the Assistant Minister ought to be aware, and that he would like to make him aware, may I seek guidance from the Chair, whether, indeed, hon. Sifuna can make the Assistant Minister fully aware of the person who was allocated this particular plot?

**Mr. Speaker:** Order! I think, in the course of asking Questions, I would ask hon. Members to acquaint themselves with the Standing Orders. You ask Questions because you do not know. That is what the Standing Order says, that: "A Question must be of an interrogatory nature." If you want to inform the House, of course, you can do so by asking him to be informed.

**Mr. Sifuna:** Mr. Speaker, Sir, the question I am asking is that when we tried during the District Development Committee (DDC) meetings to find out who this allottee was, the Clerk was not prepared to tell us

and that is why I brought this Question to this House, to enable us to know who was allocated this plot and why.

**Mr. Speaker:** Very well, Mr. Sifuna. I think he was cut-short in the middle of his answer and I would ask hon. Members to allow Ministers a chance to answer hon. Members' questions fully. He was in the middle of telling you the circumstances. Mr. Sumbeiywo, would you continue from where you left?

**Mr. Sumbeiywo:** Thank you, Mr. Speaker, Sir. I was saying that the Ministry is not aware that this plot has been allocated to an individual.

**Mr. Sifuna:** He is lying!

**Mr. Sumbeiywo:** Mr. Speaker, Sir, we are going to make all efforts to ensure that we check if there is any individual allottee. But, if the plot has been allocated to an individual then this was irregular as the plot was recommended for allocation as a public park.

**Mr. Sifuna:** A public park? Go on!

**Mr. Sumbeiywo:** Today, the Ministry has the records for that particular plot as being re-designated from a public park to other uses.

**Mr. Sifuna:** Which are these other uses?

**Mr. Nthenge:** Mr. Speaker, Sir, under the circumstances and, as per the Assistant Minister's reply, would the Ministry commit itself that it will change the situation so that the plot remains the property of the organisation to which it is already legally and properly allocated to? We would like an assurance that you are going to make sure that it goes back to the correct organisation that is, the Kenya National Library Services.

**Mr. Sumbeiywo:** Mr. Speaker, Sir, that is the case.

**Dr. Lwali-Oyondi:** The Assistant Minister has just said that this plot has been re-allocated for other uses. Can he tell us what those other uses are?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, it is quite obvious that when a plot is re-designated for other public use, then it is up to the DDC, in consultation with the Ministry of Lands and Settlement, to re-allocate that plot for a different use.

**Mr. Sifuna:** On a point of order, Mr. Speaker, Sir. Will I be in order to ask the hon. Assistant Minister to get us the proper answer? This is because, in the first place, he told this House that he is not aware. Now, he has turned round and said that the plot has been given to another user. Can he tell us who this particular user the plot was given to? During the DDC we asked and the Clerk said that matters are being held by the Ministry of Lands and Settlement. Can he go and cancel that particular allotment letter or allocation to that particular allottee?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, this re-designation to other use means that this plot is going to be re-allocated to the National Museums.

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

**Mr. Speaker:** Next Question Mr. Rotino!

#### *Question 401*

#### TITLE DEEDS FOR CHEPARARIA AND CHEPKOMO

**Mr. Rotino** asked the Minister for Lands and Settlement when title deeds will be issued to residents of Chepararia and Chepkomo areas of West Pokot District, where survey work was completed over five (5) years ago.

**Mr. Speaker:** Anybody from Ministry of Lands and Settlement?

#### *(Loud consultations)*

Order! We are hardly able to follow. I have just called Question No.401 directed to the Ministry of Lands and Settlement.

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

Title deeds will be issued to residents of Chepararia and Chepkomo areas of West Pokot District by the end of this year. The issuance of titles was delayed due to lack of printing materials, which are necessary for printing of maps for adjudication records.

**Mr. Rotino:** Mr. Speaker, Sir, I want to thank the Ministry for giving me this answer, that by the end of this year, they will have issued title deeds to the residents of these two areas. But the adjudication was done more than five years and we have been hearing reports of title deeds being given out to various districts and areas---

**An hon. Member:** Like in Bomet!

**Mr. Rotino:** What criteria is the Ministry using to issue title deeds to various areas? It is more than five years when the adjudication was last done in these areas. Can he tell us the criteria the Ministry is using to issue title deeds?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, it is true that there has been a delay in registration and issuing of titles to residents of these two areas in West Pokot. The delay was as a result of lack of printing materials, as I have said earlier, which could not be procured due to budgetary constraints. The necessary materials have now been procured and the title deeds will be ready by December this year, once the adjudication maps are printed. It is the policy of the Ministry to issue title deeds to land owners once the adjudication work is completed in an area. But the effort sometimes depends on the availability of funds for the purchase of these necessary materials.

**Mr. Rotino:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Rotino, is it a point of order or a supplementary question?

**Mr. Rotino:** On a point of order, Mr. Speaker, Sir. The Assistant Minister has not answered my question. I asked him the criteria the Ministry uses in determining which districts to give title deeds? In these areas, adjudication was done five years ago and ever since that time, title deeds have been given to various districts. Why the delay? If the delay was due to the lack of printing materials, why have other districts been issued with title deeds and not West Pokot? We all belong to this country and we are entitled to a title deed immediately or within a span of six months or so. What criteria are you using? Mnatumia nini? Mnachagua wengine na kuacha wengine?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, I think there is no discrimination as to who should be issued with the title deed first. When the titles are ready, they are issued according to the time they are printed. As I said earlier, the delay was caused by lack of printing documents some of which are not found locally.

**Mr. Ndicho:** Mr. Speaker, Sir, can the Assistant Minister agree with me that it is because of sheer selfishness and greed that there is delay and corruption in processing of title deeds in Ardhi House? I have a map here where land in Thika belonging to Kenyatta Primary School was grabbed and sub-divided into two and then it was further sub-divided into ten plots on 11th April, 1996. Less than a month ago, the people who have been allocated this school land have title deeds. So, can the Assistant Minister tell us what is the criteria of issuing title deeds? If the Ministry is giving title deeds of school land grabbed in Thika within a month, why not give in West Pokot? What criteria is used in the Ministry?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, this one I am sure it is not relevant to the Question. But the ones from West Pokot being too many, perhaps, that could be one of the reasons why this one was issued.

**Mr. Ndicho:** Mr. Speaker, Sir, we sympathize with the Assistant Minister because he is very new in this Ministry. He has just been learning about "not being aware" and "dilly dallying." Here is a case, where on 11th April, 1996, land belonging to Kenyatta Primary School was sub-divided into two plots after being grabbed and within a month, the title deeds were issued. So, the question is: what criteria is the Ministry of Lands and Settlement using to give title deeds within one month in Thika and refuse to give title deeds in West Pokot? We are in the same country and served by the same Ministry.

**Mr. Sumbeiywo:** Mr. Speaker, Sir, in this particular one, the ground work had been completed, but there are still some few other things to be done before it is completed. This case of Thika is a bit understandable because it is only 25 kilometres, and one can easily go there from the Headquarters because officers are available and they can finish the work as quickly as possible.

*Question No.238*

MINISTER'S VISIT TO PROVINCIAL HOSPITAL

**Mr. Shikuku** asked the Minister for Health:-

- (a) when he did last visit Kakamega District/Provincial Hospital; and,
- (b) if he is satisfied with the state of cleanliness in the said Hospital.

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

- (a) I was in Kakamega at the hospital on 4th March, 1996.

**Mr. Nthenge:** On a point of order, Mr. Speaker, Sir. We are not hearing a single word from him. Could the Chair order him to use the microphone so that we hear him?

**The Minister for Health** (Mr. Angatia): Mr. Speaker, Sir, I am heard by people who are listening but not by my shouting. So, I was in Kakamega---

**Mr. Speaker:** Order, Mr. Angatia! Hon. Members are discouraged from shouting but, nonetheless, they are also encouraged to be audible! Proceed.

**The Minister for Health (Mr. Angatia):** Mr. Speaker, Sir, I was at Kakamega on 4th March, 1996. That is part "a" of the Question.

(b) Yes, I am satisfied with the state of cleanliness at the hospital. The hospital is reasonably clean and staff are making a very big effort to keep very old buildings as clean as they can possibly be.

**Mr. Shikuku:** Mr. Speaker, Sir, arising from that reply, the Minister says he visited the hospital last on 4th March, 1996. Is he aware that this Question was also asked in March last year and it has taken time to be asked here again? I have been to the hospital and I am not quite amused by the stench one gets when he visits the wards. The blankets are old, sheets are disfigured and so on. He agrees here that there is a lot more to be done. When will he make sure that this lot more is done? You go to the hospital to get cured, but when you go to Kakamega hospital your chances of coming back alive are very remote?

**Mr. Angatia:** Mr. Speaker, Sir, the chances of coming out of Kakamega hospital alive are very high and I do not think they have a great deal to do with the cleanliness. This is an old hospital and we are trying to get it renovated in the next two years and the efforts that we are making with the skeleton staff are very commendable. When the hon. Member goes to the hospital, he should spare some time to encourage staff rather than to discourage them. The hon. Questioner knows that this programme called "retrenchment" has robbed us of a lot of staff in the whole country.

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Speaker, Sir. If you heard the Minister correctly, he said that when the hon. Member goes to the hospital he should try and encourage the staff rather than discourage them. Is he accusing the hon. Member of discouraging staff of Kakamega District hospital from---

**Mr. Speaker:** Not necessarily!

**Dr. Otieno-Kopiyo:** But, let us hear from him!

**Mr. Speaker:** Order! He is expressing his opinion!

**Mr. Angatia:** Mr. Speaker, Sir, I have made no accusation. We are short of staff at Kakamega District Hospital as we are short in all other hospitals because our new programme of retrenchment has not allowed us to keep subordinate staff to the levels we have always been used to. Nevertheless, the few who are there plus the casual workers are doing their very best to keep an old hospital with very old buildings as clean as possible. There is a programme of renovation which is going to include Kakamega District Hospital and the rest of the country. And in the next two years, this programme should be effected and Kakamega District Hospital will be one of those hospitals that will be renovated.

**Mr. Raila:** Mr. Speaker, Sir, the state of sanitation in our hospitals generally is terrible. This morning, we went to Kenyatta National Hospital to visit the victims of yesterday's disaster, and we found many of them lying on the floor because there are no beds. The hospitals are very crowded. We found cleaners sweeping with brooms that could not sweep. We know the World Bank has given the Government a lot of money for rehabilitation and maintenance of this hospital. Can the Minister tell this House why that money is not being used for the purposes which it was intended?

**Mr. Angatia:** Mr. Speaker, Sir, hon. Members should not be fond of making sweeping statements like hospitals are not clean. I want specific examples. Kenyatta National Hospital is very clean and if the hon. Member is honest, he can also say that wards have been closed because they are under renovation and, therefore, there is crowding in the few wards that are being utilised and with an emergency of this kind, you will expect some crowding. But, Kenyatta National Hospital is one of the cleanest places in this country.

I think also when we say there is crowding, let us also appreciate the reason why it is there like in Kenyatta National Hospital and note the cleanliness that has come in Kenyatta National Hospital, Kisumu Provincial General Hospital and other hospitals in the country.

**Mr. Speaker:** The very last one, Mr. Shikuku.

**Mr. Shikuku:** Mr. Speaker, Sir, I am sorry if it is the last one because I had many more questions to ask. Nonetheless, does the Minister not agree with me that when wananchi come from those places where he comes from which he knows and I know, when he goes to the hospital, if the hospital is clean with the nice smell we used to smell when we went to hospitals during the colonial days, that in itself, plays a part in healing him psychologically? I am surprised he says that he has skeleton staff. Could he tell this House, why he has got skeleton staff which is also contributing to filthiness in the hospitals? Does he not agree with me that filthiness is part or contributory to the deaths that now occur very many times in this hospital? When will he, in the name of Kakamega District Hospital, ever get this place clean? He is talking about two years, but what is he going to do in the meantime?

**Mr. Angatia:** Kakamega District Hospital is not filthy. I have been to the hospital and I am satisfied that the skeleton staff are keeping the hospital as clean as they possibly can. The hon. Member ought to know that there is retrenchment in this country and all of us are using skeleton staff.

*Question No. 320*

REMOVAL OF LAKE VICTORIA WEED

**Mrs. Asiyo** asked the Minister for Tourism and Wildlife to tell the House what plans the Ministry has for the removal of the weed which has spread to many beaches on the Kenyan side of Lake Victoria, making it almost impossible for fishermen to untangle their nets caught up in the weed.

**The Assistant Minister for Tourism and Wildlife** (Mr. Kisiero): Mr. Speaker, Sir, I beg to reply.

The water weed which the hon. Member is referring to and which has invaded many beaches on the Kenyan side of the Lake Victoria is the noxious type known as *water hyacinth*. The problems caused by this weed are not confined to Kenya but are also experienced by the riparian sister states of Uganda and Tanzania. Any effective control of this, weed can, therefore, only take place with the co-operation and concerted efforts of the three States concerned, as well as the co-operation of Rwanda and Burundi.

Mr. Speaker, Sir, there is a proposed *water hyacinth* control project to be implemented under the Lake Victoria Environmental Programme covering the entire lake. Under this project, Kenya through the Kenya Agricultural Research Institute (KARI) will play the leading role in the implementation of the control strategies. The initial control mechanism will involve the introducing of a bug similar to one that KARI has successfully introduced into Lake Naivasha to control the weed "Salvinia Molesta" by feeding on it. KARI is currently breeding this bug which is expected to feed on the *water hyacinth* weed, in various breeding stations along the lake for eventual introduction into the lake. It is expected that this will provide a long term solution to this problem.

The Director of Fisheries has, meanwhile, through the District Fisheries Officers mobilized *water hyacinth* control committees for the manual removal of the weed in the worst hit areas. These committees are closely supervised by the respective DDCs.

**Mrs. Asiyo:** While I appreciate what the Kenyan Government and other Governments in East Africa are doing to exterminate this weed, I would like to inform the Assistant Minister that KARI's efforts have been overtaken by events due to the fact the bug will not be able to finish the weed because it comes everyday in bigger quantities from the Kagera River. There is no way that this bug will have the capacity to eat up and kill all the weed. It appears as if the Ministry is not concerned with what is happening in that lake. The Coxswains are having nightmares in that lake. These weeds do appear on their radars and they mistake them for either islands or other vessels and while they negotiate they experience a lot of problems. Can the Minister take immediate action to remove the weed manually from all the six breeding grounds as well as the six planting beaches and Got Odiak? Kendu Bay which is one of the most important beaches on that lake which in fact, opened up the whole of that region, Kisii and South Nyanza is blocked. No ship or boat can now deliver goods or people on that port. Can the Assistant Minister take immediate action, and do what Uganda is doing now by paying Kshs25 per kilogramme to those people who have canoes on the lake to remove this weed manually before it causes more havoc than this one?

**Mr. Kisiero:** I wish to assure the hon. Member that the Ministry is as concerned as she is in the problem that we are facing in controlling these weeds. We are already using manual means to remove the weed and each of the fishermen coming out of the lake is encouraged to bring 5 killogrammes of the weed. As I said, we are breeding the bug and we have not released the actual bug into the lake. What we have released is only a very small experimental portion for experimental purposes. We have well over 1000 of these bugs prepared at Muguga and we are still multiplying them. As soon as they are released, we are sure that together with the manual removal of the weed, we will be able to destroy that weed.

**Prof. Anyang'-Nyong'o:** While appreciating the attempts by the Assistant Minister to answer the Question, this weed started from Uganda and the Uganda Government did warn the Kenyan Government of its impending passage near Rusinga Islands towards the Nyanza Gulf. At that point in time, the Ministry could have taken physical measures to stop the weed from getting into the Nyanza Gulf. The Assistant Minister knows that the bug they are preparing is a long term method of dealing with a thing that the Ugandans also knew when the weed was there. It is not something that they should be doing now. Can the Assistant Minister tell us categorically what emergency steps the Government is taking to remove the weed from the Nyanza Gulf using the

Army Corps or Engineers which should be handling such situations in any country?

**Mr. Kisiero:** The situation has not reached a state where we have to bring in the army but we shall do everything possible to see that this weed is controlled.

**Dr. Oburu:** While we appreciate the answers by the Assistant Minister on the long term plan for the removal of this weed, it appears that the Ministry does not understand the seriousness of this problem. The problem is so grave, particularly in my constituency that fishermen are unable to fish just across the lake. Can the Assistant Minister tell us what they are doing exactly about the physical removal of this weed from the lake? We have not seen these people and Assistant Minister is misleading us by saying that these things are closely being monitored by the DDCs. I have never heard of this discussion in our DDCs and we do not know who is monitoring this weed and how many units are there and what they are doing exactly to remove this weed physically from the lake.

**Mr. Kisiero:** Perhaps the hon. Member has not been to the shore area of the lake but we are assured that all the DDCs around the lake on the Kenyan side are using manual labour to remove the weed.

**Mrs. Asoyo:** This is an emergency situation and there is no way we can wait for long term plans because good as they may be, they will not help either the fisherman or the breeding grounds or even the lake travellers. This weed is only coming through the Kavirondo Gulf, between the northern part of Rusinga Islands and the dry land and it is only 5.3 sq. kilometres. I know that the Ministry is capable of causing some vessels to catch the weed as it comes into the gulf because Tanzania has no problem whatsoever. It is Kenya that has problems. Can we not get the navy as Uganda is doing to go and arrest this weed as it flows into the gulf so that it does not enter the gulf and cause havoc the way it is causing to everybody now, the fishermen, the coxswains and the marine life in the lake?

**Mr. Kisiero:** Mr. Speaker, Sir, I do agree with the sentiments by the hon. Members on the importance of getting rid of this weed. I wish to assure the House that we shall do everything possible to get rid of this weed because we know that the presence of the weed is interfering with the breeding of fish and oxygen in the Lake. So we shall not leave the situation to get worse. We shall do everything possible to see that the situation is under control.

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. Are you aware that there is somebody inside the Chamber wearing dark sun glasses? Are you sure that we are not having a stranger in the House? Who might he be? There is a strange looking face in the Chamber!

**Mr. Speaker:** Order! Order! Mr. Ndicho, if I were you, I would stop thinking in riddles. Proceed. Who was answering the Question?

**Mrs. Asoyo:** On a point of order, Mr. Speaker, Sir. Can the Assistant Minister undertake to give this House, a Ministerial Statement about the water hyacinth because it is a very serious issue yet but he has lightly handled it.

**Mr. Kisiero:** Mr. Speaker, Sir, I think I have given as much information as possible and I have given the assurance that we accept the sentiments expressed by hon. Members and we shall do everything possible to see that the situation is put under control.

**Mr. Speaker:** Order! Order! Just before I go further, Mr. Ndicho, you brought to my attention the presence of a stranger. Who is the stranger in the House?

**Mr. Ndicho:** Mr. Speaker, Sir, I am feeling offended. There is somebody back there with some very dark sun glasses. If he removes the dark sun glasses, then we shall know whether he is a Member of the House or a stranger.

**Mr. Speaker:** Order! Order! Hon. Members, I have had occasions last week to ask hon. Members to take the business of this House seriously and to treat the dignity of this House as paramount. If there shall ever be a frivolous point of order, then that is, and Mr. Ndicho, I am afraid, for rising on a very frivolous point of order, we shall exclude you from this House, so that this House can continue with serious business. You must now leave!

*(Applause)*

**Mr. Ndicho:** It is true, Mr. Speaker, Sir---

**Mr. Speaker:** Order! Order, Mr. Ndicho. Some hon. Members think that this is a playground. It is not a playground. This is Parliament and it has to be respected by all Members, and if you have been excluded, you must obey immediately and leave. Now, you must proceed and leave immediately.

*(Mr. Ndicho withdrew from the Chamber)*

**Mrs. Asiyo:** On a point of order, Mr. Speaker, Sir. I am a member of the DDC in Homa Bay and I attend those meetings very regularly. I have never heard the Chairman or the Head of the Fisheries Department talk about water hyacinth. Can the Assistant Minister undertake to give a Statement to this House, explaining where these DDCs are, who are the people responsible and what action they have taken or intend to take? Simple, Mr. Speaker, Sir.

*(Applause)*

**Mr. Speaker:** Mr. Kisiero, would you like to look at the issue again?

**Mr. Kisiero:** Mr. Speaker, Sir, I have given as much information as we do have, but if it is the wish of the House, we would be very willing to come up with the Statement.

**Hon. Members:** No!

**Mr. Speaker:** It does appear to me that that maybe the position. Very well, next Question, Mr. Mathenge.

*Question No 324*

FUNDS TO REPAIR TETU ROADS

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

(a) how much money had been spent on roads in Tetu Division of Nyeri District over the last four years; and,

(b) whether he could give a list of the roads repaired in the Division in the said period.

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

(a) A total of Kshs12,413,280 has been spent on roads in Tetu Division of Nyeri District over the last four years.

(b) The following roads were repaired or improved in the 1992/93 Financial Year.

<u>Road No.</u>	<u>Name</u>	<u>Kms</u>
D434	Tetu-Gachuthi	10.5
D435	Ihururu-Thatha	4.9
E572	C70- Wagai	11.0
E573	Muthakwa - C70	11.0
E574	Nyeri-Mathusini	6.1
E576	Giakanja-Kimuyu	25.7
E577	Kamuyu- E579	10.4
E578	E575 - Kanjora	10.6
E579	Ruringu - Tusha	18.3
E580	D435 - NCPB	6.0
E591	Ruringu - Kiamuru	11.8

A total of 28 roads were done during that Financial Year and I am sure that the hon. Member has the written answer, he can read the total number of roads repaired. For improvement and maintenance, the Rural Access Road Programme was allocated Kshs 1,030,000 and we did a total of six roads during that year. In the 1993/94 Financial Year, we had Kshs 101,000 allocated for routine maintenance and for improvement. Maintenance through the Rural Access Roads Programme was allocated Kshs 4,925,000. In the 1995/96 Financial Year, routine maintenance was allocated Kshs 520,000. For Rural Access Roads, we had Kshs 1,110,000.

**Mr. Mathenge:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for giving me this detailed report. Tetu is a highly productive area where tea and coffee are produced in plenty. Can the Assistant Minister consider tarmacking some of these short roads so as to make them passable for farmers to transport their tea, coffee and milk from these areas, particularly during the rainy season?

**Col. Kiluta:** Mr. Speaker, Sir, this could be considered if the hon. Member could give us his priorities. But I am not very sure whether he is aware that we are already doing Road D558. The junction of Road D558 to Gatharakwa might not cover his area but we have already allocated Kshs 23.16 million for that particular road.



Once that is done, then probably he can give us his next priority and it will be considered.

**Mr. Speaker:** Very well. Next Question, Mr. George Anyona.

*Question No. 374*

SACKING OF MR. PAUL BOSIRE

**Mr. Anyona** asked the Minister for Labour and Manpower Development to state;

(a) under what circumstances the employment of Mr. Paul Bosire, P/No.6087 was terminated by the Kenya Commercial Bank in November, 1982, after 17 years of loyal service.

(b) whether the Minister was aware that Mr. Paul Gwaro Bosire was not paid his full terminal benefits; and

(c) when he will be paid his full terminal benefits with accrued interest.

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

(a) The services of Mr. Bosire were terminated by Kenya commercial Bank on 11th November, 1982 due to declining performance over a considerable period.

(b) Mr. Bosire was paid all his terminal benefits.

(c) Mr. Bosire has nothing more to claim from Kenya commercial Bank.

**Mr. Anyona:** Mr. Speaker, Sir, we seem to be talking at cross-purposes. The question on the Order Paper is about a Mr. Paul Gwaro Bosire. Now, the answer I have here is in the name of Mr. P.O. Bosire. Now, I do not know who P.O. Bosire is. I have not asked any question about P.O. Bosire. So are we talking about the same person or what are we talking about?

Mr. Speaker, Sir, it is quite clear that the Assistant Minister does not know what he is talking about. I have asked him to tell us, since the question is in the name of Mr. Paul Gwaro Bosire and the answer in a different name and he seems to be fumbling with papers there. Can he go and get the correct answer for Mr. Paul Gwaro Bosire and not Mr. P. O. Bosire?

**Mr. Ali:** Mr. Speaker, Sir, maybe it is a misprint but it is the same person who is Mr. Paul Gwaro Bosire.

**Mr. Anyona:** Mr. Speaker, Sir, I do not really know how --- First of all even in the question, part of the answer, the name is Mr. Paul Guraro Bosire and then in the answer itself the name is Mr. P. A. Bosire. What does P and A stand for? What I would like the Assistant Minister to tell us is whether we are talking about the same person because this clearly indicates that this Ministry is very inefficient and that is why a lot of Kenyan workers are suffering. This is a man who was working in a senior position in a Bank for 17 years and then the Assistant Minister tells us that his services were terminated because of declining performance over a considerable period of time. Can the Assistant Minister explain what he means by declining performance? There is a scheme of service in that Bank which spells out the conditions of employment. In what respect is he talking of declining performance and what provisions were used to terminate his employment?

**Mr. Ali:** Mr. Speaker, Sir, the details I have for the termination of Mr. Bosire's services are as follows:-

"The services of Mr. Paul Gwaro Bosire were terminated by Kenya Commercial Bank on 11th November 1992 after he failed to improve his poor performance even after having been warned severally".

**Mr. Anyona:** Mr. Speaker, Sir, when the Assistant Minister says "after failing to improve on his performance", the facts of the case are that this man was sacked because he was fighting, resisting tribalism in the Bank. Now, can the Assistant Minister give the details of payments of his benefits because he was sacked in 1982 and he brought this matter up to me last year. The question is carried forward from last year. Now, can the Assistant Minister produce details of how much he was paid in respect of what benefits and put the evidence here on the Table?

**Mr. Ali:** Mr. Speaker, Sir, Mr. Bosire was paid a total sum of Kshs 24,217.25?

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, could the Assistant Minister tell us what was due to this man and of what rank he was to get only Kshs 24,217.25 after 17 years of service to a Bank?

**Mr. Ali:** Mr. Speaker, Sir, Mr. Bosire served in different capacities as a clerk in the Savings Account, Transit Account and Credit and Debit *et cetera* and his performance was far below the requirement. He could have been even summarily dismissed.

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

**Mr. Speaker:** No. We must now leave that question. Order! Mr. Ruhiu's Question for the second time. Mr. Ruhiu I understand that you and the Minister have agreed to postpone this Question to tomorrow afternoon?

**Mr. Ruhiu:** Yes, Mr. Speaker, Sir, till tomorrow afternoon.

*(Question deferred)*

**Mr. Speaker:** Mr. Gatabaki's Question.

**Mr. Kamuyu:** Mr. Speaker, Sir, I would like ---

*(Loud consultations)*

**Mr. Speaker:** Order! Order hon. Members. Order! Mr. Kamuyu. I have to shout because it is difficult for hon. Members to hear me addressing them. So can we please consult quietly. Mr. Gatabaki's Question.

**Mr. Kamuyu:** Mr. Speaker, Sir, Mr. Gatabaki has just been arrested and I managed to see him this morning and he said that if he does not come in before the second call, I should ask this Question No. 158 which I am now proceeding to do on his behalf.

*Question No. 158*

#### NUMBER OF IMPORTED VEHICLES

**Mr. Kamuyu,** on behalf of **Mr. Gatabaki,** asked the Minister for Finance:-

(a) how many vehicles were imported in Kenya in 1994 and 1995 and how many were assembled by local assemblers during the same period.

(b) of those imported vehicles over the said years, how many were imported by motor vehicle dealers and by private individuals; and,

(c) how much tax, in form of customs duty, sales tax and registration fees were paid to the State from the imported vehicles and from locally assembled ones.

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

(a) A total of 12,411 vehicles were imported into the country in 1994. At the same time 5,362 vehicles were locally assembled during 1994.

(b) Out of those imported in 1994, 2,960 vehicles were imported by motor vehicle dealers while 9,451 vehicles were imported by individuals.

(c) Customs duty paid on imported motor vehicles in 1994 amounted to Kshs 1,518,956,305. No sales tax was paid for imported vehicles during the year as that tax was abolished in December 1989 and replaced by the Value Added Tax. The VAT paid for imported vehicles during this year amounted to Kshs 856,015,394. Duty paid for locally assembled vehicles amounted to Kshs 555,358,169 while the VAT for locally assembled vehicles amounted to Kshs 577,029,312. I would like to add here that in 1994 Kshs 116,269,960-60 was paid as registration fees both for locally assembled and imported cars.

**Mr. Kamuyu:** Mr. Speaker, Sir, about Kshs 3.8 billion was paid to Government through Customs. At the same time, I notice that indeed 72,975 vehicles were imported by individuals. Can the Minister give us a breakdown? Out of the 22,974 imported individuals, how many were imported by the personalities who have been exempted from tax? And out of the exemption of this total, how many were from the National Assembly, churches and other privileged people especially the "untouchables" and their mistresses who get special exemption from State House?

**Mr. Keah:** Mr. Speaker, Sir, that is a very funny question indeed. I have got an answer to the Question that has been asked here, but I do not have an answer to that supplementary question. If he would care to give those details in another question, we will be glad to give the answer.

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, out of the total number of vehicles imported during the period, how many vehicles were brought in duty free and exempted from other taxes?

**Mr. Keah:** Mr. Speaker, Sir, again if that question is put more specifically, we will be glad to provide an answer. It is not as a result of the question---

*(Several Members stood up in their places)*

**Mr. Speaker:** Order! Order, Raila! "Order," means you sit down. The second thing I would like to tell the House, is that I give a Member a chance to ask a question. Similarly a Minister answering a question must be given the chance to answer the question logically and fully.

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Had you finished, Mr. Keah?

**Mr. Keah:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** What is your point of order, Dr. Otieno-Kopiyo?

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, there is no contradiction between what we are pressing for and his answers. The original Question was, how many vehicles were imported in Kenya in 1994 and 1995? That is, the sum total of the vehicles brought in. All I am asking as a supplementary is, how many of those vehicles were brought in duty exempt? That should be in the original Question anyway.

**Mr. Keah:** Mr. Speaker, Sir, we could not considerably consider when answering the question that would require an analysis into the categories of what was duty-exempt and what was not duty-exempt. I have told the hon. Member, that if he wishes to receive those categories, he is very welcome to put the question to us to be able to answer that question specifically.

Mr. Speaker, Sir, we cannot be expected to imagine and perceive all the additional questions that might be asked. I appreciate what you said, we must answer the question fully and in my view, based on the question that has been asked here, I have answered that question fully. Indeed with regard to 1995 which I do have the figures for---

*(Several Members stood up in their places)*

**Mr. Speaker:** Order! Order! I have just said there is really no point in cutting a Minister mid-flight. If we really want to hear his answer, we better give him a chance.

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. According to Standing Order No.37, which deals with questions, the Speaker normally checks on that before he allows any Question to be tabled in this House and I am sure you did exactly that. Now, is the Assistant Minister in order to refuse to answer questions and hide under the excuse that he could not go through all the things, when the Question asked for those details? If he is not ready, then he must go and get the answer rather than trying to avoid what the Speaker has approved and the Question itself requires those details. Is he in order to refuse to answer, or does he want us to subject him to Standing Order No.88 (2) which says, if the Minister insists on not answering the question, he could be named?

**Mr. Keah:** Mr. Speaker, Sir, there is never and there has never been any intention to withhold any information to this House from the Government; from the Ministry of Finance. Looking at this Question here, there is no paragraph which even insinuates---

**Mr. Speaker:** Indeed, you are right, Mr. Keah! Final question, Mr. Kamuyu!

**Mr. Kamuyu:** Mr. Speaker, Sir, my written answer here has got three pages. It is an extremely detailed answer. But he has left out deliberately the most important details about the vehicles imported duty-free.

Clearly, he is covering somebody. Now, because the Government has obviously lost money out of this, may I, through the Chair, request that the Assistant Minister goes back and answers this Question more relevantly, more fully so that this House knows who was exempted from duty in 1994 and 1995 which has reduced the Government revenue to Kshs3.0 billion from Kshs6 billion?

**Mr. Speaker:** I suppose, hon. Members, we must be very fair to each other. The Question before the House does not ask of this Assistant Minister to say how many vehicles were tax-exempt and how much was involved in that exemption. I think in my view, the Question as drafted has been sufficiently answered by the Assistant Minister. Questions by Private Notice!

## QUESTIONS BY PRIVATE NOTICE

### SHOOTINGS BY THE POLICE

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

(a) Is he aware that seven people were injured, two seriously, when police shot at them in Machakos T-Tot Hotel on 22nd April, 1996?

(b) If the answer to "a" above is in the affirmative, who were the officers involved and how many shots

were fired?

(c) What measures is the Minister taking to compensate those injured?

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

(a) Following an incident of robbery with violence in the shop of a Mr. Chandrakant Shah, police heard gunshots and moved to the scene where a gun battle ensued between them and the robbers. In the process, nine people, and not seven, were injured.

(b) Four policemen who confronted the robbers after hearing the gunshots during the robbery, fired a total of 22 rounds, and

(c) Criminal case No.440/20/96 in respect of one suspect Francis Mutua, is still pending before court and therefore it is inappropriate to discuss the issue of compensation at this stage.

**Mr. Musyoki:** Mr. Speaker, Sir, can the hon. Assistant Minister tell this House whether the injured people were the suspects, the diners or who were they? Were they the suspects to be shot?

**Mr. Sunkuli:** Mr. Speaker, Sir, upon my investigation, I note that some of the people who were shot at might have been suspects and some might have been shot by the suspects themselves. It would appear that during the shoot-out, it was not apparently clear how many people were shot by the police and how many were shot by the robbers.

**Mr. Nthenge:** Mr. Speaker, Sir, since it is a fact that there was shooting and this was a public place, is it really proper for a properly trained policeman to shoot in a public restaurant?

**Mr. Sunkuli:** Mr. Speaker, Sir, what I said here is that, our policemen do exercise a lot of care when they are shooting suspects or robbers. But the incident here also involved shooting of citizens by the suspects.

**Mr. Musyoki:** Mr. Speaker, Sir, can the hon. Assistant Minister tell this House the relation between the scene of the robbery and the scene of the shooting by the police officers while they injured our innocent people?

**Mr. Sunkuli:** Mr. Speaker, Sir, the relationship is describable by distance.

**Mr. Nthenge:** Mr. Speaker, Sir, the Assistant Minister has told us where the robbery was. I happen to know the geography of the place. There are about two or three shops far away and shooting took place not in that shop, but in a public restaurant like the New Stanley Hotel. In fact the robbery took place four shops away. Even if thieves run into New Stanley Hotel you do not shoot. Can he explain the relationship between the shop and the restaurant?

**Mr. Sunkuli:** Mr. Speaker, Sir, the policemen acted on information and they combated the suspects where they found them.

**Mr. Raila:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** I am sorry. Order, Raila! Order now! I am already time barred. I have to get to the others.

#### POOR RADIO AND TV TRANSMISSION

**Mr. Mutani:** Mr. Speaker, Sir, I beg to ask the Minister for Information and Broadcasting the following Question by Private Notice.

(a) Is he aware that TV viewers who depend on Nyambene Transmission Station i.e Isiolo, Meru, Nyambene and Tharaka-Nithi Districts, have been receiving very poor transmission from December, 1995 to date?

(b) What is he doing to rectify the situation?

**Mr. Speaker:** Mr. Mutani, we have a problem with your Question because none of the Ministers for Information is available to answer it. Can we put it off to Thursday hoping that we shall have somebody?

**Mr. Mutani:** On a point of order, Mr. Speaker, Sir. It appeared on the Order Paper last Wednesday and the Assistant Minister promised to answer it the following day. The following day it was not on the Order Paper. Mr. Speaker, we are suspicious because there is a big rumour that this booster from Nyambene was transferred somewhere, that is why people are trying to run away from it.

**Mr. Speaker:** Order! I sympathise with the hon. Member as well as his constituents. But you know as I do that you do not bring rumours to be the basis of any argument in this House. But I can tell for sure that the Chair has been informed that no Minister from the Ministry was available to answer this Question, I was deciding to put it off on to Thursday hoping that they will be there. So, we will then put it off to Thursday. I understand your concern, I know we postponed last time, but let us hope that they will be there.

**Mr. Mutani:** Mr. Speaker, Sir, if it will be answered on that day, I have no problem; but the day it was raised and the Minister had agreed to answer it the following day---

**Mr. Speaker:** Maybe, I would ask the Leader of Government Business to ensure that we get somebody to answer this Question on Thursday.

**The Vice-President and Minister for Planning and National Development** (Prof. Saitoti): Yes, Mr. Speaker, I wish to abide by that request and indeed, to reaffirm to the hon. Member that, that question will be answered on Thursday.

**Mr. Speaker:** Very well. Thank you very much Leader of Government Business and thank you very much, Mr. Mutani. Next question.

*(Question deferred)*

#### INSECURITY IN NORTH IMENTI

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

(a) Does the Minister recall that on 7th November, 1995, he promised to issue a Ministerial Statement on the raid by about 50 Tharaka people on Kwang'ombe Village in Giaki Location of North Imenti on 5th November, 1995?

(b) Is he aware that last month (April) some Tharaka raiders invaded the home of Mr. Mubichi, who had been targeted in the earlier raid in the same village, stole everything and burned down all his buildings, and that following that incident, a number of Tharaka residents have written threatening letters to Imenti people threatening to invade the bordering area?

(c) If the answers to "a" and "b" above are in the affirmative, could he inform the House what action the Government has, so far, taken or intend to take to contain this explosive situation?

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

(a) Yes, I recall.

(b) No report of the alleged April 1996 incident has been received by the police.

(c) Security personnel have been closely monitoring the situation since the 5th November, 1995 attack on the area and the area is now, therefore, calm.

**Mr. Mwiraria:** Mr. Speaker, Sir, I am thoroughly disgusted by the reply which I must now, in all honesty, say is an insult not only to my intelligence but the intelligence of this House. On 7th of November I asked for a Ministerial Statement, it was not made, this question refers to it, no apology is being offered and no attempt is being made to make up for that Ministerial Statement. It is only being recalled. In my request for a Statement, I was very specific. Chiefs were accused of instigating the incident. I wanted to know what the Government was doing. Border problems were an issue, no attempt is being made to reply to all these issues. In addition I brought up new evidence to light; letters which have been written even to people in hon. M'Mukindia's constituency, threatening them, and all this is swept under the carpet. Could the Assistant Minister at least, be good enough to undertake to issue a Ministerial Statement which answers my earlier question? Could he also tell the House today whether any of the people who launched the attack have been arrested and prosecuted to-date?

**Mr. Sunkuli:** Mr. Speaker, Sir, I do not understand the emotions raised by the hon. Member. What I would like to say in response to this, is that the hon. Member can listen to the fact that, I have within my knowledge that on the 5th November, 1995, at 11.00 a.m, about 20 Tharaka young men, not 50, attacked Kiburine Kwang'ombe Village in Giaki Location of Meru District. During the attack a Mr. G. Mubichi and his daughter were injured and the attackers retreated after the alarm was raised. At about 3.00 p.m, the youths re-grouped again and attacked the same area injuring one Joseph Nteere and in the second attack, 20 goats, five bags of beans were stolen from Mr. Mubichi's home. The police arrested one Nyagah Kibaara, a Tharaka, who was later charged with the offence of robbery with violence according to police file No.461/696 of 1995, which is still pending before court. Two goats were recovered. That attack was sparked off by a dispute between some persons from Tharaka and some persons from Imenti. The issue was left to the Njuri Ncheke elders to arbitrate. The alleged incident of April, 1996, in Mr. Mubichi's home is not known to the Government.

**Mr. Mwiraria:** Mr. Speaker, Sir, it is good to know that at least, one person has been arrested. But is the Assistant Minister aware that as we sit here, people in Kiburine Sub-location of Giaki Location are preparing themselves for an imminent invasion from Tharaka and could he assure the House that he will send at least, a pre-emptive police force to the area immediately?

**The Assistant Minister for Research, Technical Training and Technology** (Mr. Kagwima): On a point of information, Mr. Speaker, Sir. This is for the benefit of the House and for the Member and the Assistant Minister. I am a Member of Parliament from Tharaka, and fortunately, around that time I happened to be near that place we are talking about, Kiburine. What I did is that I went to the place---

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

**Mr. Speaker:** Order, hon. Members. I think the hon. Member stood on a point of information, which means he has some information, and apparently the other Member wants to be informed. I am not quite sure whether a Minister can stand and inform another Minister, I think they better have a better place to consult and inform each other, but I was interested to hear from that Member. I am not sure whether I am right or wrong. What was the information, not the story? What did you want to inform him that he does not know?

**The Assistant Minister Research, Technical Training and Technology (Mr. Kagwima):** Mr. Speaker, Sir, on 7th November, 1995, I went to Kiburine---

**Mr. Speaker:** Order! That is a story. You are now out of order! Order, Mr. Kagwima. I am sorry. I think the more I think about this, the more it appears to be the wrong procedure. The best thing you would do is to pass all the information you know to your colleague there. I think you are out of order.

**Mr. Sunkuli:** Mr. Speaker, Sir, I will investigate the last statement that he has made about an intention to invade. An intention to create a breach of the peace is, of course, unlawful under the Penal Code. I want to urge the hon. Member that, if he is aware of persons who are about to commit an offence, he is also duty-bound under our laws and also morally to inform the Government officially so that we can investigate the matter, and if there are persons who are hiding in the bush with an intent to create a breach of the peace, we will act on them.

**Mr. Speaker:** Order! Order! I do not think there can be a better Government official to be informed by a Member about an incident than a Minister, in the House. I think it is totally in order that a Member should rise in this House to make a Minister aware of a sudden issue in his docket of responsibility that is likely to happen and I do not think it is in order to tell that Member to go to junior officials. Can I get a response from you.

**Mr. Sunkuli:** Mr. Speaker, Sir, in view of that instructive information, I have now taken note of what the hon. Member has said and if he could be kind enough to supply more information about the incident, we shall be glad to investigate the matter.

**Mr. Mwiraria:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to refuse to reply to my questions? I asked him whether he can send a pre-emptive Police Force to Kiburine to contain the situation. If he cannot, can the Government allow the Meru people to organise homeguards on their own?

**The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima):** On a point of order, Mr. Speaker, Sir. What hon. Mwiraria has said, that there are organised attacks is not true. He did mention that to me last week, and since I was concerned, I checked out the situation and found out that there is no organization that is attacking these people.

**Mr. Speaker:** Order! Order! Hon. Members, from what I have heard from the hon. Member, the hon. Minister and also the interventions by the Hon. Member for Tharaka, it does appear that there is an uneasiness there and I think the Minister has opened up to you, Mr. Mwiraria, that if you get in touch with him, which I think is perfectly well, and maybe brief him more on what you term an imminent invasion, maybe he will be able to help this country. I would urge the hon. Members of this House to restrain themselves on the use of language that is likely to incite inter-clan, inter-tribal animosities within this Republic. I do not think it is too farfetched, we have all had occasions to witness the ugly side of it. So can we please tame our languages and behaviour here. The last Question, Mr. Leshore.

#### DEVELOPMENT IN SAMBURU EAST

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

(a) Is the Minister aware that the Samburu District Development Programme (SDDP), which is financed by the German Government Technical Co-operation (GTZ), has not undertaken any project despite money being allocated?

(b) Could the Minister tabulate the Programme's plan of action for Samburu East?

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

(a) The Ministry is currently implementing Samburu District Development Programme. The first phase ended in 1995 and only covered Wamba/Waso and Baragoi Divisions. The Programme involved activities of food security which had been financed in earlier years. The project was reviewed by the Donor last year and on the basis of positive review and the DDC's request, the project has now been extended for a further three years beginning from January 1996.

(b) According to the Programme's plan, the following are activities to be undertaken in Samburu East:-

Animal health, corp production especially drought tolerant crops, forestry including tree planting and

establishment of tree nurseries, rehabilitation of eroded rangelands by reseeding, water development including desilting of water dams, support for community based health care services, development of alternative income generating activities, support for hides and skins production, bee-keeping and livestock marketing for communities living in Nkaron, Resin, Lkisin, Lolkuninyani, Wamba, Ngutuk, Ongieron, Archers Post, Lbaa Onyokie and Ndonyowasin areas.

**Mr. Leshore:** Mr. Speaker, Sir, in view of the answer given by the Minister, I would like to thank the German Government for kindly assisting Northern Samburu. The Minister has just said the programme is due to start its activities as from January, 1996. I would like to tell the Minister that even on the last phase one, there is no project which has been implemented in Samburu East because of poor leadership in Samburu District. The team leader and the deputy leader are incompetent. They are just teachers who were removed from classroom and placed there to implement decisions. They have no professional training. Could the Minister undertake to change the leadership because when the project was under GTZ they had implemented so many projects in Samburu East and the entire Samburu District, but when the new management team took over, we have seen nothing done there? Could he undertake to change the leadership and suspend all the funds until the new management team takes over?

**Mr. Nyachae:** Mr. Speaker, Sir, I would like to thank the hon. Member and also wish to confirm to this House that the hon. Member and his colleagues have already raised this issue with the Ministry. We have taken up the matter with the Donor and there will be negotiations on the 14th and 15th June with the Donor on how the Programme should be implemented.

**Mr. Speaker:** Very well, I suppose that ends it. Hon. Nyachae, you remember you asked me to give you time today to further clarify the issue of sugar distribution? You now have the Floor if you are ready.

## MINISTERIAL STATEMENT

### SUGAR DISTRIBUTION

**The Minister for Agriculture, Livestock Development and Marketing** (Mr. Nyachae): Mr. Speaker, Sir, thank you very much for giving me this opportunity I requested for it because at the end of the Question Time on sugar distribution, it was quite clear that the hon. Members of this House were not fully satisfied with the answer that we gave.

It is true that sugar distribution has been poorly coordinated by the local manufacturers. Immediately after the liberalization was agreed upon, instead of the sugar manufacturers appointing distribution agencies throughout the country, the door appears to have been opened for anybody to walk into the sugar areas and buy sugar and in the process, unscrupulous traders have been involved in the sugar distribution.

On the names of the companies that were mentioned by hon. Mutahi, we went to find out they exist and where they are actually doing the sugar distribution and we did establish that at least two companies are actually not traceable. I have asked my own officers in the Ministry and the Sugar Authority to go to the Registrar of Companies to find out whether these companies were registered.

*(An hon. Member murmured something)*

**The Minister for Agriculture, Livestock Development and Marketing** (Mr. Nyachae): I am addressing the Chair!

**Mr. Speaker:** Just proceed, Mr. Nyachae.

**The Minister for Agriculture, Livestock Development and Marketing** (Mr. Nyachae): Mr. Speaker, Sir, we still have to trace two companies.

**Mrs. Ngilu:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, Mrs Ngilu! I am sorry for you. He is on a point of order!

**Mrs. Ngilu:** But he is misleading the House!

**Mr. Speaker:** Order, Mrs Ngilu! First of all, you are out of order to interject when the Chair is addressing the House. I think there must be, and I will insist and ensure that there will be discipline in this House. Proceed, Mr. Nyachae.

**The Minister for Agriculture, Livestock Development and Marketing** (Mr. Nyachae): Mr. Speaker, Sir, I would like to assure this House that I have never attempted to mislead it. I am saying that the complaints which were raised by this House were genuine, and we took them seriously. I want to confirm to this House that some dishonest traders have been involved in purchasing sugar. We are now trying to look for that sugar because it is being hoarded somewhere. I wish to confirm to this House that we have now instructed all the sugar

manufacturers to appoint distributors who must be registered and known throughout the country. Those manufacturers must operate in the district where they distribute sugar, so that the people in each district know who their sugar distributors are.

The other point that I want to confirm here is that there is no sugar shortage in the country. What there is, is hoarding of sugar, but hoarding is a crime. I would like any hon. Member or Kenyan who knows where sugar is being hoarded to report the matter to the police.

**An. hon. Member:** Those involved are above the law!

**The Minister for Agriculture, Livestock Development and Marketing** (Mr. Nyachae): It is not a question of anybody being above the law. This is an essential commodity, which must be distributed for use by the people. We have decided to compile a list of all the people who have collected sugar from Sonny, Mumias, Muhoroni, Nzoia and Chemilil Sugar Companies since February, 1996. Once that list is ready I will table it here.

Thank you, Mr. Speaker, Sir.

*(Mr. Anyona stood up in his place)*

**Mr. Speaker:** This issue arose from Mr. Anyona, and I think I promised that I would give him a little time to follow it up. Yes, Mr. Anyona.

**Mr. Anyona:** Mr. Speaker, Sir, this is an extremely serious matter, but I think we are not getting anywhere on the way to a solution. The Minister knows that in Kisii and Nyamira Districts there is a total boycott of sugar. The consumers cannot buy sugar and they are protesting against the inability of the Government to protect them. The Minister has admitted that there is hoarding! But hoarding is a crime! People are overcharging on sugar! Why is the Minister unable to make sure that the people concerned are arrested and prosecuted? Who is standing in his way? We know there is big politics in sugar! Can he tell us who is standing in his way?

**The Minister for Agriculture, Livestock Development and Marketing** (Mr. Nyachae): Mr. Speaker, Sir, this is not a laughing matter. You will recall that when liberalisation started in this country it was like a hurricane. We were being pushed to move by our colleagues on the other side of the House. Now here we are! We are finding ourselves in real trouble. I am being asked to take action, but I have not failed to take it. For example, I have two companies whose directors I cannot trace in the Registry of Companies. I cannot even trace their files in the Registry of Companies.

*(Laughter)*

All that I can do is to report to the police that those people, who are supposed to be a company, and they took sugar from Mumias Sugar Company, and then ask them to investigate the matter. That is the furthest the Ministry can go. Once we do our bit it is for those who are responsible for investigations to take action. For example, M/s Simba Commodities is, according to our investigations, a subsidiary company which was formed last year by international dealers who have always imported sugar into this country. They are called (M/s F.B. Mann?). These people have taken over 2,800 tonnes of sugar from Mumias Sugar Company. We are following them up. They must show us where they sold this sugar. What I am confirming to you and this House is that after we were asked the question, we started the process of taking action on it. For the sake of giving information, I will table here the statement I have in case hon. Members want to read some names which are in it.

*(Hon. Nyachae tabled the statement)*

**Mr. Speaker:** Very well. Yes, Dr. Kituyi.

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir. As you are aware, behind the veneer of gentlemanly conduct in this House today, this nation is in mourning. We mourn the loss of more than 40 Kenyan victims of the collapse of an old building which was constructed in the early 1910s. Considering that in the recent past Questions have been raised in this House about the inspection of the quality of buildings, particularly, in Nairobi, control of the proliferating low quality constructions in this city and the inevitability that many more people are going to die from this kind of problem, I would like to ask the Government to give a comprehensive statement. This statement should just not express condolences or shedding of crocodile tears but should specifically explain why the Department of Physical Planning in the Nairobi City Council has not been able to check the quality of buildings which are being used by so many people. It should explain why the Ministry of Local Government has not proved the ability of its mechanism of controlling the quality of buildings before they can be used for



businesses like supermarkets and why the demolition of condemnable buildings is left to the volition of the occupants or owners of premises and not treated as a matter of national importance. It is particularly for the Government to tell us which heads are going to roll as an expression of its outrage at the slaughter of these innocent citizens because of crimes of carelessness.

**The Minister of State, Office of the President** (Mr. Kones): Mr. Speaker, Sir, first and foremost I wish to say that what took place yesterday is, indeed, a sorrowful event. On behalf of the Government, I would like to send sincere condolences to the bereaved families. I am also sending these families condolences on behalf of the Opposition. I take the hon. Member's concern very seriously. I would like to give an undertaking that tomorrow afternoon I will come to this House with a precise Government statement, which will touch on the issues of the dead, the injured and, of course, what the Government intends to do in future to make sure that this event does not occur again.

Mr. Speaker, Sir, in the meantime, I would like to correct the impression created in the newspapers. In the *Daily Nation* newspaper, they were talking of 14 people dead. In the *East African Standard* newspaper, they were talking of about 35 people dead. So, people do not really know how many people are dead up to now.

Mr. Speaker, Sir, the figures that we have up to now of confirmed dead people are 16. Some of them are in the hospital and they are in serious condition. We might lose some more people, but we hope nobody else is going to die.

But, Mr. Speaker, Sir, I undertake to bring a comprehensive Government Statement tomorrow afternoon concerning this issue.

**Mr. Speaker:** Very well. Hon. Kones, I would go further and tell you that as soon as you are ready with your Statement, the Chair will oblige to give you a chance to let Kenyans know. So, as soon as you are ready, we will give you an opportunity.

**Mr. Kones:** Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Very well.

Next order.

#### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[Mr. Speaker left the Chair]*

#### IN THE COMMITTEE

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

#### THE PHYSICAL PLANNERS REGISTRATION BILL

##### Clause 2

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 2 be amended by deleting full stop in line 12 and adding the words "under section 7".

*(Question of the amendment proposed)*

*(Question, that the word to be deleted  
be deleted, put and agreed to)*

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

*(Clause 2 as amended agreed to)*

##### Clause 3

THAT, Clause 2 be amended by deleting full stop in line 12 and adding the words "under section 7".

"The Board shall,-

- (a) register all eligible persons to practise as physical planners in accordance with the provisions of this Act;
- (b) set and conduct examinations for purposes of registration of members;
- (c) verify the qualifications and eligibility of the applicants seeking registration with the Board; and
- (d) enquire into the professional misconduct of a member and institute disciplinary proceedings against such member in accordance with the provisions of this Act."

*(Question of the amendment proposed)*

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Chairman, Sir, I would suggest that on part (b) of that proposed addition which reads as follows:

"Set and conduct examinations for purposes of registration of members";

we add the words "if necessary". This is because it is not always necessary for examinations to be set before somebody is registered. Some of these individuals are qualified enough.

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Kaino, what have you got to say to that?

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I think this amendment has come as a result of contributions by hon. Members, and our feeling is that it should remain the way it is.

**The Temporary Deputy Chairman** (Mr. Wetangula): Dr. Lwali-Oyondi, you may be right in your proposition, but the correct procedure is that you ought to have filed a notice of amendment to the amendment, which you have not done. At this stage, the Chair cannot help you much, apart from hearing your sentiments.

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Chairman, Sir, just record that because this might, in future, make some Chairman of the Board insist on giving examinations to persons who are fully qualified before he can register them. Some people might insist that one must sit for an examination even though one is qualified.

**The Temporary Deputy Chairman** (Mr. Wetangula): It is not a question of insistence, but it is mandatory. It says: "The Board Shall". It does not say: "May". So, you can convince the Assistant Minister to bring an amendment in future.

**Dr. Lwali-Oyondi:** Yes. I am asking the Assistant Minister if possible, it will have to be done immediately because it will bring a lot of confusion and somebody is likely to accuse another one of being registered without having sat for an examination, as it is mandatorily stated here.

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, the provisions of admissibility are very clear especially, in part (a) where it is written: "register all eligible persons to practise as physical planners in accordance with the provisions of this Act".

I feel this provision will cover the sentiments of the hon. Member.

**Mr. Shikuku:** Mr. Temporary Deputy Chairman, Sir, I wish hon. Kaino could refer to the Clause he referred to, and tell us where that is provided for. This is because the provision in part (a) says: "Shall register all eligible persons". This means that you are eligible if you have passed an examination. So, that is enough. If you have not passed, then you will be subjected to this. But then, why does he include this?

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I feel their worry has actually been taken care of. This is because it is only the eligible persons who will practise as physical planners.

**Mr. Anyona:** Mr. Temporary Deputy Chairman, Sir, the Ministry may have been wishing to oblige hon. Members in regard to suggestions made---

**The Temporary Deputy Chairman** (Mr. Wetangula): I cannot hear you, hon. Anyona. Can you be louder?

**Mr. Anyona:** Yes. Mr. Temporary Deputy Chairman, Sir, when you relate this proposed amendment to the main Clause in the Bill, I am wondering what the importance of Part (a), (b) and (c) is. This is because, in part (a), it says:

"The Board shall register all the eligible persons".

Then in part (b) it says:

"Set and conduct examinations for purposes of registration".

Now, that is a contradiction in terms. They are supposed to register people who are already qualified. Still they

continue to say:

"Verify the qualifications"

I would have thought that, maybe, before you register somebody, you must verify the qualifications. But I suppose that is implied in the process of registration. So, I think that the suggested amendment in parts (a), (b) and (c) is really and truly superfluous. Maybe, there is some merit in part (b), but I do not see the use of those amendments.

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Kaino, do you follow what is troubling hon. Members?

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Well, I am getting it, Mr. Temporary Deputy Chairman. What they are saying is that they are querying the functions of the Board, which is actually very clear here. In part (a), there is a provision for those who are actually eligible. There is also an examination to be conducted for those who want to be registered. That is one of the functions. Some of the applicants might have some past history which goes against the regulations of the Board, and part (d) is actually covering that one. They will institute disciplinary proceedings against a member in accordance with the provisions of this Act. So, I think all aspects are covered in these provisions.

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Kaino, I think you have missed the boat. What the hon. Members are saying is this: That in part (a) you are saying the Board "shall", which is mandatory, "register all eligible persons" and in part (b) you are saying it shall "set and conduct examinations for purposes of registration of members."

They are asking you to explain why you should be setting examinations for everybody when there are some people who may be eligible even without examinations. Is that not what you are saying?

**The Assistant Minister for Land Reclamation Regional and Water Development** (Mr. Ligale): Mr. Chairman, we are specifying functions of the Board. There are four functions which are being specified here. The first is to register those who are eligible, the second---

**The Chairman:** As a matter of course?

**The Assistant Minister for Land Reclamation Regional and Water Development** (Mr. Ligale): Yes, as a matter of course. Those who are eligible will be registered by the Board as a function. The second function is to conduct examinations for those who do not qualify. The third function is to verify those who have applied to know whether they qualify or they do not qualify and the fourth function is to enquire into the conduct of those who may have misbehaved. These are four separate functions of the Board.

**The Temporary Deputy Chairman** (Mr. Wetangula): Yes, hon. Raila?

*(Dr. Lwali moved to the microphone)*

Dr. Lwali-Oyondi, are you also called Raila?

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Chairman, Sir, I saw you looking at me.

**Mr. Raila:** Mr. Temporary Deputy Chairman, Sir, I did not understand why the Assistant Minister does not appreciate the contradiction. If you will be registered automatically if you are eligible, then the two become superfluous because, if you are not eligible, there is no point in you being examined. There is no point in examining you if you are not eligible. We had also said that we did not want these examinations which are just set arbitrarily, we had said that we want some kind of syllabus. If we do not have any syllabus set right now, for example, if we do not have a local Professional Association locally, you should specify a certain other professional organisation elsewhere so that these examinations shall be set in accordance with, at least, another syllabus. Otherwise, people will just sit down and concoct an examination and then go ahead and fail those they want to fail.

**The Assistant Minister for Land Reclamation Regional and Water Development** (Mr. Ligale): Mr. Temporary Deputy Chairman, Sir, I do not really see any contradiction. The amendment is specifying the functions of the Board. The first function is to automatically register those who qualify.

**The Temporary Deputy Chairman** (Mr. Wetangula): In fact, you are so clear. I do not want you to repeat what you had already said.

**The Assistant Minister for Land Reclamation Regional and Water Development** (Mr. Ligale): If you do not qualify, you have an examination set for you. That is the second function of the Board. The third function is to verify, for those who are applying, whether they qualify or not. These are all separate functions of that Board, which are being set up. I do not understand why there is a confusion.

**The Temporary Deputy Chairman** (Mr. Wetangula): The last one on that, Mr. Mwaura.

**Mr. Raila:** I am trying to pursue---

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Raila, you are, in fact, pursuing a totally different point.

**Mr. Mwaura:** Mr. Temporary Deputy Chairman, Sir, I need some clarification here because, I was under the impression that under Part 3(d), Physical Planners, as of now, do not undertake private jobs because they are employed in the public office. Part(d) states here that: "enquire into the professional misconduct of a member....". Since they are not like engineers or architects, what kind of misconduct do you have in mind?

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Mwaura, are you saying that simply because a person is in public service, he cannot misconduct himself professionally?

**Mr. Mwaura:** Mr. Temporary Deputy Chairman, Sir, I was on the assumption that an architect or an engineer can probably design a wrong picture or undertake illegal designs. But assuming that a Physical Planner is working in the public office and will not undertake any physical planning which has not been approved by the Government, where does the misconduct come in? This is why I needed that clarification.

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I think that this is very clear. Let me just answer the question raised by the hon. Member on Parts(d), which says:

"enquire into the professional misconduct of a member and institute disciplinary proceedings against such member in accordance with the provisions of this Act."

The Ministry of Lands and Settlement is a very sensitive Ministry and there have been a lot of accusations against it. For instance, hon. Members have brought here Questions that the Ministry has planned toilets and schools haphazardly. Even today we had Questions touching on the Ministry. All these are examples of misconducts of some officers. An example of a misconduct is when somebody who is in private practice goes ahead to plan a road or anything to do with public utilities in a manner that is not acceptable.

**Mr. Mulusya:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Apparently the Assistant Minister did not understand the question and also, he does not understand what professional misconduct entails. It does not talk about what you are planning in the office, it talks about what you do which is contrary to the rules and regulations as per the establishment of the Act and the conduct which is going to be established thereafter by the Board.

**The Temporary Deputy Chairman** (Mr. Wetangula): In the first place, I should not have allowed hon. Mwaura's question.

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

*(Clause 3 as amended agreed to)*

*(Clause 4 agreed to)*

*Clause 5*

**Mr. Mak'Onyango:** Mr. Temporary Deputy Chairman, Sir, under Clause 5 we are saying that: "The Minister shall appoint a public officer as the Registrar of the Board". Since we are trying to promote professionalism, I would have preferred that the Minister appoints from among the professionals. I think if the Minister can consider that, it would strengthen the position.

**The Assistant Minister for Land and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I think this one is going to be appointed from among the professionals.

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Chairman, Sir, the Assistant Minister is assuming things, but this is law. If the Minister appointed his own brother or wife who is in the public service and has learned nothing about Town planning, he would be totally correct because it is not stated here that it is wrong. These are things which will go to court at [Dr. Lwali-Oyondi] one time or another and you cannot accuse him of having done wrong. I remember that this point was raised during the debate by several hon. Members. Why can we not state that he will appoint a professional in physical planning to this particular post?

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, as I have stated, there is no question of brothers or sisters here, or whatever. This is a question of professionals and this one is going to be appointed from professionals.

**The Temporary Deputy Chairman** (Mr. Wetangula): Does it matter whether it is a sister to the Minister? If he is a public officer, he is eligible!

**Mr. Shikuku:** Mr. Temporary Deputy Chairman, Sir, that is where the problem is. A public officer even a messenger, watchman or administrative police man is a public officer. That is why we would like it specifically mentioned because there is no point in appointing, say, an Under Secretary who knows nothing about physical planning and because he is a public officer, we give him that office. What is more sinful than this?

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Shikuku, are you saying that a watchman would perform the duties under Clause 6? You should read them together.

**Mr. Shikuku:** Mr. Temporary Deputy Chairman, Sir, I am now debating the question of Clause 5, "Any public officer." But, we want this "public Officer" to be somebody who knows something about physical planning, because, if he can appoint anybody and later on when we raise the issue, we say the Minister has the power to do so, where shall we go? This is going to be law and somebody is likely to say "I do not recognize that guy because he knows nothing about physical planning." But you have already given the Minister powers to do anything. For example, we have Mr. Mulu Mutisya as the Chairman of some organisation when he cannot write and read!

**The Assistant Minister for Land Reclamation, Regional and Water Development** (Mr. Ligale): Mr. Temporary Deputy Chairman, Sir, I think we can meet that requirement, if in Clause 5 after the word "public officer" we add "as qualified under this Act."

**Mr. Shikuku:** Mr. Deputy Temporary Chairman, Sir, we need this type of co-operation, and I appreciate it very much. Now, that makes sense.

*(Clauses 5 and 6 agreed to)*

*Clause 7*

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 7 be amended:-

- (a) in sub-clause (2), in line 2, by inserting the words "by registered post," after the word "persons";
- (b) in sub-clause (3) in line 4 and 5, by deleting the words "twenty thousand" and inserting the words "one hundred thousand"; and
- (c) in sub-clause (5), in lines 4, by deleting the word "off" and inserting the word "of."

*(Question of the amendment proposed)*

**Mr. Shikuku:** Mr. Temporary Deputy Chairman, Sir, I wish to congratulate the Minister for having taken into consideration the views that we expressed in this House because one of the clause was talking of "hundred thousand" and the other one was "ten thousand." That is the amendment here. So, we are quite happy with the amendment.

**The Temporary Deputy Chairman** (Mr. Wetangula): Mr. Shikuku, did you have to say that?

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

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

*(Clause 7 as amended agreed to)*

*(Clauses 8, 9 and 10 agreed to)*

*Clause 11*

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, I

beg to move:-

THAT, Clause 11(1) be amended, in line 2, by deleting the words "extract of from" and inserting the words "extract from."

*(Question of the amendment proposed)*

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

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

*(Clause 11 as amended agreed to)*

*Clause 12*

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, clause 12(1)(a) be amended in line 1, by inserting after the words and letter "holders" of a" the words "bachelor's or"

*(Question of the amendment proposed)*

**Dr. Lwali-Oyondi:** Mr. Temporary Deputy Chairman, Sir, if I have made my corrections well; how will it read now? Let us say, (a) he is a holder of bachelor's degree or masters' degree---

**The Temporary Deputy Chairman** (Mr. Wetangula): It is correct, bachelor's or post-graduate degree. I think it makes sense.

**Dr. Lwali-Oyondi:** Okay, since I agree.

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

*(Clause 12 as amended agreed to)*

*(Clauses 13, 14, 15 and 16 agreed to)*

*Clause 17*

**Mr. Shikuku:** Mr. Temporary Deputy Chairman, Sir, I do not know whether I have got a wrong Order Paper, but on my Order Paper here, the Minister has given notice of amending Clause 17? And he says that Clause 17(d) should be amended in line one by deleting the word "registered" and inserting the word "registered." Why has he not moved this amendment on the Order Paper?

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, this was probably an error, but in the Bill, it is actually corrected, because it is "registered."

**The Temporary Deputy Chairman** (Mr. Wetangula): No, it is not correct. The spelling is incorrect, and that is why you are moving the amendment. If you go to page 18, the word "registered" is misspelt. So, move the amendment.

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, I beg to move:-

THAT, clause 17(d) be amended in line 1, by deleting the word "registered" and inserting the word "registered."

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

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

*(Clause 17 as amended agreed to)*

*Clause 18*

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 18 (7) be amended, in line 13, by deleting the words "four thousand" and inserting the words "twenty thousand."

*(Question of the amendment proposed)*

**Mr. Shikuku:** Mr. Chairman, I fail to understand how the hon. Assistant Minister was counting these lines. He says "line 13" but if you look at Clause 7, he is talking of line 13. Where do we start to count from to get to line 13? He should tell us where he started his counting from.

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Shikuku, I think he is correct.

**Mr. Shikuku:** I do not know from which line we should start counting because he has not referred to (c). You can see 7, and there are a, b, c, d---

**The Temporary Deputy Chairman:** He has omitted c--

**Mr. Shikuku:** Yes! That is what I am trying to teach him!

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Kaino, why did you do that?

**The Assistant Minister for Lands and Settlement** (Mr. Sumbeiywo): Mr. Temporary Deputy Chairman, we are counting from No. 7.

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Shikuku is right. What he is saying is that in Clause 18(7), you also have sub-sub-Clause a, b and c which you have not indicated. Hon. Shikuku understands what he means, and so, I will excuse you for that omission.

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

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

*(Clause 18 as amended agreed to)*

*Clause 19*

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 19 be amended, in line 6, by deleting the words "twenty-eight days" and inserting the words "thirty days."

*(Question of the amendment proposed)*

**Mr. Mak'Onyango:** Mr. Temporary Deputy Chairman, I think the amendment from twenty-eight to thirty days makes very little difference and considering the problems we have with communication these days, I would suggest that the Assistant Minister should put this to be ninety days, to allow the victims adequate time because somebody could act out of malice and, maybe, hide the letter. If sufficient time is given, that would allow the victim enough period to discover what might have happened. So, I think it would be much better if a provision of about ninety days was given instead of just thirty days.

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Kaino, what is the logic of deleting twenty-eight and inserting thirty days. What is the difference between twenty-eight and thirty days in terms of

filing an appeal? It is entirely up to you to convince them that you are right.

**Mr. Shikuku:** Mr. Temporary Deputy Chairman---

**The Temporary Deputy Chairman** (Mr. Wetangula): Order, hon. Shikuku. He has not responded to hon. Mak'Onyanko's request.

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): These documents are going to be sent by registered post and I think thirty days is actually sufficient.

**Mr. Shikuku:** I think the hon. Assistant Minister is not being kind to us and yet he comes from one of the most remote areas in Marakwet---

**An hon. Member:** Have you been there?

**Mr. Shikuku:** Yes. I have been there and you cannot tell me that the postal services in Marakwet District are better than those in Butere. Butere is even worse. We did point out to him during the Second Reading of this Bill about the communications and the delay of letters. Will it be too much if we ask him to make it 60 or 90 days? This is in the interest of everybody in Marakwet and Butere. Just remember Marakwet first, and use your position to do that.

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, I think 60 days are acceptable.

**The Temporary Deputy Chairman** (Mr. Wetangula): I think that is more reasonable. Dr. Lwali-Oyondi, do you have any quarrel with that?

**Dr. Lwali-Oyondi:** No, it is on something else. We are trying to make laws and we should be specific. Again, this question of counting lines on clauses which are numbered should never be repeated again. It is a very primary way of making laws by counting lines. We have counted lines and yet clause 19 is tabulated very well; the Assistant Minister tells us to count lines.

**The Temporary Deputy Chairman** (Mr. Wetangula): I get your sentiments, and in future--- Order, Shikuku!

**Mr. Shikuku:** On a point of order, Mr. Temporary Deputy Chairman. Last time we did that but I do not know whether he got it right because when it comes to the final drafting, there was a sub-clause there, and here, it should be (d) and not the question of counting lines because this amendment applies to (d).

**The Temporary Deputy Chairman** (Mr. Wetangula): I get the point and I think for you, Ministers, in future, when you bring amendments to this House, should take into account those sentiments because they are necessary.

**The Minister for Health** (Mr. Angatia): Whether you count the lines or you say "a" or "b", it comes to the same thing. I do not see the difference. If the Minister had prepared his statement on counting lines, there is nothing wrong with it because it will lead to the same answer.

**The Temporary Deputy Chairman** (Mr. Wetangula): I believe the intention of the draughtsman is to count the clauses and sub-clauses and sub-sub-clauses. So, I think hon. Shikuku is right.

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

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

*(Clause 19 as amended agreed to)*

#### Clause 20

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 20 be amended, in line, 5 by deleting the words "twenty thousand" and inserting the words "one hundred thousand".

*(Question of the amendment proposed)*

**Mr. Shikuku:** Mr. Temporary Deputy Chairman, Sir, I thank the Assistant Minister for this amendment because by bringing this amendment, he



took into account the views expressed by the hon. Members of this House. I wish to take this opportunity to thank him again.

**The Temporary Deputy Chairman** (Mr. Wetangula): Hon. Kaino, before I put the Question, I think in future, you might have to think of an alternative to the fine. I think twelve months as an alternative of a hundred thousand is a bit too lenient.

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

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

*(Clause 20 as amended agreed to)*

*Clause 21*

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 21(1)(a) be amended, in line 3, by deleting semi-colon and adding "under this Act."

*(Question of the amendment proposed)*

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

*(Clause 21 as amended agreed to)*

*(Clause 22 agreed to)*

*Clause 23*

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 23 be amended as follows:-

- (i) in line 5, by deleting brackets and letter "(a)" and inserting the brackets and letter "(b)"; and,
- (ii) in line 15, by deleting the words "ten thousand" and inserting the words "fifty thousand."

*(Question of the amendment proposed)*

**Mr. Shikuku:** Mr. Temporary Deputy Chairman, Sir, again, we still talk of the same problem and the same caution stands. So, he should make sure that he refers to "b" in case he talks of line 5, if you come from up there, it will be "a".

There are also other two issues here. If you look at the Clause, it is (a) (a). I do not know whether he has considered that.

**The Temporary Deputy Chairman** (Mr. Wetangula): He is deleting it.

**Mr. Shikuku:** Therefore, this is affecting "b", but not line because when we talk in terms of line, it is a different issue. We are now trying to go according to what we understand; it should be "b".

**The Temporary Deputy Chairman** (Mr. Wetangula): Once, again, Mr. Assistant Minister, if you are enhancing the fine to be stiff, it would be desirable to enhance the custodial sentence in the alternative as well. Again, you have omitted that in this clause.

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

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

*(Clause 23 as amended agreed to)*

*(Clause 24 agreed to)*

*Clause 25*

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 25 be amended by deleting paragraph (d) and renumbering paragraphs (e) to (i) as paragraphs (d) to (h) respectively.

*(Question of the amendment proposed)*

**Mr. Shikuku:** Mr. Temporary Deputy Chairman, Sir, the Assistant Minister just said that he would like to have paragraph (d) deleted, but would he be kind enough to give reasons why he came to that conclusion?

**The Temporary Deputy Chairman** (Mr. Wetangula): The Front Bench, why are you deleting paragraph (d)?

**The Assistant Minister for Land Reclamation, Regional and Water Development** (Mr. Ligale): Mr. Temporary Deputy Chairman, Sir, it is being deleted because we want people to qualify under this Act; either they meet the professional qualifications or pass the examinations set. We do not want any provision where people can get exemptions.

**Mr. Shikuku:** Mr. Temporary Deputy Chairman, Sir, I would rather buy that. That makes sense also. Thank you.

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

*(Clause 25 as amended agreed to)*

*Schedule*

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

That, Paragraph 6 of the Schedule to the Bill be amended by deleting sub-paragraph (2) and inserting the following new paragraph:-

"(2) The Registrar shall be the Secretary to the Board and shall attend and keep minutes of the meetings of the Board and perform such other duties as the Board may require."

*(Question of the amendment proposed)*

**Mr. Shikuku:** Mr. Temporary Deputy Chairman, Sir, since I agree with sub-paragraph (2), Paragraph 6 of the Schedule on page 23, then I think I do agree with the amendment.

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

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

*(Schedule as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Physical Planners Registration Bill and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[Mr. Speaker in the Chair]*  
REPORT, CONSIDERATION OF  
REPORT AND THIRD READING

THE PHYSICAL PLANNERS REGISTRATION BILL

**Mr. Wetangula:** Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered the Physical Planners Registration Bill and approved the same with amendments.

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Assistant Minister for Land Reclamation, Regional and Water Development** (Mr. Ligale) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Assistant Minister for Lands and Settlement** (Mr. Kaino): Mr. Speaker, Sir, I beg to move that The Physical Planners Registration Bill be now read the Third Time.

*(Question proposed)*

**The Assistant Minister for Commerce and Industry** (Mr. Osogo): Mr. Speaker, Sir, I would like to take this opportunity to express my thanks. I also thank the responsible Ministry for having taken the suggestions made from the Floor of this House in the amendment of this Bill.

There were a lot of mistakes in the drafting of this Bill and as I said, the draughtsmen may seem to be new because they have even changed the format of drafting Bills. I am glad that at least they have avoided that war between "The Director and a civil servant that was going to be appointed to be the Secretary to the Board", that is in Schedule 6 (2) which we have just amended. What is worrying me for the future is Clause 3 in which the amendment that was brought forward actually are functions of the Board where we suggested that there were no functions for this Board at all and it will be remembered that when I stood up to contribute, I pointed out that the Board was supposed to set examinations but it did not have, among its functions, that job of setting examinations.

It has now been brought in but I thought that it should have been a marginal heading in the Bill saying "Functions of the Bill" rather than coming at Clause 3 (4). It would have made a lot of sense if there was a marginal heading "Functions of the Board" rather than it coming under a marginal heading reading "Establishment of the Board".

With these remarks, I beg to support the Third Reading.

**Mr. Shikuku:** Bw. Spika, najua tumekosea na tulijaribu sana kumueleza Waziri kwamba habari hiyo ya amendment yake haingekuwa inafanya kazi. Hapa ni establishment na ni hilo jambo nilijaribu kusema. Kuweka kamati ni hivi lakini kazi zake zingewekwa kando kwa sababu instructions ya Board itasema fulani na fulani kazi

yao ni hii na hii. Haya ndiyo maneno tunaweza kugeuza lakini sijui kama tutapata nafasi nyingine lakini naona tumechelewa. Lakini mwisho wake kwa sababu chini ya establishment vile rafiki yangu amesema, haiwezi kuwoko kwa sababu hiyo ni establishment ya kamati. Tena humo humo ndipo mnaweka kazi yake. Itakuwa katika siku za usoni watoto wakisoma pengine wataona hawa wazee walikuwa wamechoka lakini kwa vile tunazungumza hapa na inaandikwa, watajua kulikuwa na wazee wengine ambao walitambua kosa hapo.

Bw. Spika, jambo la pili ni lile la Mswada huu. Pia mimi ningependa kumuunga rafiki yangu mkono kwamba tumefurahi kwa sababu Waziri amechukua mawaidha ya Wabunge waliozungumza kwa Mswada huu na akaweza kuyachukua ijapokuwa hakuchukua yote lakini amewahi kuwaka yale maoni ya Wabunge katika Mswada huu na hiyo ndiyo kazi sisi tunahitaji hapa. Sheria haitakuwa sheria ya wanachama wa KANU au ya wanachama ya Upinzani bali ni sheria ya wananchi na ni wajibu wa Serikali na Upinzani kutengeneza sheria ambayo itasaidia wananchi wote na hata Waheshimiwa hapa wale wataokosa kura ijayo watakuwa kule kwenye raia na watakumbana na sheria kama hii.

Bw. Spika, ningependa pia kuongeza na kusema kwamba kupitisha Mswada kama huu ni kazi moja lakini huo Mswada kufanya kazi ni kazi nyingine ambayo itakuwa ngumu zaidi. Sisi tushapitisha Mswada huu na yule atakayehusika na kutekeleza Mswada huu, huyo afaa aambiwe kwamba tunataka Mswada huu utakapokuwa sheria, utekelezwe vile tumepitisha hapa na sio kuongeza chumvi au mdalasini au kukumanga. Tunataka upite vile sisi tumepitisha hapa ili uweze kuwa kwa manufaa ya watu. Nasema hivyo kwa sababu sheria zetu nyingi hapa ni nzuri lakini vile zinavyotekelezwa ndio inaleta taabu na hali sheria zenyewe ni nzuri lakini wale wanaotekeleza hawafuati sheria. Ni matumaini yangu kwamba watatekeleza sheria hii kufuatana na vile tumepitisha.

Naunga mkono.

**Mr. Achola:** Mr. Speaker, Sir, thank you. I would like to thank the Minister for incorporating some of the recommendations that were suggested during the debate but I would like to refer to one point which I think he omitted and that was on the definition of what a physical planner is. I think when you look at the Physical Planning Bill which follows, it has been very well done in there because they have defined the whole process very well but many Members who contributed to this Bill talked about the need to properly define what a physical planner really is because it was not quite obvious to most Members of the House.

Thank you Mr. Speaker, Sir.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, I cannot resist also thanking the Minister for responding to what Members had suggested. In addition to that, we have the question of these examinations. On examinations, I would suggest that the Board should not take upon itself the question of setting examinations. They should make the examinations to be set or they should cause the examination to be set and I would suggest that they should liaise with the university so that we have a proper reference point so that the examinations hopefully are not politicised and I think that will go a long way in making sure that everything is fair.

With those few remarks, I beg to support.

**Mr. Gitau:** Thank you Mr. Speaker, Sir. I would also wish to thank the Minister, and the whole House, for spotting this Bill on the registration of physical planners which is very important. We are now very confident that physical planners will not always be under the Board of Registration of Architects, Quantity Surveyors and Surveyors. They will now be on their own.

Secondly, I would like to urge the Government and particularly the Ministry of Education, to ensure that we introduce a degree course in physical planning in the University of Nairobi because we do not have that one, instead of always picking physical planners from the first degrees after doing say Architecture, Geography or any other first degree.

With those few remarks, I beg to support.

**Mr. Speaker:** I think we have exhausted that.

*(Question put and agreed to)*

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

## BILL

*Second Reading*

THE PHYSICAL PLANNING BILL

*(The Assistant Minister for Lands and  
Settlement (Mr. Kaino) on 30.4.96)  
(Resumption of Debate interrupted on 9.5.96)*

**Prof. Mzee:** Thank you, Mr. Speaker, Sir. On Thursday, 9th, May, I was asked to substantiate that a plot No.609 Section 26 on Mama Ngina Drive which is a gazetted area, was allocated for development to some people whom I did not name. With me, I have documents which I want to use to substantiate today. These are two letters of allocation which indicate that this particular plot on Mama Ngina Drive has been allocated to two different types of groups. Also, I have a letter here which is Confidential Minutes of the 20th meeting of the Town Planning and Works Committee held in the Committee room on Wednesday, 20th March, 1996, for the Municipal Council which was considering approval of a plan No.P363/91 for plot number 609 Section 26, Mombasa Island. They were considering approval of the plan and it was approved. These are the Minutes. I also have a letter from the Town Clerk to His Worship the Mayor, which drew his attention to the fact that, that section is covered under the Historic Sites. This is what I have been asked to substantiate and I have these documents for substantiation, which I Table.

*(Prof. Mzee tabled the documents)*

**Mr. Speaker:** Very well done!

**Prof. Mzee:** Mr. Speaker, Sir, what I was trying to indicate in my contribution here, is that, our problem is not lack of proper planning, but the problem is non-enforcement of laws and the by-laws pertaining to physical planning. This is the problem. We have a physical plan which says, a certain area is for a such and such public amenity. We have physical plans which say, certain areas are gazetted historic sites. The same people who are responsible, then come along and approve plans or allocate land for other purpose. Also the problem we have is the improper management of town centres in the provision of basic infrastructures and allowing, with impunity, the grabbing of land earmarked for public amenities and utilities. This is a very serious thing, because most of the land which is going grabbed at the present time, is the land which has been earmarked in a physical plan, for public amenities and public utilities, which is a very serious thing.

Mr. Speaker, Sir, it appears that public land is like holy water. Anybody in KANU can help himself to it. This is what is happening at the present time. Laws and by-laws pertaining to towns like Mombasa in the last 10 years have been overlooked when it comes to approving plans for development, when it comes to allotting that particular area to a particular person. We had clear-cut zones within Mombasa Town, for example, which indicated low density areas and high density areas. For the low density areas, the plan is to have fewer houses there; large areas of acreage of gardens because the infrastructure; the supply of water, the supply of electricity and other things in those low density areas is small. Then there are high density areas. In these areas there are provisions to provide adequate infrastructure but all these at the present time have been mixed up. There is no such thing as a low density area and a high density area.

Plans which are for high rise buildings, which are flats of 10 storeys or so, are being approved by the same people who are vested with the responsibility to see that the town planning laws and by-laws are adhered to. These are the same people who overlook these laws and allow a lot of houses to be built in areas which are zoned as low density areas. As a result of this, at the present time we have mushrooming of slums. Slums were unknown in Mombasa for the last 10 years, but now everywhere you go we have slums. We have kiosks even in posh areas like Kizingo coming up at every corner and every pavement of the road. The biggest problem we have is that of hawkers. Hawkers are all over the streets in Mombasa. They have taken over all the streets. You cannot go anywhere even in high class shops and you do not find hawkers with their wares being sold outside. Then there is another problem. For the last 15 years, almost all the municipalities have not built even a single low income housing estate. Instead lands which have been earmarked for housing estates have been allocated to individuals to something. In effect, within a housing estate, the play grounds and open spaces within those estates have been allocated. Instead of building low-income housing estates, you find that the opposite is being done. You find that houses belonging to the Government are being condemned and allocated to other people.

Mr. Speaker, Sir, Kenyans, before the present KANU Government were poor, but now they are not only poor but miserable.

**An hon. Member:** And hopeless!

**Mr. Mulusya:** They have no hope!

**Prof. Mzee:** Mr. Speaker, Sir, lack of enforcement of development laws such as adhering to ratio of the size of the site to be developed to the size of the structure, are no longer in force. You find that buildings nowadays are even put up on pavements. The balconies come up right on to the road. There are no laws being observed at the present time. This is what has brought about the problem of the structures which have been collapsing all over the country. The Sunbeam Supermarket disaster is not a rare occurrence. Every town in this country has had buildings which collapsed. Recently we had a building in Mombasa which was meant to be two storeys but the owner had built a five storey building and then the whole building started sinking. **[Prof. Mzee]** There was a big explosion and the building started sinking and people were evacuated from the building. Instead of condemning the building and razing it to the ground, the Municipal Council agreed to allow this person to do a repair and yet this is a dangerous structure. Dangerous structures are to be found all over the country. Everywhere you go, you see these dangerous structures.

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. I thought I heard the Member say, there was a certain building which was only fit for two storeys, but the owner went ahead and made it a five storey one and the building was sinking. I thought I heard him say so. And that the Municipal Council of Mombasa instead of razing this building down, they allowed him to do repair. What repair can you do when the building is sinking, or are we waiting for another national disaster?

**Prof. Mzee:** Mr. Speaker, Sir, this is absolutely true. It is possible for physical planners in most of the towns to take this seriously because the disaster which took place in Moi Avenue is a very serious disaster. The potential that this kind of disaster can happen elsewhere in Kenya, in the very near future is real. These things are happening now because all the laws and by-laws pertaining to physical planning contained in Lands Act and the Local Authority Act have been flouted with impunity. I would urge at the present time that all the councils that is, the City Councils and the Municipal Councils to investigate the buildings which are existing at the present time, to see if they are dangerous structures. They are quite a number of these buildings which are obviously dangerous structures, being built

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. Now that the hon. Member is aware of this building, would it not be in order for him to name this building and ask wananchi in that building and those that are passing by to know that it may collapse when they are passing, and we do not want any more funeral? Where is this building, so that wananchi can keep off?

**Mr. Speaker:** Are you suggesting that wananchi should avoid it?

**Mr. Shikuku:** Yes!

**Prof. Mzee:** Mr. Speaker, with the poverty presently, and with lack of housing, it is very difficult to convince mwananchi to go out and look for another house because they are too expensive and it is very difficult to get shelter. That is why I said that we are not only poor now, we are miserable

**Mr. Speaker:** Order, Prof. Mzee! You said there is a building that was designed for two storeys, it was subsequently increased to five, unlawfully. Mark you, that is what you said. As a result of that, it is now sinking. If that is true indeed, and you are responsible for what you are saying, then hon. Shikuku is asking you to substantiate where that building is, so that hon. Shikuku and everybody else can keep a safe distance.

**Mr. Shikuku:** Thank you, Mr. Speaker, Sir.

**Prof. Mzee:** Mr. Speaker, I will say exactly where this building is. Actually, there is this unsanitary pits, it started belching suddenly, a very loud sound was heard and then in no time, we saw one side of the building go down. This building is located on Mombasa Island in Bondeni Ward. I do not have the plot number with me, but it is adjacent to Bondeni Road.

**Mr. Shikuku:** What is its proper name?

**Prof. Mzee:** It is a residential place. Actually it is next to a muslim cemetery on Bondeni Road.

**An hon. Member:** On the left or right?

**Mr. Mwaura:** On a point of order, Mr. Speaker, Sir. Considering the tragedy that occurred yesterday and in view of the fact that hon. Prof. Mzee knows of a building which he says there are people residing there, and it can collapse and kill them, would it not be in order that hon. Prof. Mzee should report this matter to the relevant authority, so that the building is checked to avoid more deaths?

**Mr. Speaker:** Well, I suppose this is a relevant authority. Proceed, Prof. Mzee.

**Prof. Mzee:** Mr. Speaker, the objective of mentioning these things is to request the different local authorities to be active and on the look for dangerous buildings which need to be condemned, and they work on them. This is part of their work. If they see a structure which is dangerous, which does not conform to the construction by-laws and the provisions which are specified in the Local Government Act, then I think it is high time they acted on this building. This is part of planning; which is to look at those dangerous structures and

order their demolition and new structures built before they become dangerous. It is not wise to wait until a disaster occurs, like the one we had on Moi Avenue and then everybody is excited for a short period of time, then everything is forgotten. It is mandatory for all local authorities to actively search for buildings which need to be condemned and they condemn them and give notice to owners to demolish them before they cause a disaster.

Mr. Speaker, Sir, Physical Planning goes hand in hand with the provision of basic infrastructures. Provision of basic infrastructures is an essential component of physical planning. I do not see how we can have a meaningful physical planning for a town like Mombasa which is currently receiving less than 30 per cent of its daily water requirement. How can we plan for our future if we do not provide water for the areas? We cannot say that this area will be an industrial area and we do not provide water, sewage and electricity for that area. There is serious shortage of all basic infrastructures all over the country. It is not only in Mombasa, there is absolutely no town in this country which is receiving sufficient water and electricity for its residents. In Mombasa at the present time, especially in Tudor area where I am living, and in Changamwe Constituency, we have been subjected to electricity rationing on a daily basis for over a period of 12 hours every day. I need electricity, especially between 6.00 p.m and 11.00 p.m. This is the time when the Kenya Power and Lighting Company in Mombasa sees it fit to deprive me of electricity in the area where I live; which is Tudor, on Tom Mboya Avenue. On a daily basis, we have been subjected to electricity rationing at such time. My children cannot do homework and I cannot listen to the news. I do not know what is going on in this country. Therefore, provision of the basic infrastructure, like water, electricity, drainage system and sewage is very important in physical planning. Whenever we have showers in Mombasa, we have pools of water all over the place. In some areas, it is necessary to have a canoe to cross from one estate to another. This is whenever we have heavy rains. In Mombasa, heavy rains occur almost in all seasons. In Mombasa it rains all the year round. If heavy rains come, particularly in my constituency, you find that a certain area is completely closed, there is no drainage system whatsoever.

Mr. Speaker, Sir, Physical Planning goes hand in hand with provision of infrastructure and drainage becomes a very important component. I would like to compare this Government to a person who inherits a shop from his father. A father dies and leaves his shop which is fully stocked with all sorts of goods to the son. There are goods in the stores and the shelves but the young man who has inherited the shop sells all the goods and never bothers to replace them. After sometime, he finds that the shop is empty. Once this happens, this son who has not been stocking the shop will never again be able to stock it like it was before the father died. This is exactly what has happened to this country. This country had sufficient provisions for the infrastructure but now in every town, these infrastructures are insufficient leave alone planning for the next 20 or 30 years. In the present time we have acute deficiency in water. It is surprising that we have acute deficiency in water even in towns like Kisumu and yet Lake Victoria is just there. That water is not treated at all. They just pump water into tanks and pump it to the consumers. Even in a town like Kisumu, there has never been an attempt to maintain and replace these pumps to ensure that all the residents of Kisumu get water. It is a very serious situation. As we plan for our future, we have to look very seriously at the issue of getting into heavy debts with the World Bank and International Monetary Fund (IMF).

We have to look very carefully at the Structural Adjustment Programme because this is just an experiment on our country. In this way, we are incurring heavy debts. IMF and World Bank are only interested in lending money and if they come across a country that is willing at the slightest opportunity to get this money, they are willing to give it and they have done that in this country. The problem is already here with us but in future it will be bigger than it is now. The present problem is that most of our income at the present time is being used to service debts and almost all what we are getting in form of aid and loans is being spent in serving loans forgetting that in 20 years to come our children will be burdened with repaying many loans. We have to think about that when we are planning the basic infrastructures for this country. Our children in future will likely default in paying these loans. In short, the problem we have is in enforcing laws on Physical Planning, laws which developers should adhere to. More often than not, you will find that the people who flout these laws are non other than the people who have been given the responsibility of planning and approving plans.

Mr. Speaker, Sir, now I will move to the Bill. Last time, I was on Clause 20 and I would like to continue from there. This Clause deals with the Approval of regional physical development plan. Clause 20 (1) states:-

"If after the expiration of the sixty days no representations against, or objections to, the plan have been made to the Director, the Director shall certify the plan in triplicate and submit the certified plans to the Minister for his approval"

I will read Clause 20 (2):-

"The Minister may approve any regional physical development plan either without, or subject to,

such conditions or ---"

**Mr. Speaker:** Prof. Mzee, I think you need to call the attention of the Members to the Clause unless there is a word that you object to or you feel that---

*(Hon. Prof. Mzee remained on his feet)*

**Prof. Mzee:** I think I will do exactly what you direct. What I want to say---

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. I thought Standing Order No.83 states that when the Speaker is communicating, everybody must resume his seat. Did you realise that hon. Prof. Mzee was on his two feet and also communicating to the Chair when the Chair was making a ruling?

**Mr. Speaker:** Well, they are refusing to learn and I must force them to learn. Now, listen Prof. Mzee; you do not need to read the whole Clause because we may need two years to do get through this Bill that way. You may refer to the Clause and if there is a specific sentence, word or expression which you specifically want to bring to the attention of the House, then you may go to that particular expression including directing the House as to what length. Proceed.

**Prof. Mzee:** Thank you, Mr. Speaker, Sir. In this Clause what I object to is the idea of the Minister appointing the Director. If this happens, you can be sure that the Director will not work to the best of his knowledge with all the facilities he has, not forgetting that the advisor as far as Physical Planning is concerned is none other than the Director himself. You can take a case where the Director presents a physical plan for the region or local authority area and then the Minister refuses to approve such a plan. Is the Minister not being given too much power? After all, the Minister depends on the Director's advice and yet he wants to retain the right to refuse or accept plans without giving reasons. I think this is wrong. Clause 20 has to be looked into very carefully. The Minister can abuse that right by refusing to approve plans on political grounds. If in a particular area he has political interest, he might refuse to approve what the Director has presented to him.

Mr. Speaker, Clause 21(1) deals with publication of approved regional physical development plans. Few people can afford to buy or read the *Kenya Gazette*. In actual fact, if I do not get the *Kenya Gazette* free or go to the British Council library, I cannot read it because I do not subscribe to it. So, publishing a notice in the *Kenya Gazette* may not make many people know what the intended physical planning for their area is. I suggest that after the Director has prepared a physical plan for a certain local authority or any other local area, and after he has received the approval of the Minister, chiefs should be asked to hold barazas and inform their people about the physical plan. In this way, people will know the intention of the Government as far as physical planning for their area is concerned. This is the way in which people will know about the intention of the Government. It is no use to give people a period within which to lodge objections. This is because we have a lot of illiterate people. Even literate people who do not read the *Kenya Gazette* may not know what is happening with physical planning in their area. So, it will make a lot of sense if chiefs are asked to discuss with their people the recommendations of the Director of Physical Planning as far as physical planning of that area is concerned.

*[Mr. Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, I now turn to Clause 21(2) and (3). Sometimes physical planning may affect the value of a certain area. If, for example, it is decided that a certain area will be used for refuse disposal, obviously land value for that area will go down. I request that if the value of an area goes down in this way, there should be some compensation for the owners of the land. If physical planning results in loss of value of private land, then I request that the people affected be compensated for the loss.

Under Clause 22, there should also be a provision to allow compensation if revocation or modification of a regional plan results in financial loss. This clause gives the Director power to revoke or modify an existing plan. So, if he makes a revocation or modification which results in loss to owners of private land, those owners need to be paid compensation.

Clause 23(1) refers to "unique development problems". I have been scratching my head, but I cannot understand what the "special planning area" is all about. I thought that every part of Kenya is unique in one way or another. So, I cannot really understand what unique circumstances are being referred to in this clause. Why is the clause so vague? There is even no definition of what this uniqueness is all about. We need a clarification



of this clause, otherwise any area might be classified as being unique just because somebody wants it to be unique, and then land owners in that area will be in problems. It is under Sub-clause (2) where I have a real problem. It states:-

"...the Director may by notice in the Kenya Gazette suspend for a period of not less than two years..."

Why have the words "not less than two years" been used here? They mean that the suspension can last for 20 or 100 years! This is something I have never come across! The law should not make a provision like "not less than two years". But this is what has been done in Clause 23(2). And sub-clause (3) states:-

"Where a development permission has been granted by a local authority for development in the area, such permission shall not be affected by the suspension if the development in respect of which the permission is granted has been commenced not less than six months before the suspension of development of the kind in the special planning area".

Now, six months is a long time. Within six months, an area can be fully developed. Where one has to adhere to the rules for special development planning area, within six months of approval, one can complete one's development.

Since I think there are many other people who would like to speak on this Bill I am going to move pretty fast. I will move on to Clause 26(1), on which, probably I need some clarification. It says:-

"The Director shall later than thirty days..."

This does not make any sense to me. There is a missing word here.

**The Temporary Deputy Speaker** (Mr. Wetangula): I agree with you.

**Prof. Mzee:** Sir, "shall later than thirty days" can mean 20 years from today. I think the provision should state: "The Director shall not later than thirty days..." I do not know whether there is a typographical error. But this clause does not make sense as it stands, and it needs to be amended.

Under Clause 28, I will again request that in addition to a notice being published in the Kenya Gazette, chiefs be also asked to hold barazas to inform ignorant people of what will be happening in connection with physical planning in their areas.

*(Hon. Shikuku knelt down on the Government Front Benches)*

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Shikuku, I think that is improper!

*(Hon. Mzee moved away from the Table)*

Carry, hon. Mzee. I was just cautioning hon. Shikuku that he was posturing rather unlawfully.

With regard to Clause 30 sub-section 4, I have a quarrel with the last two lines which say:

"Provided the original condition is compatible with the approved physical development for the area concerned".

The reason why I object to this provision is because it is very vague. If somebody has developed a structure in an area where he is not supposed to develop, and he is required to demolish that structure, it should be demolished and whatever material is there, should be removed to the state in which it was before development. There should be no such thing as "provided".

**The Temporary Deputy Speaker** (Mr. Wetangula): Which Clause is that?

**Prof. Mzee:** This is Clause 30, sub-section 4 on page 41. I am objecting to the last two lines which provide:

"Provided the original condition is compatible with the approved physical development for the area concerned".

This is too vague. If a structure is developed in an area where it is not supposed to be developed, and if a notice has been given that the structure should be demolished, it should be demolished and whatever material is there be removed and the area should be restored to its original condition. There should be no further provision after that.

I support Clause 30 sub-section 5 very strongly because there is no coordination between licensing authorities and the physical development authorities. So, if a licensing authority issues a license for a business in an area, which is not supposed to be there, they will have committed a crime. If this is imposed, then we will not have bars and nightclubs in the middle of residential areas. I support sub-section 5 very, very strongly. It is a sub-clause which will make the Government officer who is responsible for licensing these bars, kiosks and

nightclubs, plus the mushrooming of shops in unauthorised areas, to be charged in a court of law and be fined or imprisoned. I support it very much, indeed. This was lacking before. This thing is very common and it might be taken very lightly. But mushrooming bars, nightclubs and shops in the residential areas, especially, in the estates is happening every day. Those people who are licensing these bars and nightclubs are the same Government authority which should know better that these are residential areas and bars are not supposed to be there. If they commit this offence, they should be fined or imprisoned.

What baffles me and, what I cannot figure out an explanation for, is: Of all the other things, why are petrol filling stations left alone? Is this an area of interest for certain people who want to dominate this business?

It appears that there is a particular interest for particular people in licensing and providing physical planning for petrol filling stations. That is the only reason why this has been happening. In Clause 30, sub-clause 6 (a), that should not have happened. That should not have happened. Petroleum filling stations are like any commercial business. In actual fact, this is a more dangerous business than any other. It should be subjected to more physical planning than anything

else. Why make it an exception to this Bill? I cannot understand. We can only conclude that those people responsible for physical planning are still interested in locating petrol stations right in the middle of residential areas.

Mr. Temporary Deputy Speaker, Sir, I see a contradiction here in Sub-clause 7. You know, it looks like the local authorities have been given powers to grant permission for development and then, the Director has maintained his power to issue certificate of compliance. Who actually is the authority? Is it the Director or the local authority? It seems in here, that all local authority is in the hands of the Director and the local authority has absolutely no power to grant any permission, unless a certificate of compliance is issued by the Director.

Clause 32(1) and the application for development is making the local authorities nothing else but agents of the Director. They have no say, all they do is give out forms as they are in schedule here. The applicants fill them and all that the local authority does is to post them to the Director for approval. What we have done is take away all the power for approval for development in an area from the local authority and give it all this power to the Director. We are making the local authorities only agents to receive forms for forward transmission to the Director. On Sub-clause (2) I have a quarrel, particularly, where a Director is considering a development application. He should not only consult those individuals who are listed from (a) to (h). They should also be interested in considering comments from the local authorities. After all, the local authorities know their areas better than anybody else. So, the comments from the local authorities should be the first issue there. Since they are also receiving these forms, they should be allowed to comment on them before submitting them to the Director.

Therefore, the comments from the local authorities should also be considered by the Director when considering a development application which is referred to him by the sub-clauses before this. In actual fact, the local authorities should consider it fully and their comments should have more weight than anybody else's comments.

Mr. Temporary Deputy Speaker, Sir, Clause 34 reads as follows:

"That the local authority can defer any application for consideration for development for such a period as may be specified in the notice."

It does not say under what circumstances, it is very vague. Will it be under circumstances where, for example, I, as an applicant, being a FORD(K) Member of Parliament, be in a position to apply. My application may just be deferred. It should say under what circumstances the local authority can defer an application which has already been approved by the Director by giving a certificate of compliance.

Clause 35(3), is very odd to have the Minister's decision as final. People are not given an option to appeal to the High Court or any other tribunal which is established. I think the way it ends there, it is dictatorial and autocratic. I think, it should give an opportunity to any person who is aggrieved by the decision of either the local authority or liaison Committee or the Director to appeal to the High Court and not make the Minister as a final decision-maker. It would be automatically autocratic for a country which is democratic like Kenya.

Clause 36, deals with dumping, sewerage treatment and environmental damages which require a sufficient environmental impact assessment report. It is very, very important to see the environment safe everywhere. It is very, very important and you will find that it is only Clause 36 which mentions about environment. This should have been a very big issue because this Act not only covers the rains in this country, it covers all the lakes, rivers and all the waters in the ocean together with the bottom of the ocean which is under Kenyan territory. It covers all. The physical planning in this Act covers all the areas.

Environment here becomes very important, especially under the circumstances when all the polluting industries have been moved from the developed countries into developing countries without any consideration. When they think that they cannot operate a particular factory in a certain developed country because of stringent

pollution laws, that is the time when the whole of a factory is dismantled and transferred into developing countries where we do not have stringent rules on pollution. Here is where pollution should have taken a very big chunk of this Bill in stopping pollution in any part of this country when we do physical planning.

Simple things also could affect the environment. Attention has been drawn to me to the fact that the introduction of the Nile Perch; Buta, in the Lake Victoria has affected the bio-diversity in that lake, because the Nile Perch will eat every small fish and certain Luo people prefer certain species of fish which are smaller to Buta for their meals. And these small fish have disappeared because of the introduction of the Nile Perch. When scientists want to do a such thing, there should be a law to control those type of experiments. Environmental pollution, creation of green house effects and destruction of our forests, destruction of our wildlife should feature very strongly in any physical planning for this country. This is something which we have to think about very seriously.

In Mombasa Town at the present time, the refuse dumping area is right in the middle of the town, at Makupa Causeway. Every visitor who comes to Mombasa and lands at Moi Airport, travels through Makupa Causeway and on both the right and left sides of the Makupa causeway, are the refuse dumping sites. We have a case at the present time of boreholes being sunk in Kisingo area which have high lead content because sometime during the colonial era, the Kisingo area was used for dumping lead from a source which I do not know. The people who are staying in that residential area now, because of lack of water, they have sunk boreholes. The chemical assessment in those boreholes indicates high lead content and lead is cumulative poison because our bodies do not know how to deal with it. What it does is that it stores that lead poison in the liver because it is the de-toxication organ in the body. When it finds that it cannot deal with poison, it just stores them for sometime thinking that it might do something later on and the poison accumulates. The end result is like that of alcoholism which results in cirrhosis. Alcohol is a poison and it is taken to the liver for de-toxication. If the liver cannot handle it, it stores it and that is the reason why we have cirrhosis of the liver. This is how cumulative poison starts. At the present time, we have a number of boreholes sunk in Kisingo area with high lead poison content and these boreholes are dangerous to our children who are growing up in that area. The question of environmental impact in the physical planning has to be looked into very, very carefully.

Mr. Temporary Deputy Speaker, Sir, I think I am coming to the end now.

**The Temporary Deputy Speaker** (Mr. Wetangula): That is for the fourth time!

**Mr. Mulusya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to inform hon. Prof. Mzee that there is now a tendency by the industrialists in the urban areas, because they know that most of the by-products from the industrial wastes are dangerous to the environment, instead of requesting the local authorities to allocate them a place where to dump those wastes, they go dumping it at night. Since they fear for their safety and that of their vehicles, they cannot go deep into the forests and so they decide to dump these industrial wastes along the road sides after mid-night. This is happening along Mombasa Road and Kangundo-Komarock Road. These are very dangerous by-products and wastes being dumped in those areas pose a danger to the residents of those areas.

**Prof. Mzee:** Thank you, hon. Mulusya, for that piece of information.

Clause 41(1). This relates to private land and it is restricting people owning private land from sub-dividing it. I think it might probably interfere with the constitutional rights of the citizens in this country who own private land. All what I am saying is that those people who drafted this Bill should look into this clause and make sure that it does not, under any circumstances, infringe on the constitutional rights of those who own private land.

Mr. Temporary Deputy Speaker, Sir, here I come to a very, very important issue which is affecting my people in Mombasa. This is Clause 47, which talks about antiquities, monuments and historic sites. Almost half of my Constituency has been declared historic sites. The entire old Town from Mama Ngina Drive, Likoni Ferry right through the high densely populated residential areas of the Old Town. The Fort Jesus, Jua Kali, Makadara and Kibokoni areas have been declared historic sites and I have a document here to prove that and there is a lot of restrictions. You cannot demolish buildings there. If you want to make any repairs of the buildings, there are certain conditions you ought to meet. For example, I have a house there, I am declaring my interest. I am told I cannot put windows with rouvres because they were not there 500 years ago. So whatever I am going to do I have to put the wooden windows with shutters and tinted glass or something of that sort, which are more expensive than the ordinary rouvres. So if the people are affected by declaration of an area to be a monument or historic site, and Lamu is another area which is affected, they should be compensated for the losses. They cannot increase or expand. If they want to make their balconies, they cannot even make concrete balconies because balconies were not there before. They are required to make wooden balconies and it becomes a very, very expensive exercise affair to renovate houses in areas which are designated historic sites. This affects the people of Lamu,

Malindi and Mombasa. I think if somebody sitting somewhere declares these areas to be historic sites and it becomes costly to maintain them, then we should be compensated.

In addition, if anybody goes to the Old Town of Mombasa, he can find hundreds and hundreds of the tourists walking in the narrow streets, looking at the buildings which are historic sites and we are getting nothing out of it, absolutely nothing. We are just like people in a zoo.

**An hon. Member:** You are like Maasais!

**Prof. Mzee:** Tourists come in, look at us and then when we want to expand and develop our houses, we are told, you cannot do it and when we are allowed to do it, we are told we cannot have these type of windows, balconies, scrap roofs, the roofs have to pitched with tiles, but we cannot have slaps. These rules and regulations which are imposed on us are very costly and the only reasonable thing to do if the Kenya Museum or any person declares an area historic, they should compensate him. There is a lot of money which is being received. In actual fact, if we want tomorrow, we can close the entire Old Town area, which is closing half of Mombasa, and we would not allow any tourist to come in there unless he pays money. That can be done and the money can go and help those people who are being treated like people who are in a zoo and they are not getting any benefit out of it.

**Mr. Boy:** Haya, tufanye hivyo!

**Prof. Mzee:** Mr. Temporary Deputy Speaker, Sir, there is a lot I can talk about Clause 53 because it affects me directly, these historic sites. These historic sites are the ones which are being violated by the planners.

Today, there are historic sites and monuments, tomorrow, they have been degazetted and somebody grabs the land and he does what he wants.

This is Clause 53 (1). This Clause in short, and I do not want to read it says that, if this Bill becomes an Act then it will not affect things which have happened in the past. If there has been an illegal structure which has been built and its historic site has been grabbed and so on and so forth, this planning will not affect it even if there has been a market or road grabbed. You will be surprised that only the day before yesterday when I was driving along Tom Mboya Avenue in Tudor where I stay, I found a road which connects Obote Avenue and Tom Mboya Avenue changed and I have a physical plan here. The road is between the Khamisi Secondary School and some houses. A whole road is fenced and somebody is doing some developments on it. A whole road! This Clause 53 (1) is protecting people who grabbed land which is earmarked for public amenity and utility.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of information Mr. Temporary Deputy Speaker, Sir. I would like to inform the hon. Member that Clause 53 is actually in order to cater for the Constitution which states that any law should not be made to act retrospectively.

**Prof. Mzee:** Mr. Temporary Deputy Speaker, Sir, you know if something wrong has been done, I think it could be some way or the other corrected. There are a lot of wrong things in planning which have been done and there should be a provision because this Clause has every loophole where planning laws were obviously flouted and then that provision should give power to the Director to correct.

**The Temporary Deputy Speaker** (Mr. Wetangula): You know what you should do professor. When we go to Committee Stage, draft an amendment and bring it.

**Prof. Mzee:** Mr. Temporary Deputy Speaker, Sir, I want to draw your attention to this fact but later on I will propose an amendment to allow for repossession of all land grabbed meant for parking spaces, school compounds, hospitals, markets, recreational centres, playgrounds and public toilets. You will be surprised how many public toilets in a town like Mombasa have been grabbed and I am telling you that all of them I have been grabbed. There should be a Sub-clause which will allow the Director of Physical Planning to recommend to local authorities to get this land back.

**Mr. Mulusya:** On a point of information Mr. Temporary Deputy Speaker, Sir. What I would like to inform professor is that he should not endeavour to urge the Government of the day to put any Clause of that nature because we know that we are taking the Government in 1997 and we will bring in an amendment to this Bill, to be an Act of Parliament at that time, to make sure that those who have done that type of grabbing lose their land. So you better fight as hard as possible to make sure that we do not win.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order Mr. Temporary Deputy Speaker, Sir. Is the hon. Member for Kangundo not misleading the hon. prof. Mzee, and the House, by saying that he should not bring amendments in the hope that in 1997 the Opposition will win when it is very obvious that the Opposition will not win and therefore Prof. Mzee should bring his amendments now?

**Prof. Mzee:** Mr. Temporary Deputy Speaker, Sir, I hope to bring these amendments but my friend is---

**The Temporary Deputy Speaker** (Mr. Wetangula): I am told that you will bring it and what hon. Mulusya has said has nothing to do with what you are saying.

**Prof. Mzee:** My friend is very right. If this amendment is not accepted then when FORD (K) comes to power it will make sure that this is imposed. This is a warning to all those grabbers that if they have grabbed public amenity land or public utility land, they know that this land will be re-possessed and this is a warning to also those developers who are buying this land to desist from buying it.

With these few remarks, I totally reject this Bill.

**The Assistant Minister, Office of the President (Mr. Sunkuli):** Mr. Temporary Deputy Speaker, Sir, in support of this Bill, although I can see that I may not have much time today, I would like to begin with a complaint, because, this Physical Planning Bill is a very important Bill, but those people we represent in this country have not been given the benefit of knowing what their representatives have been saying in this House. I listened very carefully to the hon. Ligale and yourself, Sir, when contributing to this Bill and a number of contributions from the Opposition, including the eloquent contribution of Prof. Mzee, himself, but our Press has just totally ignored to report to the people what has been said in this august House. It is really surprising. Is it that our Press does not have competent journalists to understand what the eloquent Members of Parliament have been saying, or is it that they do not regard physical planning as an important aspect of development in this country?

Mr. Temporary Deputy Speaker, Sir, it is so surprising that when you read a newspaper after speaking for two hours, the only thing they say is, "hon. Wetangula decried poor planning", and that is the end of the story. They do not devote a page for debates. You do not know what Prof. Mzee said actually.

**Mr. Kiliku:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to have a clarification. When the hon. Member is blaming the newspapers, is he including the *Kenya Times*?

**The Temporary Deputy Speaker (Mr. Wetangula):** Is that a question or a point of order?

**The Assistant Minister, Office of the President (Mr. Sunkuli):** Mr. Temporary Deputy Speaker, Sir, I said "the newspapers" because what we would like to see is a real debate of this House conducted in our Press so that the intelligent conversations of my friend from Ugenya can actually be depicted on paper so that the people of this country know what hon. Orenge stands for. But we cannot be able to know on a single line that "they decried this", or that "he supported that."

I think that so long as our journalists do not communicate to the people what we are saying, then they fail to be the media, because I do not know they are the media between who and who now. I think they have to be a media between those who speak and those who listen. I would hate to believe that what the hon. Dr. Lwali-Oyondi would say here is only to attack hon. Members when there is minimum quorum. I think it is for the entire nation and it is very crucial.

Mr. Temporary Deputy Speaker, Sir, physical planning is a very crucial aspect as has been also stated by the hon. Members in this House. It has been stated also by members of international fora that we have attended. It is important to plan our environment - I do not need to repeat - so that it can become a comfortable environment, and that we can be able to accommodate similar purposes in similar environments.

A lot of contributions in this House have concentrated on developing our city and I would like to say that, that is defeating, because the way things are moving, if you travel to the Western World, you will find that towns and cities are going to be the actual residence of the majority of the citizens in the near future.

Of course, right now, we cannot say that of Kenya, and that is why sometimes I believe that the people who live in Nairobi are not that many. They do not even deserve two Members of Parliament sometimes. Maybe one could be enough, because for the time being, the majority of our population still lives in the rural area.

**Mr. Kamuyu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Sunkuli to completely mislead this House, this nation and the residents of Nairobi that Nairobi deserves only two Members of Parliament and not more, while he knows clearly that Nairobi has 3.5 million residents, whereas in his very remote constituency, he has less than 50,000 people?

**The Temporary Deputy Speaker (Mr. Wetangula):** Mr. Kamuyu, are you saying that hon. Sunkuli is not entitled to his views?

**Mr. Kamuyu:** I am saying that he is misleading this House.

**The Assistant Minister, Office of the President (Mr. Sunkuli):** Mr. Temporary Deputy Speaker, Sir, I am not misleading this House and the people of Trans-Mara are not 50,000. Half of the people in Dagoretti are actually from my constituency and, therefore, are adequately represented by me. I am saying that for the time being, the towns in Kenya are not as heavily populated as those in the rest of the world. I am also saying that although hon. Members have emphasised that it is important that towns should be planned, I am insisting that, that is for the future. At present, what needs to be planned are our rural areas.

**Dr. Kituyi.** On a point of information, Mr. Temporary Deputy Speaker, Sir. When persons have

translocated from a rural area into an urban area, they cease to be represented by the Member of Parliament, where their grandfathers were buried; they are represented by the person who knows their daily problems where they are domiciled in urban centres.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I am very grateful for that piece of information, but hon. Dr. Kituyi has perhaps not read the ruling in the S.M. Otieno's case, where every Kenyan has a house in Nairobi and a home at the constituency. Very few people do regard---

**Mr. Mulusya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Sunkuli in order to bring in a generality on a very specific case? The S.M. Otieno issue was a specific case on Luos, not Kenyans.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, what I know is that very few Luos are not Kenyans. The majority of Luos are Kenyans.

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Since when did Luos become non-Kenyans? Is the hon. Member in order to imply that Luos are not Kenyans?

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I am glad that you are realising, on the Floor of the House, how split the Opposition is. They are not agreed on who is a Kenyan and who is not a Kenyan.

**Mr. Kamuyu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. If you listened earlier on, the hon. Member on the Floor did mention that the majority of Dagoretti people are from Trans-Mara. For his information, indeed, there are quite a few Maasai people in Dagoretti selling cows there. Many of them are Keebonyokie. I believe the hon. Member here is a Purko, and three days ago there was a very major battle, which was diffused by the administration in Dagoretti. Can he tell his people to withdraw from Dagoretti because we do not want Maasai tribal wars in Dagoretti Constituency.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, in his ignorance, the hon. Member is saying that I am a Purko. I am a Moitanik and the majority of the people in Dagoretti are not Keebonyokie and, in fact, there was no civil war. The hon. Member must acknowledge that the economy of Dagoretti is controlled from Trans-Mara because every week my people do sell cows at Dagoretti.

I will continue next time, Mr. Temporary Deputy Speaker, Sir.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Wetangula): Order, Hon. Members. On that note, the House stands adjourned until tomorrow, 15th May, 1996, at 9.00 a.m.

The House rose at 6.30 p.m.