

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 21st November, 1995

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

## PRAYERS

## ORAL ANSWERS TO QUESTIONS

*Question No.398*

### SUB-DIVISION OF LOCATION

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

(a) whether he is aware that the Nyamira District Development Committee (DDC) recommended that West Mugirango Location which consists of five sub-locations should be sub-divided into two or more locations; and

(b) if the answer to "a" above is in affirmative, when will he sub-divide the location.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I apologise, but I will sort out and get the answer, if you do not mind calling it for the second time.

**Mr. Deputy Speaker:** What did you say?

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I do not seem to have brought the answer, but I will get it, if you call it for the second time.

*Question No.683*

### REHABILITATION OF POLICE QUARTERS

**Mr. Mbui** asked a Minister of State, Office of the President, since the police quarters at Kerugoya Police Station are in a pathetic condition, what action he is taking to ensure that the police officers in this Station are accommodated in habitable quarters.

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

The Government has acquired land to build a modern police station, staff quarters and divisional headquarters at Kerugoya. Already, 10 modern units have been constructed and are being occupied. The remaining facilities will be built when funds become available.

**Mr. Mbui:** Mr Deputy Speaker, Sir, I do not quite agree with the Assistant Minister because the police in Kerugoya Police Station are living in mud houses, something colonial, and these are human beings, and they are supposed to offer services to the members of the public. Could the Assistant Minister allow the constables to rent houses elsewhere and, then, pay them the house allowance?

**Mr. Sunkuli:** Mr Deputy Speaker, Sir, I have just said that we are in the process of constructing houses for the police officers. In fact, we have acquired the land and we are aware of the poor housing conditions there, and we are going to sort out that problem.

**Mr. Nthenge:** Mr. Deputy Speaker, Sir, how long will it take for the project to be completed?

**Mr. Sunkuli:** Mr Deputy Speaker, Sir, the project is going on.

**Dr. Lwali-Oyondi:** Mr Deputy Speaker, Sir, I wish to ask the Assistant Minister whether he is aware that despite the fact that quite a few new units of residential quarters for police officers are being put up, despite that, the new units are again being shared by the officers, there is a married police officer sharing a house or the apartment with an unmarried police officer. What is the Assistant Minister doing to get rid of this sort of

embarrassing living conditions for the police officers?

**Mr. Sunkuli:** Mr Deputy Speaker, Sir, we are aware that the facilities of housing police officers are not adequate and we are all the time making efforts within the stretch of our resources, to ensure that the facilities are adequate.

**Mr. Manoti:** Mr Deputy Speaker, Sir, arising from the Assistant Minister's answer that [**Mr. Manoti**] they have allocated some funds to Kerugoya Police Station to reconstruct some staff houses for the police officers, does it also apply to Nyangusu Police Post, which also borders his Constituency and mine where police officers are staying in mud houses?

**Mr. Sunkuli:** Mr Deputy Speaker, Sir, I am aware of the problem in Nyangusu Police Post, and together with the hon. Member, I am sure we will be able to work because everything depends on the funds provided by this House. If we can be able to pass enough funds, then, we shall be able to use the same to construct proper police houses in Nyangusu Police Post.

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

**Mr. Deputy Speaker:** Are you sure it is a point of order? What is the point of order?

**Mr. Obure:** Mr Deputy Speaker, Sir, is it in order for the Assistant Minister to mislead this House? Can he now deny or accept that wananchi are being asked to contribute to build police stations in this country today?

**Mr. Deputy Speaker:** That is not a point of order.

**Mr. Sunkuli:** Mr Deputy Speaker, Sir, the hon. Member does not come from Nyangusu, but his people do go to Nyangusu Police Post, and I am sure he knows that we have never asked anybody to contribute money to build a police post in Nyangusu. I am sure he knows that.

**Mr. Deputy Speaker:** Next Question, Prof. Rashid Mzee!

*Question No. 806*

#### DDC PROJECTS IN MOMBASA

**Mr. Deputy Speaker:** Prof. Mzee is not here at the moment! Next Question, Mr. Mwiraria.

*Question No.567*

#### INTRODUCTION OF GRAPES GROWING

**Mr. Deputy Speaker:** Mr. David Mwiraria, not here! We pass the Question for the moment. Next Question, Mrs. Ngilu.

*Question No.945*

#### DONATION OF SCHOOL DESKS

**Mr. Deputy Speaker:** Mrs. Ngilu, not here! We pass the Question for the moment. Next Question, Mr. Munyasia.

*Question No.942*

#### EXPORTATION OF NILE PERCH

**Mr. Deputy Speaker:** Hon. Munyasia, too, not here! Order! The Question is stood over for the moment. Next Question, Mr. Mak'Onyango.

*Question No.885*

#### CREDIT FOR COTTON FARMERS

**Mr. Deputy Speaker:** Mr Otieno Mak'Onyango, not here too! The Question is stood over for the moment. Next Question, Mr. Maoka Maore.

*Question No.759*

CONSTRUCTION OF SEWERAGE SYSTEM

**Mr. Maore** asked the Minister for Local Government how much money he has set aside for the construction of the sewerage system in Maua Municipality and when the project will commence.

**The Assistant Minister for Local Government (Mr. Walji):** Mr. Deputy Speaker, Sir, I beg to reply. Maua Municipality is the headquarters for the newly created Nyambene District. No money has been set aside for the construction of a sewerage system in the Financial Year 1995/96.

Mr. Deputy Speaker, Sir, the Ministry is in the process of setting up a sanitation study in Maua which will include three feasibility studies. The implementation of the sewerage project will be guided by the findings of the studies and if the funds are available.

**Mr. Maore:** Mr. Deputy Speaker, Sir, I would like the Assistant Minister to inform this House what happens in a case when you have a municipality coming up as the headquarters of a newly created district, with all the bureaucrats crowded there---

**Mr. Deputy Speaker:** What is your Question?

**Mr. Maore:** I am about to ask it, Mr. Deputy Speaker, Sir. What is the Ministry's policy regarding urbanisation, because it must be different from the construction of a cattle boma or a drainage?

**Mr. Walji:** Mr. Deputy Speaker, Sir, the Ministry of Local Government is putting a lot of [Mr. Walji] emphasis on the improvement of sanitation in all the urban centres in the country, especially, the newly created district headquarters. We have been sending a team of professionals to all urban centres to prepare local authority development programmes and these programmes should act as guidelines in helping the councils privatise the various development projects.

*Question No.119*

NUMBER OF MOTOR VEHICLES

**Mr. Kamuyu** asked the Minister for Local Government:-

- (a) what is the current number of motor vehicles within the City of Nairobi during the day; and,
- (b) how many city council parking bays are there within the City perimeter.

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

(a) The current average motor vehicle population within the City of Nairobi during the day is 267,800 vehicles per day.

(b) The number of city council parking bays within the City perimeter is 8,763.

**Mr. Kamuyu:** Mr. Deputy Speaker, Sir, you can see clearly that out of 267,800 vehicles in Nairobi during the day, only over 8,000 parking bays are provided. This is clearly ridiculous. Could the Assistant Minister tell this House how they intend to manage the parking problem in Nairobi at the moment, and whether they will now stop towing vehicles which are parked on yellow lines because the problem is theirs? They are simply mis-managed!

**An hon. Member:** Correct.

**Mr. Walji:** Mr. Deputy Speaker, Sir, I hope the hon. Member does not come across the City Council problems of towing, and if he has one, we will be able to help him out. The city council has planned for expansion of parking facilities at areas outside the City Centre. The hon. Member knows the traffic problem is not only felt in Kenya but throughout the world. At least, we have tried to smoothen the traffic flow into and out of the City. There are plans to put up such facilities in areas where the council will provide parking facilities, at the City Stadium open area, City Park along Limuru Road, Nyayo Stadium area between railway line and the Aerodrome Road, Nyerere Road Park next to the Children's Park and Globe Cinema Roundabout.

**Mr. Nthenge:** Mr. Deputy Speaker, Sir, the intention is quite good, but when is it going to be

implemented?

**Mr. Walji:** Mr. Deputy Speaker, Sir, as you know, any project undertaken has to go stage by stage, and those stages are complete, and the findings are already on the city council's desk, and these projects may be implemented.

**Mr. Kamuyu:** Mr. Deputy Speaker, Sir, could the Assistant Minister tell us out of the 8,763 provided parking bays, how many of these are in the city perimeter, because that is where the concentration is? The concentration is not in Nyayo Stadium. Nobody is going to park his vehicle at the Nyayo Stadium and come to work in Nyayo House. You should be more careful, Mr. Walji or you resign!

**Mr. Walji:** Mr. Deputy Speaker, Sir, I am used to abuses from hon. Kamuyu. The meter parking bays in the City centre are 2,420.

*Question No.378*

SUB-DIVISION OF PLOT

**Mr. Deputy Speaker:** Question No.378 is deferred to next week. I understand that hon. Ndicho is out of the country.

*(Question deferred)*

**Mr. Deputy Speaker:** Let us go back to Question No. 398 by hon. Obwocha for the second time.

*Question No.398*

SUB-DIVISION OF LOCATION

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

- (a) whether he is aware that the Nyamira District Development Committee (DDC) recommended that West Mugirango Constituency which consists of five (5) sub-divisions, be sub-divided into 2 or more locations; and,
- (b) if the answer to "a" above is in the affirmative, when the location will be sub-divided.

**The Assistant Minister of State, Office of the President (Mr. Sunkuli):** Mr. Deputy Speaker, Sir, I apologise that I could not find the answer in the first instance, but now, I beg to give the following reply.

(a) The Nyamira District Development Committee has not discussed the sub-division of West Mugirango Location into two.

**[The Assistant Minister of State, Office of the President]**

(b) Once the matter has been discussed by the Nyamira Development Committee and forwarded to my office, it will be considered for sub-division.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, this is a Question of untruths. West Mugirango Location is one of the biggest locations in West Mugirango Constituency. It has five sub-locations, Miruka, Bunyeiguba, Bukiamburi, Bomanyanya and Bomabacho. Now, this was passed at a sub-DDC in March, 1993, when I had just become the Member of Parliament for the area, and adopted by the DDC in August, 1993. This is a question of where the District Commissioners do not read the previous Minutes of the DCCs.

Could the Assistant Minister assure this House that when this location is sub-divided into 2 locations or more, the sub-clans are going to remain the way they are without being disturbed?

**Mr. Sunkuli:** Mr. Deputy Speaker, Sir, what the hon. Member is alleging here, is not reflected in my records. What I know is that on the 13th of September, 1993, there was a Minute 17/13 of 1993, under which the Nyamira Divisional Development Committee, that is the sub-DDC in Nyamira, recommended that it was possible to sub-divide Mugirango Location into two, but the matter was referred to the Locational Development Committee to get the following factors: The population figures of each of the proposed locations, development projects in each location proposed, the number of sub-locations and the map.

We were also keen in ensuring that the sub-division does not disturb the sub-clans, and that is why we referred the matter to the Locational Development Committee, because we did not want to disturb the homogeneity of the people. We want to arrange it properly and the moment this location is divided into two, and the moment I receive the Minutes, I will ensure that we do not disturb the sub-clans within Nyamira.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, one other issue which is disturbing the people of this location is the fact that the Assistant Chief for Bunyeiguba Sub-location was suspended or interdicted for the last two years, and there has not been any replacement. Therefore, the rumour going round is that the Sub-location is going to be transferred to another place, thus causing a lot of confusion.

Mr. Deputy Speaker, Sir, so, could the Assistant Minister tell this House, when he is going to appoint a good and qualified chief for Bunyeiguba Sub-location?

**Mr. Sunkuli:** I will investigate and if indeed, the position is as the hon. Member has stated, we will rectify.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, the Assistant Minister has clearly stated here that he requires recommendations of the DDC to be able to sub-divide a location. We are really very confused here. What criteria does the Ministry use to sub-divide sub-locations, locations and districts? Are they the same criteria or different? What is the basis for all this? It is causing a lot of confusion. Soon, we shall be dividing Provinces! What are the standard criteria you are using?

**Mr. Sunkuli:** With respect to the sub-division of locations and sub-locations, the Government relies on the decisions of the DDCs which are expected to understand the local circumstances that require the sub-division of locations. The Government sub-divides districts and creates new ones, having regard to one or many of the following factors:

First of all, having regard to size of the existing districts that the new district will be carved out from and the kind of geographical conditions that members of that district will have to traverse in order to get the services of a district. We also have regard to the population and the general need of the wananchi in order to sub-divide the district. I just want to emphasize that, this being a democratic Government, it does listen to the wananchi and answers to their needs; and whenever it appears to the Government that the need for a district is an over-riding need amongst the people, that district becomes very necessary.

*Question No.806*

DDC PROJECTS IN MOMBASA

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

(a) what projects were undertaken by the District Development Committee in Mombasa in 1990, 1991, 1992, 1993 and 1994; and

(b) what the expenditure for each project was.

**The Deputy Speaker:** You owe the House an apology! Do you not?

**Prof. Mzee:** Mr. Deputy Speaker, Sir, I apologize for missing the first round.

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

(a) The projects undertaken by the Mombasa District Development Committee from 1990 to 1994, include road carpeting, office and house renovation, schools, workshops, poultry projects, women group projects, zero-grazing projects, water extension projects, soil conservation,

**[The Assistant Minister of State, Office of the President]**

bee-keeping and technical training institutes.

(b) I think, if I were to read the whole list, it would be a very lengthy one and I just felt I should lay it on the Table, so that hon. Members may peruse. It is very long.

*(Mr. Sunkuli laid the list on the Table)*

**Prof. Mzee:** I have a written answer here. I sit on the DDC and the DDC in Mombasa sits 4 times in a year. In five years, we have sat for 20 times. Disregarding the carpeting of the road, which consumed Kshs5 million, all the other projects have consumed less than Kshs2 million. Is it reasonable to expect that all heads of Department, including Members of Parliament and other people to sit 20 times in five years to approve projects worth Kshs2 million? The other projects which he mentioned, women groups, bee-keeping and technical school training institutes; even though the money was given five years ago, up to now, the Mombasa Technical Institute does not even have a boarding house and the money was given by the British Government five years ago. I am wondering what is the purpose and use for all the Heads of Department, including MPs, to hold 20 meetings to approve projects worth less than Kshs 2 million?

**Mr. Sunkuli:** I do not think I understood the question. The hon. Member was giving a lecture.

**Prof. Mzee:** What he says he is going to lay on the Table, I have it here in writing. All the projects, excluding the recarpeting of the road which cost Kshs5 million, all other projects are worth less than Kshs2 million. I am asking the Assistant Minister to tell this House, whether it is reasonable for all the Heads of Departments in Mombasa District and all the Members of Parliament from Mombasa, to sit in 20 meetings to approve and have projects worth only Kshs2 million in five years?

**Mr. Sunkuli:** I do not know whether the hon. Member is asking me to increase the amount or whether to reduce the number of Members sitting in the DDC?

**Prof. Mzee:** What I had in mind is that there is one particular project they say they have undertaken. It is written here, Technical Training Institute. Could the Assistant Minister tell the House what was done in the Technical Training Institute? As far as I can tell, five years ago, the British Government gave us money to build a boarding house for the Mombasa Technical Training Institute. Up to now, while we approved this five years ago, nothing has been done. He should tell the House what they have done at the Technical Training Institute.

**Mr. Sunkuli:** I am sure that the hon. Member knows that he is ambushing me because I did not go to the detail of whether the project was properly implemented or not. I definitely know that these are the projects that were approved by the Mombasa DDC and these are the projects that are being implemented now. As for the quality of the projects, I will have to look into the issue again.

**Mr. Wamalwa:** I think the question enquired of the Assistant Minister is whether he was satisfied that for the whole of Mombasa district, for two years, only an approximation of Kshs7 million was spent on development projects. Is this satisfactory in the Assistant Minister's opinion?

**Mr. Sunkuli:** The only thing which I can say in that regard is that the DDCs, when they receive the money that has been budgeted for them by this House, should apply those monies in such a manner as to make it viable. They should put it in such projects as will be felt by the wananchi or as will respond to the needs of a particular district.

**Mr. Mathenge:** Is the Assistant Minister aware that because DDC's negligence of Mvita and Tudor health centres, the centres have fallen into disuse and that most of the people are suffering from non-attendance and treatment in those two clinics?

**Mr. Sunkuli:** I have not recently attended the Tudor Health Centre and that is a very different question.

*Question No.567*

INTRODUCTION OF GRAPES GROWING

**Mr. Deputy Speaker:** Mr. Mwiraria, still not here! He is not here, so, the Question is dropped.

*(Question dropped)*

Hon. Ngilu's Question for the second time!

**Mrs Ngilu:** Mr. Deputy Speaker, Sir, I wish to apologise for coming late.

*Question No. 945*

DONATION OF SCHOOL DESKS

**Mrs. Ngilu** asked the Minister for Education:-

(a) why the Headmaster of Kwa Ikolanie Primary School, Mr. Kakai Nzua, refused to accept a donation of twenty five (25) desks for the school on 17th July, 1995, from the area Member of Parliament; and

(b) whether for the sake of enhancing the standards of education in the area, he could ensure that this kind of misconduct does not recur in any other part of the constituency?

**The Assistant Minister for Education** (Mr. Lengees): Mr. Deputy Speaker, Sir, I beg to reply. (a) As far as my Ministry is aware, the school accepted the twenty five desks from the hon. Member and that the desks are already at the school. What I do know is that the Headmaster refused to stop classes, so that the Member could address the pupils which infuriated the Member. However, the desks were received by some parents and a few school committee members on behalf of the school.

(b) In the light of my reply to (a), I cannot give an undertaking to prevent something which did not take place. In any case, my Ministry does not accept any misconduct in any school in this Republic. I have no doubt that, given the right approach, hon. Members and even other leaders in the country will find no problems in receiving cooperation from any school.

**Mrs. Ngilu:** Mr. Deputy Speaker, Sir, the response that the Assistant Minister has given is not correct because the desks were delivered at exactly 4.30 p.m. on the 17th of July, 1995 and the children were already waiting because they had already left their classes. But, as soon as the Headmaster saw the desks arrive at school, he himself hid in his office and asked the children to go back to their classrooms, and told the parents to leave the school compound and that the desks should go back to where they came from. It is a pity because most of the schools in my Constituency actually have no school equipment and the parents are finding it very difficult to cope with teaching. The education standards have fallen because of this kind of thing. I wonder whether the Assistant Minister can really go back and check on the records as to how the schools are run, what politics have been introduced to schools and to the teachers especially and assure this House that this kind of thing will stop.

**Mr. Lengees:** Mr. Deputy Speaker, Sir, I commend the hon. Member for contributing the 25 desks to the school and I think that is the way every hon. Member does in his Constituency, as parents demand such gifts or such activities from hon. Members. The desks were delivered to the school at 11.00 a.m., by the hon. Member's lorry and she arrived at 4.30 p.m. herself as I have given the information here on Monday the 17th of July, 1995. If it is possible, I would urge the hon. Members to be giving these school equipments because they are needed, on Saturdays so that the members of Parent Teachers Associations (PTAs) could attend plus the children who will not be having classes.

**Mrs. Ndetei:** Mr. Deputy Speaker, Sir, I tend to differ with the Assistant Minister's reply, given on this particular Question. It is common knowledge that some leaders, particularly those from the ruling Party, have been going round discouraging development by leaders of the Opposition and, particularly in this Constituency where the Questioner comes from, there has been a lot of disturbance, even in my own Constituency.

**Mr. Deputy Speaker:** Will you please ask your Question, Gracious Lady?

**Mrs. Ndetei:** Mr. Deputy Speaker, Sir, could the Assistant Minister, tell this House the truth because what he has said is not correct. He knows this happened and the desks were turned away and somebody had to intervene from very high circles to ensure that the desks were finally taken in the school?

Could the Assistant Minister confirm that this kind of interference or rejection of assistance to institutions is not going to be repeated because of very bad politics that is being practised by some leaders?

**Mr. Lengees:** Mr. Deputy Speaker, Sir, according to the information given, the school is in the Constituency of the hon. Member and we do not expect any misconduct by the teachers. Teachers are leaders and they should not reject such desks. I have already said that the desks have been accepted and they are already in use. So, I do not expect to go and research for more information again.

**Mrs. Ngilu:** Mr. Deputy Speaker, Sir, the answer to this Question is very, very unsatisfactory because this is not the first time something like this has happened in my constituency. The teachers and headmasters in some primary schools in my constituency are suffering because they are not free, even to teach.

For the Assistant Minister's information, and I am sure he is aware of this, every Monday morning at 10.00 o'clock, in the Minister's office, meetings are held and it is where they review and check which teacher is working with me or allegedly seems to be in the Opposition. They have been transferred from left to right, as a result of those meetings that take place in the Minister's office. Could the Assistant Minister, confirm or deny this?

**Mr. Lengees:** Mr. Deputy Speaker, Sir, with due respect to the hon. Member, I am not aware of that one. The criteria of working at constituency level is very clear. At the District level we have the District Education Officers. We also have the District Education Boards (DEBs). The hon. Member should address those groups to see that she gets out of the problems at schools when supplying those equipment.

**Mr. Deputy Speaker:** Yes, just one more then!

*(Laughter)*

**Mrs. Ngilu:** Mr. Deputy Speaker, Sir, I just want to inform the Assistant Minister of something that he is not aware of. The Assistant Education Officer (AEO) of the area, is a blood relative of a dishonoured Member of this House.

**Mr. Deputy Speaker:** Order! Order! Order, Charity! All Members of this House are hon. Members. There are no dishonoured Members.

*(Laughter)*

Next Question by Mr. Munyasia!

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, I apologise for coming late.

*Question No. 942*

EXPORTATION OF NILE PERCH

**Mr. Munyasia** asked the Minister for Finance:-

- (a) whether he is aware that the East African Seafood Limited of P.O. Box 10271, Nairobi, exports Nile Perch and Prawns;
- (b) what quantities of Nile Perch and Prawns the Company exported in 1993 and 1994; and
- (c) resulting from this trade, how much money the Company paid to the Kenya Government in form of taxes in the years mentioned in "b" above.

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

- (a) Yes, I am aware that the East African Seafood Limited exports Nile Perch as well as Prawns.
  - (b) In 1993, the Company exported 2,545,355 Kgs. of Nile Perch, that is fish fillet, all frozen, worth Kshs306,371,642. The Company did not export prawns during 1993.
- In 1994, the Company exported 3,517,812 Kgs. of Nile Perch, fish fillets, worth Kshs 427,481,829 and it did also export 188,100 Kgs. of prawns and shrimps, worth Kshs 12,088,648.

(c) No money was paid to the Kenya Government in the years mentioned in 1993 and 1994, because the Company made trading losses during that period.

**Mr. Munyasia:** Thank you, Mr. Deputy Speaker, Sir. I have evidence that the Company did actually export prawns in 1993. I have Bills of Lading here for 5th August, 1993 and 9th December, 1993 which I wish to lay on the Table for the Assistant Minister to see. In view of this---

**An hon. Member:** Which numbers?

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, the numbers are given over here, he will see it. One is O1757 and the other is 00238. In view of this, could the Assistant Minister, now accept that he might have been misled by this Company because this is what we were expecting all along, that they have been giving false evidence to the Government so that they may evade tax? Could the Assistant Minister accept to look into this matter again, investigate this Company with a view to letting the Company pay the taxes that they have been evading? I wish to lay these papers on the Table.

*(Mr. Munyasia laid the papers on the Table)*

**Mr. Keah:** Mr. Deputy Speaker, Sir, I will take those papers and I want to thank the hon. Munyasia for laying on the Table whatever information he had. Indeed, I would urge any hon. Member of the House, who has similar information which will lead to justice and fairness; equitable taxation laws being applied, we will only be too delighted. As the hon. Member, will appreciate, we at the Treasury are not the Chief Accountants of the Company. Indeed, we received the information from the Company in good faith. If indeed, as he says, his information is accurate and I will have it checked, I can assure this House that the law will take its course.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, it should be possible to appreciate that the Treasury is more capable than hon. Members of Parliament from the Opposition, to verify what kind of goods are leaving this country. It is not too difficulty for the Government to see whether Nile Perch or Prawns are being exported. Now, it is known that Prawns are much more expensive than the Nile Perch, and therefore, depending on quantity exported, the taxable income is much larger than if one declares that he is exporting Nile Perch. I have two very interesting size of documents here; I have the list of 18 containers of East Africa Seafood; containers of prawns exported to Japan and Portugal. In the custom declaration for all of the containers, it showed that it is an export of Nile Perch. I have a list of Bills of Lading of the 18 containers and all of them are about Prawns. That means that the Ministry has either not been looking or it has been looking the other way when thousands of kilograms of Prawns are exported and for customs purposes, they are declared as Nile Perch. I will lay on the Table the list of 18 containers which were declared as Nile Perch and the list of 18 containers, with copies of some of the Bills of Lading showing that the exact same number of 18 containers declared as



**[Dr. Kituyi]**

Nile Perch are according to the Bills of Lading containers full of frozen prawns. If the Assistant Minister want to come clean that this Government is not protecting the Asian criminals who are lying to us and getting away with tax-payers' money, could he tell this House what precise measures he is going to take apart from the general statements about following the laws?

*(Dr. Kituyi laid the Papers on the Table)*

**Mr. Keah:** Mr. Deputy Speaker, Sir, the law of this land is quite clear. We have a machinery for policing the law. If, indeed, any Kenyan or anybody for that matter has dubious intentions of defrauding the country, let me assure this House that it is the duty of the Government to ensure that law and order and indeed, the rule of law is maintained. I would assure the hon. Members that anyone with information that will lead to fair-play, that information will be accepted by the Government, as indeed, I am going to take these papers once they have been recorded and the matter will be followed up.

**Mr. Mwaura:** Mr. Deputy Speaker, Sir, this is a serious matter. Could the Assistant Minister be more specific about this company and assure the House that after they investigate and if it is found out that the papers that the hon. Member have laid on the Table are correct, this Company will be prosecuted? He should not generalise.

**Mr. Deputy Speaker:** I thought that is exactly what he assured the House.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, in the reply that the Assistant Minister has given, he has said that they did not pay taxes because they had brought forward losses. This is misleading this House because taxes that can be offset with previous losses are only profits when the Company is due for taxation. The hon. Questioner had asked about evasion of other taxes like Customs Duty. Could the Assistant Minister tell this House who are the directors of that company - East African Seafood Limited?

**Mr. Keah:** Mr. Deputy Speaker, Sir, first of all, I would like the hon. Obwocha to go back to his taxation books and refresh himself on the taxation laws. What he has said has nothing to do with directors of this Company, but if he wants the names of directors of this Company, I can give them to him. If he has any vendetta on this Company or he has any interest, let him declare. Are you satisfied or you want me to give you the names of the directors? If you want them, I have got them here and I will give them out.

**Mr. Deputy Speaker:** If you have them here, there is no harm in giving out the names.

**Mr. Keah:** Mr. Deputy Speaker, Sir, I have a lot of information with regard to this Company and the directors are Mr. Fius Shokatali Kurji, Mr. Artaf Abdullali Kurji and Mr. Karim Shamdoo Kurji whose information is available at the Registrar's Office.

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

**Mr. Deputy Speaker:** Order! Order! Mr. Anyona, we have spent nearly ten minutes on this Question. Note that all Questions should have proportionate time. I know it is a big question, that is why I gave that much concession, but by the nature of things, we are bound to come back to it since some papers have been laid on the Table

Next Question.

*Question No.885*

CREDIT FOR COTTON FARMERS

**Mr. Mak'Onyango** asked the Minister for Finance:-

- (a) whether he is aware of the Kshs1.35 billion Concessionary Line of Credit extended to small scale tea and coffee farmers by the Kenya Commercial Bank and;
- (b) what steps he is taking to make the Bank extend a similar facility to cotton farmers in the country, especially those in Nyanza where the potential is enormous.

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

(a) Yes, I am indeed aware that Kshs1.35 billion Concessionary Line of Credit was extended to small scale tea and coffee farmers by Kenya Commercial Bank.

(b) The decision to avail credit to its customers is wholly the prerogative of the Bank. The Ministry cannot indeed direct the Kenya Commercial Bank, since it operates its business according to its business policy and business object as any other commercial bank. We cannot, therefore direct them.

**Mr. Mak'Onyango:** Mr. Deputy Speaker, arising from that ridiculous reply, the Assistant Minister agrees with me that tea and coffee farmers were availed a colossal sum of money to the tune of Kshs1.35 billion to enable them to improve production.

Would the Assistant Minister agree that does show that for any other agricultural produce to do well, farmers need to be supported in very much the same way? What is the Government doing to encourage farmers to produce more because you cannot leave them to the mercy of private commercial concerns?

**Mr. Keah:** Mr. Deputy Speaker, Sir, first of all, I do not take it too lightly that my answer is ridiculous. The culture of abuse in this House must stop. Whether he likes the answer or not, it is not ridiculous. If you are going to insist that it is ridiculous then we are going to be having fights that are of no use to this country or to this House.

**Mr. Deputy Speaker:** I would much love that hon. Members would be very courteous to one another. That is all I can say.

**Mr. Keah:** Thank you, Mr. Deputy Speaker, Sir. Courtesy begets courtesy.

I would like to say here that much as I appreciate what the hon. Members say that, indeed, it is pertinent for the banking community to extend agricultural credit to as many farmers and to as many sectors in the agricultural industry as it is possible. The decision to extend what line of credit to what kind of crops lies primarily in the judicious decision of the commercial bank.

I can say here, for the benefit of the hon. Member and the House that Jua Kali credit has been extended to artisans. The same bank has, for example, given credit to the lake Victoria Fishermen. These are lines of credit which the bank considers judiciously to be profitable as far as they are concerned. I can only reiterate that in the past, the Government had given a ruling that commercial banks should extend or lend up to 17 per cent of their lending to agriculture. That was found to be difficulty to police and it was left to judicious decisions of the commercial banks themselves.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, I think the Assistant Minister is not answering the Question in depth in which it deserves to be answered. The point is that the banks will go where Government policies are favourable. What we want him to tell us is: What policy does the Government have in encouraging credit to rural areas for crops like coffee and cotton, *etcetera*? If we just sit here and do nothing, the banks will never go to those areas.

**Mr. Keah:** Mr. Deputy Speaker, Sir, as you, the House and everybody is aware, there is the Agricultural Finance Corporation (AFC) as one of those initiatives which the Government has to extend agricultural credit. Indeed, we, as a Ministry, can only urge, we are not just sitting behind, we can only urge by way of policy direction that the Commercial Banks should extend agricultural credit on a commercial basis, on a liberalised basis to all the farmers of Kenya.

**Mr. Mak'Onyango:** Mr. Deputy Speaker, Sir, it is an acknowledged fact that Kenya is an agricultural country. It is equally acknowledged that cotton is one crop that stands to benefit this country enormously. Could the Assistant Minister tell this House what the Government has done to promote or to encourage cotton farmers to grow cotton and what the Government has done to at least, save this particular industry from collapsing? The truth is that, here is an industry that is faced with possible collapse due to lack of adequate encouragement from the Government.

**Mr. Keah:** Mr. Deputy Speaker, Sir, I can only say that we have been trying as much as possible, to privatise the ginneries as one aspect and also to encourage expeditious payments to the cotton farmers from the sale of cotton.

**The Deputy Speaker:** Next Question!

*Question No.378*

SUB-DIVISION OF PLOT

*(Question deferred)*

I understand that, Mr. Ndicho is out of the country. So, could we move to the next Question?

## QUESTIONS BY PRIVATE NOTICE

NATIONAL IDENTITY CARDS

**Mr. Muite:** Mr. Deputy Speaker, Sir, I beg to ask Question No. 1 by Private Notice.

(a) Is the Minister aware that the requirement in the current applications for the new generation of National Identity Cards requiring the applicant to state his or her Constituency contradicts the law in that, the Parliamentary and Presidential Elections Act vests in Kenyans, a choice of the Constituency in which to register "at the time of voter registration?"

(b) If the answer to "a" above is in the affirmative, will the Minister consider dropping the said requirement from the application, since such requirement contradicts the law and is likely to be abused by denying Kenyans the right to register and vote in constituencies of their choice?

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

(a) The requirement is in no way in contradiction to either the law or the Constitution, in regard to the choice of the Constituency in which one needs to register as a voter at any time of the voter registration.

*(Loud consultations)*

**The Deputy Speaker:** Order, Order, hon. Members!

**The Assistant Minister, Office of the President** (Mr. Sunkuli):

(b) Arising from my reply in "a", I do not

**[The Assistant Minister, Office of the President]**

intend to drop the said requirement, as this requirement is purely administrative, aimed at knowing the applicant's home Constituency.

**Mr. Muite:** Mr. Deputy Speaker, Sir, the National Assembly and Presidential Elections Act clearly gives a choice to any Kenyan at the time of registration, to choose where to register as a voter, either where he or she works, where he or she has a property or where he or she resides. Given that, that is the position in all, is this requirement for an application for the new generation of National Identity Cards to state his home Constituency not the intention of this Government in accordance with declared *majimbo* system to force all Kenyans, to say all the Kambas come from Eastern Province and that is where they should register, all the Luos come from Nyanza and all the Luyias come from Western and all the Kikuyus come from Central Province and therefore, deny Kenyans the choice which is given to them in both the National Assembly and Presidential Acts? Is that not the intention of this Government in requiring people to state their home constituencies? What is a home constituency? The term does not exist at all.

**Mr. Sunkuli:** Mr. Deputy Speaker, Sir, I think the hon. Member is mixing up terms. He is referring to a law which deals with elections and voting, while I am hereby dealing with a law that deals with the registration of persons. I want to say very clearly here that in the first place, the Government has never declared that it is going to have *majimbo*. It is the view of some hon. Members of this National Assembly who are in the Government and in the Opposition who have expressed their own views about *majimbo*. The Government has never stood here to say that there is going to be *majimboism* in this country or not.

Mr. Deputy Speaker, Sir, I would like to address the particular problem that the hon. Member is facing. The question of constituency does not actually appear on the Identity Card and on the voting day, the holder of the Identity Card will not be required to state his home constituency. Just like he is not going to be required to state his original location. Part of the requirement is for him to state his district and his location, but that does not mean he cannot move to another district when he wants or to another constituency. It is purely intended to identify the holder of the Identity Card more precisely.

**Mr. Wamalwa:** On a point of order, Mr. Deputy Speaker, Sir. In the last sitting of this House, I raised this question and it was answered by hon. Awori. I sought an assurance from him that if there is going to be any change in the format in the application form for the new Identity Cards, it must not be done without the question being brought before this House and he gave that assurance. Now they have gone ahead and changed that format without bringing the matter to this House. How do we proceed from there?

**Mr. Sunkuli:** Mr. Deputy Speaker, Sir, we have not made any material change. The Identity Card will bear more or less the same contents as the present one, except that the new Identity Card will be more secure in terms of its durability and in terms of being forged. The mere requirement that we require more facts about an applicant does not make it essentially different.

**The Deputy Speaker:** Why are you standing up Mr. Murungi? Do you want to ask a question?

**Mr. Murungi:** Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister is not telling this House the truth. Constituencies are only relevant with regard to elections. If it was a question of identifying a person

in more particular forms, then you could state the sub-location, village, the division and district. From the information the Assistant Minister is giving here, it is quite clear that, if it was just merely a question of identifying a person, the question of the constituency is irrelevant.

Could the Assistant Minister consider removing the requirement of a person stating his Constituency in that application form because the other details are sufficient to identify a person sufficiently?

**Mr. Sunkuli:** Mr. Deputy Speaker, Sir, the hon. Member may not be aware that he will be required to state his district of birth, tribe, clan, home district, division and constituency. I personally do not understand what the whole fuss is all about the constituency. The constituency is a geographically definable area and we would like to require a person to state what part of this country he comes from.

**Mr. Falana:** Mr. Deputy Speaker, Sir, this is a matter of national concern. The whole issue is - let him get this correct - that it is being thought that the idea of asking someone to identify his constituency is a Kanu trick for the 1997 general election. Previously, on top of being an elector, one was free to stand for election in any constituency in the Republic. Could the Assistant Minister confirm, so as to eradicate this fear, that the additional requirement for one to state his constituency will not bar a candidate from standing for election anywhere in the Republic? Two, let him confirm that this requirement is not anywhere near what is thought to be a Kanu trick for the 1997 general election.

**Mr. Sunkuli:** Yes, indeed, Mr. Deputy Speaker, Sir, there is absolutely no trick involved in this matter. For the benefit of this House and the country, I want to say that there is absolutely no relationship between the identity card requirement and the general elections when and if they are called in 1997. I just want to say that the person who will be registering the voter will not be in possession of the form. He will only require to see the identity card, which will not bear the name of the constituency.

**Mr. Orengo:** Mr. Deputy Speaker, Sir, I think the Assistant Minister missed the supplementary question asked by hon. Muite. Technically, at any given time, if you are asked which your constituency is, there are four possible places you can describe as being your constituency. These are where you last voted in, where you have property, where you have lived for six months and where you work.

Mr. Deputy Speaker, Sir, technically, at any one given time, those can be described as one's constituency.

Unless the Assistant Minister is trying to run away from the valid point mentioned by hon. Falana, could he tell this House why he is not satisfied with the description of one's location, division or district if the additional requirement of the constituency is not for purposes of rigging in the next election?

**Mr. Sunkuli:** Mr. Deputy Speaker, Sir, hon. Orengo must well be aware that what we have done by including the requirement of a constituency is not illegal. That is the point I am trying to make. That is the point that hon. Muite actually was trying to make. If the hon. Member is complaining of superfluity, then let him say so and I will tell him that it is not superfluous because each one of us must claim to come from a constituency.

It might be the constituency he last voted in or where he will next vote in; but it will be a constituency that he will perceive as being his constituency.

#### EVICITION OF NDOROBO COMMUNITY

**(Mr. J.N. Mungai)** to ask the Minister for Environment and Natural Resources:-

(a) What immediate measures is the Minister intending to take to stop the Ndorobo Community from being evicted from Nesuit, Elburgon and Marishoni Forests, since this community has lived there for a long time?

(b) Could the Minister direct that for any land allocation in the said forest reserve, "Ndorobos" should be considered first?

**Mr. Deputy Speaker:** Hon. Members, this Question No. 2 by Private Notice is deferred to next week at the request of hon. J.N. Mungai, to which I have acceded.

*(Question deferred)*

#### DEVELOPMENT OF STRUCTURES

**Mr. Mutere:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Public Works and Housing the following Question by Private Notice.

(a) Is the Minister aware that a private developer is in the process of constructing structures in the hitherto open spaces within Jogoo Road Government Quarters Estate Phase One, thereby causing inconvenience to

families residing there?

(b) If the answer to (a) is in the affirmative, what steps is the Minister taking to stop the new development?

**Mr. Deputy Speaker:** I understand that this Question is to be answered by the Ministry of Lands and Settlement and not by the Ministry of Public Works and Housing.

**The Assistant Minister for Lands Settlement** (Mr. Khaniri): Mr. Deputy Speaker, Sir, this Question was erroneously placed under the Ministry of Public Works and Housing, when it is supposed to be answered by the Ministry of Lands and settlement.

Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that a private developer is in the process of constructing structures in the hitherto open spaces within Jogoo Road Government Quarters Estate Phase One, as no proposal for such a development has been submitted to my office for approval through the City Council of Nairobi.

(b) I would like to request the hon. Member to give me details, so that I can take up the matter for appropriate action.

**Mr. Mutere:** Mr. Deputy Speaker, Sir, arising from that reply from the Assistant Minister, would it then be in order for the residents of this estate, who are very infuriated by this action, to go out and pull down those structures?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, that will be taking the law into their own hands. I have already said that I should be given the details and we shall take appropriate action.

**Mr. Mulusya:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say that he is not aware when he has already been told that there is construction work going on? This is not a proposal but a fact on the ground?

Mr. Deputy Speaker, Sir, jall that the Assistant Minister needs to do is to send an officer from his desk to the site and find out what is going on the ground. Is he also in order to mislead this House by saying that he has not got proposals for that construction while, in fact, virtually every

[**Mr. Mulusya**]

construction development which is going on in this country has no approved building plans from the Commissioner of Lands?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, I am in order to say that I do not know which site he is talking about. Could he give me the details?

**Mr. Kamuyu:** On a point of order, Mr. Deputy Speaker, Sir. In view of the fact that the Assistant Minister has clearly demonstrated his ignorance as far as this issue is concerned and he has clearly said so, may I through the Chair, request that this issue be deferred until the Assistant Minister gets proper information? He should come back to the House after he has visited the site for a fact finding mission. I have personally been there and I know that what the hon. Member has said is 100 per correct. So, may I, through the Chair, ask that this matter be deferred?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, as I have already said, I am not an angel to know everything. All that I am asking the hon. Member is to give me the details of the plot in question and then I will take action.

**Mr. Deputy Speaker:** Mr. Khaniri, why do you not give the undertaking to get further information from the site, if need be, and then come back to the House next week? This is very simple!

**Mr. Khaniri:** I have already said that I do not know the site the hon. Mutere is referring to. Could he, please, give me details and I will take action?

**Mr. Ruhii:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has stated categorically that by directing that these structures to be demolished, he would be taking the law into his own hands. I would like to ask him how he would be taking the law into his own hands when we know very well that this House is supreme in this land and it can direct the Ministry for Local Government to ensure that the structures are pulled down.

**Mr. Khaniri:** There are very many vacant spaces on Jogoo Road. I would like to know which one the hon. Member is talking about.

**Mr. Deputy Speaker:** Next Order, Mr. Obwocha!

#### POINT OF ORDER

BOYCOTT OF TEA PICKING

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I rise on a point of order, arising from what is contained in the Press today. I would like to request the Minister for Agriculture, Livestock Development and Marketing to make a Ministerial Statement. The tea farmers in this country, starting from Githunguri where three tea factories, that is; Kambaa, Kagwe and Matara are not receiving any tea, to Kisii and Nyamira where the Minister also hails from, have a very serious complaint. This is in relation to the second payment popularly known as the bonus payment. The farmers have boycotted tea picking. In Kigumo, Ikumbo and Mukomboki factories, farmers are not delivering any tea.

I wish to ask the Minister to, specifically, address himself to the factors which have contributed to this low tea bonus payment and what he is going to do with regard to the tea boycott because this is the second largest foreign exchange earner in this country.

**The Minister for Agriculture, Livestock Development and Marketing (Mr. Nyachae):** Mr. Deputy Speaker, Sir, I do not think that there is justification for requesting for a Ministerial Statement when I did make a Ministerial Statement, explaining exactly what happened to the tea industry in terms of production, marketing and the consequential results of what was paid as bonus to the farmers. There is no justification for a Ministerial Statement. It is upon the hon. Member and all of us here who come from the tea growing areas and the KTDA directors who are elected by the farmers, to explain what exactly happened. There is no way I can correct what has happened at international level.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker:** Order! I do not think I would want to comment on this, but it is important that when hon. Members come to raise points of orders on which they consult us in the chambers, they should stick to the terms of the gentleman's agreement between themselves and the Chair. It was quite understood between us and your colleagues this afternoon that you would be raising a point of order on the question of the boycott, which has been reported in the Press and not on the question which was covered by the Ministerial Statement given by the Minister some time back, when I was away.

I also wish to revisit a Question which was asked in this House by hon. Munyasia. Is hon. Munyasia here?

*(Hon. Munyasia stood up)*

Oh, good. Please, be seated. When Members stand up to make serious allegations, particularly, in support of their positions on Questions which may have serious national interests, it is important that when you tender documents, the documents be what they purport to be and what you said they are. I would wish, at this point, to exercise the benefit of doubt in your favour, that you did not intend to be cheeky to the House. However, I am afraid that, at this point, I have to say that while I have no quarrel with the documents tabled by hon. Dr. Kituyi on the face of them, the documents of hon. Munyasia cannot be accepted as proper documents. These are documents which have the label: Forum for the Restoration of Democracy - Kenya (Ford-K) and, they also have typed figures on their own letterheads. So, I think these are not proper substantiation of what was alleged.

Next Order!

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[Mr. Deputy Speaker left the Chair]*

IN THE COMMITTEE

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

THE COPYRIGHT (AMENDMENT) BILL

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10,  
11 and 12 agreed to)*

*(Schedule agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Attorney-General** (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Copyright Amendment Bill and its approval thereof without amendment.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[Mr. Deputy Speaker in the Chair]*

### REPORT AND THIRD READING

#### THE COPYRIGHT (AMENDMENT) BILL

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, I beg to Report that the Committee of the whole House has considered the Copyright (Amendment) Bill and approved the same without amendment.

**The Attorney-General** (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Minister for Labour and Manpower Development** (Mr. Masinde) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Attorney-General** (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to move that the Copyright (Amendment) Bill be now read a Third Time.

**The Minister for Labour and Manpower Development** (Mr. Masinde) seconded.

*(Question proposed)*

*(Question put and agreed to)*

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

*Second Reading*

#### THE COUNCIL OF LEGAL EDUCATION BILL

*(The Attorney-General on 15.11.95)*

*(Resumption of Debate interrupted on 16.11.95)*

**Mr. Deputy Speaker:** Mr. Muite, were you on the Floor?

**Mr. Muite:** Yes, I was.

Mr. Deputy Speaker, Sir, I would wish to emphasize yet another point in order to demonstrate why this Government should not be permitted to enact Clauses 15 and 16 of the Bill which is before this House.

If these Clauses are enacted and even if the Attorney-General was to bring in the amendment during the Committee stage in order to make lawyers merely the collecting agents, it would be to the disadvantage of the ordinary Kenyan. In other words, even if an amendment was to be introduced so that instead of the lawyers paying this levy, which you will remember is unspecified, it is passed on to the clients like it is the case in the present position of Value Added Tax (VAT), the Attorney-General will merely be requiring the lawyers to be the paying agents. This means that the legal services in this country will become the preserve of the rich only. As it is today, the legal services in this country are so expensive that really, there are many ordinary Kenyans who are unable to afford them because of the cost. For example, take the cost of VAT. There is an additional reason for this apart from VAT which is collectable from clients by lawyers which is very high, being a percentage and the higher the fee note, the higher the VAT. So, already, by reason the VAT legal services in this country are very expensive and we are one of those countries, being developing countries, where the Government does not provide free legal services or does not pay a lawyer in respect of those Kenyans who are not able to pay for legal services. So, already, justice in this country or what remains of justice in this country, is already inaccessible by a majority of Kenyans because of the cost of the legal services in this country. Only very recently, the High Court raised the legal fees that are payable on litigant filing, complaints and other documents in court to the level where some of the cases attract a court fee. That fee does not go to the lawyer but is payable to the court registry when the papers are being filed and before papers can be accepted by the court.

Only very recently, the court fees were raised to a very high level. Indeed, there are some cases that now attract a court fee of Kshs 70,000 before a litigant can be permitted to file his case in court. So, over and above the VAT, the litigants in this country are today faced with very high court fees which they must pay before their papers can be accepted by the court. To add on top of this very high court fees, there is the VAT which is payable and to add on to that, there is the lawyers fees that is payable. We are coming to a situation where the little that remains of justice in this country is inaccessible to the majority of Kenyans because they cannot afford this very high fees.

I would really urge that the Attorney-General seriously considers deleting Clauses 15 and 16 altogether. It will not be satisfactory to amend them in order to make lawyers merely collecting agents because like the VAT, the result of that would be passing on the cost to the ordinary Kenyan who is already finding it next to impossible to afford the high cost of legal services in this country.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, the cost of running the Law School must be spread out among all Kenyans. We are seeking to impose this new discriminatory tax on Kenyan lawyers at a time of economic depression when the economic situation in the country does not favour lawyers who are not making that much money.

On a different point, I would suggest that the Attorney-General considers amending this Bill. We are talking about training of lawyers and as I said, there are only 1,000 lawyers now in practice. It is a fact that a number of law graduates are finding it very difficult to get pupil-masters in order to serve their pupillage with practising lawyers. I think it will be an excellent idea if the Attorney-General was to consider amending the law, so that graduates from the Kenya School of Law can be able to serve their pupillage with senior magistrates and judges as part of the pupillage, instead of pupillage being confined to practising lawyers. It should be practical and possible for law graduates to serve their pupillage with senior magistrates and with judges. That will have a number of advantages. One of them is that it will ease the scarcity which is existing of there not being enough lawyers to take on pupils. That is a definite advantage. The second advantage is that these judges and magistrates will have the benefit of research by the law graduates.

As it is, the magistrates, judges and lawyers do not always do as good home-work as we should. The judges will feel that, despite less unsatisfactory presentation of a case by lawyers, nevertheless they want to do justice to themselves; they want to acquaint themselves in writing a judgement that is sound, that has got all the research in it and, today they have to do that research themselves. But if we attach law graduates, as part of their pupillage to these judges and senior magistrates, they would immediately have access to that reservoir of young men and women who have graduated doing the research for them and ease that burden of those judges and those magistrates.



The third benefit that would accrue is that those law graduates themselves, will still be able to have the benefit from seeing lawyers arguing and presenting their cases in court, and therefore, they will not miss the fact that they are not attached to lawyers who were in private practice. At the same time, they will be able to learn from the judges who they are serving, from those magistrates they are serving, and for those law graduates, who then opt for a career in the judiciary, they will already have had the benefit of acclimatising for seeing how the judiciary works. So, I would recommend very strongly, that the Attorney-General gives some consideration to an amendment that would facilitate those law graduates serving as pupils in the Chambers of magistrates and judges.

This is over and above the clinical system that goes on now; I am talking about pupillage.

But Mr. Temporary Deputy Speaker, Sir, I see from the figures, that Nairobi District was allocated in the last budget, a sum of K£4.4 billion as a budget for the Ministry of Education. I would like to know from the Attorney-General, whether the money that is now spent to run the Law School, includes this budget for the Ministry of education, or whether the Vote under the Office of the Attorney-General. Because indeed, if this figure, which includes the cost of running the University of Nairobi, if the Law School is also included, why are we now being taxed. Is there a Vote in the Office of the Attorney-General that specifically relates to the running of the Law School? If there is, that is the Vote that he should ask this House to increase, and I am sure this House will increase with the support from this side of the House, instead of seeking to impose the tax that is going to discriminate against lawyers.

Mr. Temporary Deputy Speaker, Sir, lastly I would like to mention one matter that was raised either by the hon. Attorney-General when he was Moving this Motion, or by the Vice-President when he was Seconding, I cannot recall the Member who raised the issue, and that is the issue of tampering with the professional ethics. First of all, I support the sentiments were expressed. The core of any profession, is of course, professional ethics, and professional etiquettes and professional standards. On ethics, I would like to contribute further by saying that lawyers in Kenya today cannot practice law in isolation; they are part and parcel of the wider Kenyan Society. But I am saying this, in order to agree that all is not well, as far as the professional standards, professional morality, and professional ethics are concerned.

We need a nation, even as we debate this Bill, and talking about morality and professional standards, there cannot be a better time to discuss that important issue than when we are discussing the training of postgraduate lawyers at the Law School, before they are ushered in to become lawyers or before they are let to deal with the public. Ethics and morality are very important aspects of the whole matter. Now, what I want see is this; has time not come, in this country, when we as a nation, should sit back and examine why there is morals---. Why we are not bound together as a society, by subscribing to a moral order. Why have our morals broken down altogether, because you are not going to succeed, in asking the lawyers alone to live up to a certain moral code, if the rest of the society is not subscribing to that moral code. Morality, is a sum total of the ethos of the cultural attributes of a given society. What has happened to our culture? What has happened to our morality? This is not an academic issue, because, I think there is a responsibility on the part of this august House, and on the part of this Government, to come out up with suitable and affirmative action, for a moral revival in this country. We need an affirmative action to identify why we as a nation, have become de-cultured, and we have no culture.

Mr. Temporary Deputy Speaker, time has come for us to examine as a nation, the role that religion, or different religious denominations played at the turn of the century, in de-culturing the African people. People without a culture, are people without a foundation. And that is why it has become the norm for even the fathers to go raping their daughters, corruption has become a norm, because one does not feel troubled by--- Morality has to do with the refined cultural beliefs of a society. Religion came with many good attributes, education, hospitals, all these are tangible benefits that came with religion. There are many positive aspects of religion, I do not want to be misunderstood. One mistake that occurred, is when different religious denominations came to this country and they swayed aside all the cultural values.

Our culture, the culture of the African Peoples, was swayed aside as primitive enmass and that was a mistake. There are certain cultural attributes matters which are incompatible with religion, incompatible with modern set, incompatible with what people call civilization. But beyond that, there are very major fundamental values of extreme benefits to be found in the different cultures of the people. And if you want to return morality, ethics--- We have to go back to the bottom of things; we want to go back to the very beginning, and perhaps, bring a policy of cultural revival that is going to define what African cultural practices that are compatible with religion, that are compatible with religion and modern values such as honesty, respect for elders and many other matters. So, we can fill in the vacuum that is left by religion, sweeping away our entire culture and religion on its own, will never replace culture. That is a matter that this Government would do very well and serve the Kenyan people in a very positive manner, if they were to examine it. And you might even find that we may begin to contain even such evils, as Benin. A couple of months ago I had the opportunity of visiting the little

country called Benin to the West of Nigeria, and it is poverty stricken. The whole country looks like Mathare Valley and it is absolutely poverty stricken. But one thing that I found very striking, is the absence of killing. People leave their houses without locking them. They leave their cloths outside. But here, we have come to the point in any Estate in Nairobi where house wives are not able to leave cloths on the line any more to dry, unless she sits there watching on them. They cannot last for even five minutes. So, we have to go back and ask ourselves, is it possible to ask the lawyers alone to subscribe to a certain moral code, or any other group of people, any other profession without this nation having its own cultural standards, cultural values, ethics and that sort of thing?

Finally, I would like to tell the hon. Attorney-General, that, this is absolutely not the time to ask lawyers to pay this punitive discriminatory tax, when this Government is able, without the authority of this House, to take taxpayers money illegally without authority, to the tune of Kshs2.7 billion to buy a Presidential jet and yet, this Government has got the audacity to come and tax lawyers in order for lawyers to run the Law School. That sum of money is enough to run the Law School for the next 20 years!

With those few words, I beg to support.

**Mr. Wetangula:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Bill.

This Bill has been long overdue because the running of the Kenya School of Law, which is going to be the principal beneficiary from this legislation, has literally broken down. The Kenya School of Law which is a postgraduate institution for lawyers in this country has, for a long time, operated as an extension of the Attorney-General's chambers. It operates on premises that used to be the maternity wing of Nairobi Hospital in the 1960's. And as it is now, the school is overflowing with students, it has no facilities, it has no library, it has nothing that you can talk of that is conducive to learning. It is a good idea that the Attorney-General has thought of bringing this Bill, one, to create an autonomous body that will deal with matters of legal training at the postgraduate level and two, giving that body the right to solicit for funds from well wishers, from donors and from other sources, so that they can be able to run.

Mr. Temporary Deputy Speaker, Sir, looking at the Bill, I want to make a few suggestions to the Attorney-General. I hope he is listening, so that when he comes to reply, he can think of either changing some clauses or amending them so that we have a better legislation. Clause 3, gives the composition of the members on the Council of Legal Education.

In clause 3 1(i), it is stated that one of the members will be "a person associated with the teaching of law in Kenya", appointed by the attorney-General. This is a very vague description, "a person associated with the teaching of law". A messenger at the faculty of law at the University of Nairobi is "associated with the teaching of law". A library clerk is associated with the teaching of law.

Could the Attorney-General think of describing clearly, what he means by "a person associated with the teaching of law?". Is he talking of a law professor, a law lecturer, an academic registrar in charge of the Faculty of Law, or what is he talking about? I think we need some clarity on that.

Mr. Temporary Deputy Speaker, clause 3 1(j) says:-

"The Permanent Secretary of the Ministry for the time being responsible for higher education or his representative".

I want to suggest to the Attorney-General, that, I believe the purpose of putting in the Permanent Secretary for Education is to extend the University loan scheme to students at the Kenya School of Law, so that those that come from disadvantaged and poor families can have access to this loan scheme, to pay for their legal training. Because, as it is, clause 14 (c) gives the Council authority to charge fees to those involved in the training or those being trained. Now, we may have a situation where the fees charged is so high that we may exclude some students from going to the Law School. I would urge the Attorney-General to liaise with the Ministry of Education and see that the presence of the Permanent Secretary on this Council, is for purposes of facilitating access to loans by students who will be going to the School of law or any other training institutions for lawyers at the postgraduate level.

Mr. Temporary Deputy Speaker, there is also the omission by the Attorney-General of the inclusion of the Principal of the Kenya School of Law on the Council. This is a very important person in the training of lawyers at the postgraduate level, and I urge the Attorney-General, when he comes to reply and the Committee stage, to amend clause 3 and include the Principal of the Kenya School of Law, as a mandatory member of this Council, so that he can be able to guide the Council in its operations on a day-to-day basis on what happens at the Law School.

Mr. Temporary Deputy Speaker, the Chairman of the Council is the Chief Justice. While I have no quarrel with that, we all know that the Chief Justice is extremely busy, we all know that the Chief Justice is

involved in the day-to-day running of the Judiciary. Making him the Chairman of such an important body in my view, might just clog down the operations of the Council and I would ask the Attorney-General to amend clause 3 1(a) to read "The Chief Justice who shall be Chairman or any of his appointees". So that, in the absence of the Chief Justice, any of his appointees like a Judge of Appeal, can be the Chairman. I would, in fact, go further and suggest that, the Chairmanship of this Council be a full time job occupied by a person qualified and fit to be a Judge of the High Court, just as the Chairman of the Law Reform Commission, is a full-time Judge. The Chairman now of the Law Reporting Council, a Judge of the High Court has been appointed to be a full-time Chairman of that Council. I would expect the Attorney-General to provide for a full-time person qualified to be a Judge to be a full-time Chairman of this Council.

Mr. Temporary Deputy Speaker, Sir, there is the contentious clause 15 of this Bill, where the Attorney-General proposes to levy a tax against advocates for the running of the institution. My view is that, this clause is undesirable. In fact, I oppose it for the simple reason that, lawyers are not the beneficiaries and also advocates are not the beneficiaries of legal training in this country. If they are, they are not the only beneficiaries of legal training. The entire population of Kenya benefits from the services of lawyers, and it is wrong to tax lawyers to fund for the training of lawyers in this country when we do know that other professionals - doctors, engineers, architects and many others - are not paying tax towards the training of their fellow colleagues that are in training in the various institutions of this country. I do not know what the Attorney-General had in mind when he intended to say that he should tax lawyers to fund the Council in its activities.

**The Temporary Deputy Speaker** (Mr. Ndotto): Order! I think, hon. Muite, you are keeping the Attorney-General so busy, he is not listening to that point and it is very important. He listened to your contribution very attentively and I think you should let him listen to other Members too.

**The Attorney-General** (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, that is why I am sitting very closely to the mikes, one ear is listening to Mr. Wetangula, another one is listening to Mr. Muite and my hand is taking notes. I am used to that type of work because of pressure of work in my Chambers.

Mr. Temporary Deputy Speaker, Sir, if this clause is left in this Bill, it is going to be oppressive to lawyers, it is going to introduce punitive taxation to advocates which in turn, as hon. Muite said, would be passed on to clients. As it is now, recently, the Judiciary increased charges for legal services by almost 500 to 600 per cent. Very few Kenyans have access to legal services and to introduce such a clause into the Bill, would be to make a bad situation worse because what advocates will do is to levy higher fees so that they recover the money that will pass on to the Council and the common man will suffer. Not only that, the clause says that:-

"The Minister may" - and the Minister here means the Attorney-General - "by order of public in the Gazette require payment by advocates of a legal education levy."

Mr. Temporary Deputy Speaker, Sir, if you look at the Advocates Act Cap.16, an advocate includes the Attorney-General himself, the Chief Justice, all the judges of the High Court, all judges of the Court of Appeal and all magistrates. Suppose there is a default, you can have the embarrassment of taking the Attorney-General to court to recover the levy or taking the Chief Justice or taking a Judge of the High Court to court. This clause is unworkable and I would urge the Attorney-General to strike it out because apart from being punitive to advocates, it brings into the umbrella, people who cannot be taxed because it is not possible to tax them.

Mr. Temporary Deputy Speaker, Sir, we have an influx of young law graduates coming in from India all the time and the experience has been for all those colleagues of mine who are practising law, like hon. Kiraitu, that these young lawyers are hardly well trained wherever they are training. The Council of Legal Education should try to set some standards and should try to increase the period of training at the Law School, so that apart from the three months that the lawyers at the Law School go through, what appears to be a very condensed process, we should have a period of at least a year of training at the Law School, so that even those who are half-baked out there, can come back and be moulded into better lawyers. This is because what they are doing is to go into the Law School, within three months they cram all the subjects, pass exams and we unleash them to society, while they hardly know what law is all about, what legal practice is all about and they keep on moving from one law firm to another because they cannot sustain employment and this is creating a bad impression about lawyers. The Attorney-General should think of setting certain standards through this legislation, so that the Council can vet and set mandatory standards for especially the influx of young lawyers who are coming from India. What is happening is that rich people whose children fail in Form Four, but can afford the money, they take them to India, train them as lawyers and bring them back here.

First, they have not made the qualification locally; secondly, they come back with a degree that they cannot utilize professionally and this is not good for the legal profession. At the end of the day, what the public would start complaining about is that lawyers in Kenya are shoddy. Not all lawyers are shoddy, but it is because we are not ceiling the standard requirements in the training of lawyers that we are creating shoddy lawyers and

this, we have to do. Just like we must train good doctors, we must train good engineers, we must train professionals, if the public has to consume professional services, there must be services, and good services must come from good training.

Mr. Temporary Deputy Speaker, Sir, on the question of the Judiciary which is one of the largest consumers of trained lawyers, right now in the country, we have a shortage of judges. The Kotut Commission recommended that Kenya should have a minimum of 50 judges. It recommended the establishment of a Supreme Court, and it recommended the enlargement of the Court of Appeal. I want to urge the Attorney-General to look into the recommendations of the Kotut Commission and see that the number of judges in the country is increased. I would even suggest that areas with large human settlements in this country, like Kitale, Vihiga, Kapsabet, Kibera, Makadara, Voi, Garissa, Thika, Kiambu, Ngong and many others, should have a resident judge to deal with the day-to-day administration of justice. I know that we have come along way from Independence; when we had only the High Court sitting in Nairobi and Mombasa, we have opened High Courts in many other places, but I would suggest to the Attorney-General to think first and foremost of amending the section in the Judicature Act that puts a ceiling to the number of judges we should have in this country so that the appointment of judges, and the Judges of Appeal should be left to the demands of society rather than the requirement of law. As it is now, we cannot exceed 30 judges for the High Court and yet, we have many places that require judges and if the Attorney-General was to assist in posting a judge in each of the places, he would be breaking the law because of the Judicature Act. The Attorney-General should think of amending that section and open up. We are in an era of liberalisation and we should liberalise everything, including the provision of legal services. I would want to see a situation where even towns like Karatina, Naivasha and so on, have a resident judge to deal with matters that magistrates cannot deal with.

Mr. Temporary Deputy Speaker, Sir, hon. Muite mentioned the issue of research back-up for the Judiciary. I would go further than he suggested, that we second students at the Law School to the Judiciary to assist judges in their research. My view is that we should have in fact, lawyers employed on a full-time basis to assist Judges of Appeal, Judges of the High Court and senior magistrates in their research work so that they can come up with proper judgements, reasoned judgements, legal judgements, so that we do not have judgements that are purely based on facts placed before the charges without any reference to law, and this will help the development of the law. This will also help the enhancement of legal reporting.

I have just said that a judge has been appointed to head the Council for Law Reporting. He should be supported by good personnel, good manpower with a proper background in legal training who can help him in doing the research. And the Attorney-General should think of working quickly to create a Supreme Court in this country because it is desirable, we need one and it should be there.

Mr. Temporary Deputy Speaker, Sir, there is also the question of the desire to have lawyers being recruited in the police force. In my view, we should get to a situation where there is at least a lawyer attached to every police division in this country. This will help in assisting the police in their investigations of criminal cases, complicated criminal cases. It will help the police in shying away from violating people's rights when they are carrying out investigations.

Every other day we hear of abuses of people's rights. If we had lawyers being seconded to every police division or to make establishments within the police, they would help in moderating the incorrect behaviour of many of the policemen we have involved in investigations of cases and this will enhance not only the image of the country but also of the rule of law and also the observance and respect for human rights in this country.

Mr. Temporary Deputy Speaker, Sir, last but not least, I would like to urge those who will be appointed to this Council to be men and women of integrity. I urge the Attorney-General in formulating the Council to be gender-sensitive and have at least some women and men and not just to have a council full of men, as if we have no women who are qualified to man such positions in this country.

Mr. Temporary Deputy Speaker, Sir, further to that, the Council is given the authority to raise funds from well wishers and donors. I urge the Attorney-General that when we get to raise these funds, they must be properly accounted for and put to good use, so that we can develop the training of lawyers in this country to meet the demands of the population.

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

**Dr. Lwali-Oyondi:** Thank you Mr. Temporary Deputy Speaker, Sir, for allowing me to touch on this Council of Legal Education Bill. When we pass these Bills in Parliament, some of us think they are jokes. As a matter of fact, there are some Members of Parliament who have been suggesting that they should put a stop to this debate or they should call for a closure to this debate, so that they can go and do their own things. It sounds very easy but the repercussions are usually not amusing. At the moment, we are now grappling with the problem of the Bill that was passed here, whereby we authorised the University Loans Committees to have authority to give loans

to the students at their own discretion. At the moment, we are in a lot of trouble because most students cannot pay those loans. Many MPs are also confronted me for being one of them, being asked to pay hundreds or thousands of shillings, if you have two or three students in the University, which may not be easy to find and we might end up having students leaving University due to the riots that will continue for quite some time. And I am afraid we might have to repeal that particular Act. So, this Bill is exactly the same. We should not look at it as something very simple because it is going to affect us very much. It is going to affect this country and its citizens for quite a long time and, therefore, we should look at every clause very carefully and we happen to have a good number of lawyers here who will particularly do good justice to this Bill. The main aim of the Bill, of course, is to establish a school of law presently under the Attorney-General. According to me this particular section is on the Memorandum of Objects and Reasons. I was wondering whether the Attorney-General could not consider having this school attached to the University of Nairobi and let it offer post-graduate studies, instead of it being a burden to himself. I do not know why there should be an appendage of education. When a lawyer qualifies, let us say from a given University, he has to come and do post-graduate studies in the actual application of law and since we are trying to have our education amalgamated, why do we not just transfer this to the Faculty of Law within the universities, so that the school could be expanded and the post-graduates come and do whatever higher education pursuits they would like apart from the actual pupillage that qualified lawyers normally undertake as they are doing right now. So, I would suggest that is an easier way of doing it.

Mr. Temporary Deputy Speaker, Sir, during his speech, the Member for Kikuyu mentioned about culture and disruption of culture which has led to the decline in morality within the Kenyan society. He attributed it to religion. I am not so sure whether I should support that because I have a different view on this particular aspect, in that it is not religion that has disrupted our culture but it is the politicians. To start with, they are the ones who trample on law with an aim of furthering their political mileage as they call it. They sweep away every moral code and law and order, for example, through this question we are crying about; corruption. Politicians corrupt everybody. In fact, mwananchi today if he sees a politician, he thinks that is a source of money. You will find them asking you, "Sasa wazee wako hapa na utafanya kitu gani?", meaning you have to give them money to drink or eat something. This is corruption brought about by politicians and because they do not have money, they have to go stealing. Because they do not have money, they have to go selling Government property. Because they do not have money, they have to go and try to attach themselves to some other influential politicians who have stolen enough, so that they can give them part of the money. So I think we are shifting blame. The blame is squarely on the politicians. It is the politicians who are grabbing every piece of land in order to sell, so that they can contribute to the infamous Harambees. So, I do not think we should blame religion or religious culture at all. In fact it is the one that is trying to emphasise the code of morality. When we come back to our own culture, there are certain cultures within our own societies, where stealing or cattle rustling was not considered as anything. Therefore, when there are no more cows to be stolen or rustled, people "rustle" money.

**The Assistant Minister, Office of the President** (Mr. ole Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is making an insinuation that seems to touch on the pastoralist communities, alleging that those communities that used to raid cattle are the same ones that are nowadays rustling money. The hon. Member should withdraw that.

**The Temporary Deputy Speaker** (Mr. Ndoto): What is your point of order, hon. ole Sunkuli?

**The Assistant Minister, Office of the President** (Mr. ole Sunkuli): Mr Temporary Deputy Speaker, Sir, I have made my point; he should not even answer it!

**Dr. Lwali-Oyondi:** Okay, I know he has answered it. So, at the moment, there are no cattle, he has admitted, people are now rustling money and they do not feel it is wrong to rustle money. Cattle are some form of money anyway. If you have a cow, you can easily sell it and convert it into money, and since the rustling of cattle was not a problem or a sin, some of the people who were rustling, once they are in authority when they rustle money, they see nothing wrong with it - they are just returning their money, so they think. So, if we go back to our original cultures, we might end up in the most horrifying situation. Having said that, just trying to comment on what hon. Muite had said, I want to go to Clause 3.

Mr Temporary Deputy Speaker, Sir, hon. Wetangula, has just mentioned it, the Principal, is not there, he has been forgotten. I hope the Attorney-General will not forget him in this hierarchy because he is an executive, and I suggest that this same Principal will be the one who will go to clause 12. If we go to Clause 12, it reads:-

"The Council shall appoint a secretary to the Council."

This secretary can be nobody else other than the Principal. He is the executive, he is the one who will actually execute what the Council has passed. The Council cannot execute anything from day to day. Therefore, I suggest that clause 3 be married with clause 12. I mean, we shall have a Principal there, and this Principal will

come on clause 12, and become the secretary, as nobody else can become the [Dr. Lwali-Oyondi] secretary because he is the one who is the "secret-keeper" of the Council. A "secretary" means a secret-keeper and he will be the one to keep all the secrets of the Council, the files and whatever they pass, in his desk. Nobody else who is outside the extra-mural to the School can keep those secrets. Therefore, I hope the hon. Attorney-General will agree with that.

When we go to clause 3 (e), the advocates nominated by the Council to the Society, formally they were four. If we open on the other side of the clauses that are being amended, they were four formally. I was wondering why they have been reduced to three.

**The Temporary Deputy Speaker** (Mr. Ndotto): When the Attorney-General was moving this Bill, he said five instead of three.

**Dr. Lwali-Oyondi:** I beg your pardon! Therefore, if he has put five, it is alright because we should have as many of extra-governmental people on such a council as possible because those who are within the Government are unlikely to do much. They become "Yes men" or "Yes women" because they have no other option. They get instructions and just act, they cannot become too much critics of their own Government or their bosses. Therefore, they end up just saying exactly what their bosses say. Therefore, when we have people from outside the Government being in a Council like that, they will be more, we hope they will have more objective in their criticism apart from the fact that those are the actual practising advocates. Therefore, they will have a practical touch on whatever they suggest.

Mr Temporary Deputy Speaker, Sir, I now turn to clause 6. Well, I just wanted to make a comment there on the professional experience. I am not so sure whether a school can teach experience but, I think, it can expose the young lawyers to the law and the practice of law because "experience" is what comes actually when one is practising because here, I read that "organising and conducting courses of instructions for acquisition of legal knowledge, professional skills and experience." Surely, it is unlikely that one will get experience until he does the actual work and most schools do not teach people experience, but they actually expose them and, then, let them have experience by themselves out there. So that word "experience" sounds a little bit--- It will be one of the first schools to teach "experience" and that is not quite normal.

Clause 6, (2)(7), talks of holding seminars and conferences on legal matters and problems. Conferences and seminars are very, very important means of teaching, training and actually making people aware of what is happening around them. These are some of the best ways of exposing the students and everybody else. We, in this country are in a lot of problems and particularly politicians. We are not able to hold seminars. When we have a seminar, we are not supposed to have a licence. At the moment, we are invaded even within our own offices. When we are trying to hold a seminar with Members of our party, we are just arrested. For instance, last time we were in Turi, there is a by-election going on there. We sent five councillors to the chief who agreed that we would hold our seminar telling our people, the aspirants and who have never been politicians the way they would be nominated the following day by the people. We were in a private members club with councillors and so, we were surprised to find that the same chief came with the police and they arrested and detained us for almost three hours in Turi Club. I was with hon. Njenga Mungai, the Chairman of Molo Town Council, and quite a number of councillors, and the chief himself was there and those five councillors confronted him.

**The Assistant Minister for Agriculture, Livestock Development and Marketing** (Dr. Misoi): On a point of order, Mr Temporary Deputy Speaker, Sir. Hon. Dr. Lwali-Oyondi is complaining that they were harassed in a club. Is it in order for hon. Dr. Lwali-Oyondi to mislead this House that they were harassed in a club and a club has certain goals which do not include holding political seminars as they did? Is he in order to accuse the chief that he harassed them, when the chief was doing his job?

**Dr. Lwali-Oyondi:** He was doing his job of harassing us, as he had been instructed. We were meeting in a private club which we had hired. We had even told the chief that we were meeting there. So, he had to do his job of harassing us.

**Mr. Temporary Deputy Speaker** (Mr. Ndotto): Dr. Lwali-Oyondi, just confine yourself to the Bill. You are getting yourself into problems for nothing.

**Dr. Lwali-Oyondi:** Yes. Mr. Temporary Deputy Speaker, Sir, these are legal aspects. This is mis-application of law, and we are talking about laws here. This is mis-application of the law, and I am talking about Clause 62 (vii) which talks about:

Holding of seminars and conferences on legal matters and problems.

This is what we were trying to do. So, I was just drawing attention of the House to what we are suffering due to mis-application of law. Those schools of law are supposed to make sure that the citizens are ruled according to the law. When we come to practice and when we cannot even talk to each other because somebody is afraid that

we might defeat him by so talking, then these laws are completely useless and they should be shredded up and thrown into the toilet. We should not be wasting our time here talking about them. People try to prevent others from knowing what is happening because they want to survive on ignorance of the populace, so that they can further their own political agenda. While on this, we should also be allowed to have the Constitution of Kenya, which everybody is talking about, amended or changed. People should be told what is in the Constitution and what is not in the Constitution in seminars. It is amazing that even hon. Members of Parliament may not be knowing what is in the Constitution of Kenya. The citizens of this country also ought to be given copies of the Constitution. The copies should be sold in the bookshops, and if possible, the Government should sell copies of the Constitution to the bookshops in wholesale, so that they can make a bit of money when they are selling them to the public, because having the Constitution, Penal Code and other law books kept in the Government Press, is a waste of money, because nobody knows about them, and very few people know where the Government Press is. Therefore, let our children be opened, and the law should not be hidden, and it should not be for the lawyers, magistrates, the High Court Judges and the Attorney-General. The law should be very, very open to everybody and the easiest way of doing it is by providing books in the streets, so that everybody can read in order that everybody is not threatened by policemen, chiefs and all sorts of people, due to the ignorance they have both on the Constitution, Penal Code and other statute books.

I would like to turn to Clause 8, which read as follows:

The Council may by resolution, either generally or in any particular case, delegate to any of the Committee of the Council or to any member, officer, employee or agent of the council, the exercise of any one of the powers, or the performance of any of the functions or duties to the council under this Act.

This gives the council a very wide option. The council may by resolution give this power to anybody. They can give this power to me or anybody else. I think we are making the option too wide. Somebody may choose to give this power to his wife or his brother, since we have got a lot of nepotism. Somebody might take the whole of this power and give it to his own ethnic group and in the end, you might find out that in that school, everybody comes from his tribe. I hope the Attorney-General will reduce those powers. Those powers can only be delegated to people within the college. They should pass a resolution, or make a policy which should be handed over to the college executives to do it, but not just anybody. They can also hire experts from anywhere, but they cannot be given the delegation. That expert who is hired should be there to work under their supervision, but he should not be given the full powers as it has been stated here.

With regard to Clause 14, I have no quarrel with it. The Bill is dealing with the Attorney-General, and it is a little bit confusing when sometimes, they use the word Attorney-General and or Minister. We are much happier with the word Attorney-General as opposed to Minister because Minister includes the Attorney-General. Since we had started using the word Attorney-General, I think we should stick to Attorney-General throughout his Bill so that we do not cause any confusion. I know funny Ministers will come and intervene because it says the word "Minister."

With regard to Clause 15, it has been talked about. Education levy generally cannot be imposed on 1,000 advocates because some are not in the legal of practice. They may not be very well grounded as far as money is concerned. Out of that number, only about 100 are rich. These are the only ones that we can tax. So, if the school can be financed by taxing lawyers, I do not know how well it will run, when the Government itself cannot do it anyway. If the Government is finding it difficult to run the school, how can the lawyers assist it? In any case, lawyers have no money, just as the Government does not have any money. The money that is owned by the lawyers comes from the people. As we say, the Government has no money, because money can only come from the people. The moment the Government will begin spending too much money, then the people will have to pay more. If the advocates who have no money of their own, begin paying a lot of taxes, then they will charge the wananchi more money and in the end it is the mwananchi who will carry the whole burden, but not the Government or the lawyers.

Mr. Temporary Deputy Speaker, Sir, the common mwananchi is completely over-burdened. The doctors are charging too much money for just a small caesarean operation, which is the simplest section you can ever have. It is the simplest laparotomy that you can ever have. It is an inside stomach sort of operation. The kid is there, and anybody who is a husband knows that you can touch the kid, and there is no serious operation really on caesarean section. You will find some doctors charging up to Kshs50,000.00 and Kshs60,000.00. If this Bill is going to be passed the way it is, then, the lawyers and the courts will begin charging wananchi say Kshs50,000.00 or Kshs70,000.00. Now, where is the mwananchi going to live? Are we going to fleece our wananchi to death?

Are we going to be like ticks which, instead of preserving the cow by drinking a bit of the blood, they infect it and then it dies and so they die together? You, the doctors, the lawyers and everybody else who thinks

that he can fleece wananchi is likely to die because the wananchi are going to die. They cannot carry it any more.

It is high time that we sat together as a Government and called the doctors and everybody else so that we can discuss this. Personally, I have been in the practice for the last 20 years and I do not think that I would charge a common mwananchi even Kshs10,000 even up to the moment. It is unfair. If you kill him, where will you get the money the next day?

We have to look at this thing and get the levy and I talked about this during the Higher Education Loans Board Bill. We talked of an education levy. That is the solution. Let it be spread because there are very few Kenyans who are actually rich. There are very few Kenyans who own industries and very few have shops! If you go through the streets of Nairobi, you will not find a shop owned by a black man. But the black men are the richest! How they got their riches, we do not know. So, the ordinary mwananchi is unlikely to raise funds. So, the only way to do it is the Harambee way, spread the whole thing on education levy. This will cater for the university. It will cater for this School of Law which according to me, is a post graduate university college. We should get a way of spreading it like in the case of Utalli College. If your son is admitted to Utalli College, he goes there with his personal effects only and he gets everything there because we have the catering levy from hotels. We could suggest another levy which would be spread all over and we would get enough money just like the petroleum levy. Even part of that money could be put on education instead of us trying to get blood out of a stone. Education levy may be a solution. I will now touch on clause 17, which states that the council may invest any of its funds in securities. It says:-

s. "The council may invest any of its funds in securities in which for the time being, trustees may, by law invest trust funds or in any other securities which the Treasury may, from time to time approve for that purpose."

I thought the college was to be independent of the Treasury? But in any case, investment of monies from public institutions is something that has given us a very bad experience, the NSSF being one of them. If we give this council open authority to play about with the monies of this particular institution, we shall end up having the members of the council saying: "Alright, I have got a piece of land." Somebody acquires a piece of land free of charge and then says; "Let the college invest money in that piece of land by buying that land." He got it free of charge or he bought it for Kshs1 million and the college puts in it Kshs20 million within two days. This is what is happening to NSSF. The NSSF's money is not being lost through any other means but through some of us here who acquire empty spaces and then sell them or compel the NSSF to buy them at exorbitant prices so that they make money where they never put money.

With those few remarks I beg to support.

**The Assistant Minister of State, Office of the President (Mr. Sunkuli):** Mr. Temporary Deputy Speaker, Sir, in support of this Bill, I just want to say that we ought to acknowledge one thing, that the present School of Law, as it is, is not a good environment for learning. That institution was commenced in 1963 and it was part of a hospital. Actually, one part of it was maternity and I do not want to say what the other part was because it is a little bit scaring. For those of us who have been through the School of Law, I would like to say that, it is indeed, a great tribute to those who were learning law to renovate that particular facility or to build an entirely new facility in order to create a good learning environment for the school. We want to acknowledge a second fact here that those who are interested in learning law and those who have in fact learned law have tremendously increased in terms of numbers and it is important to note that at Independence, this country had put on the shoulders of the Government, the responsibility of training lawyers. The Government has trained so many lawyers that in fact, the country is almost self sufficient. The market for lawyers has become a little bit glutted and I think it can no longer be the responsibility of the Government to undertake academic education for lawyers. I think that is the spirit in which the Attorney-General has brought this particular Bill.

We also want to say that we, being the kind of country that we are, with very limited resources, the School of Law is facing a serious financial situation. The amount of money we vote for the Office of the Attorney-General in this country is very little. That is why the Attorney-General cannot retain many professionals. Many state counsels would like to work in more competitive environments like the private sector. Many people who would have taught in the School of Law, would prefer to teach in the University of Nairobi because it pays more handsomely than the Attorney-General's Office. It is, therefore, important that the Kenya School of Law is removed from the Office of the Attorney-General because there is one major disadvantage that it has there - that is, it cannot raise its own funds.

That is, it cannot raise its own funds or enter into its own financial arrangements, in terms of taking credit from the financial institutions. It cannot solicit for aid outside the requirements of the Office of the Attorney-General and I think, it is important that it becomes an autonomous body.

Mr. Temporary Deputy Speaker, Sir, for those who are also interested in academic freedom, I think it is



good that the Kenya School of Law, should not be so much associated with the Government and, in fact, it should be on its own. That is the reason why we want to make it an autonomous body. The Kenya School of Law itself, and I am informed by the school, has a very ambitious agenda because principally, it was created to train advocates. My friend, Dr. Lwali-Oyondi, wants for instance, the Kenya School of Law to be appended to the University of Nairobi, but what he may not know is that the University of Nairobi principally teaches the academic aspects of law, jurisprudence being an initial aspect of it, to teach the philosophy of law, the philosophy behind the law of evidence and the Land Law. The University of New Delhi, for instance, might teach the same thing. The University of Birmingham, The University of Essex or for that matter, the University of Harvard, might have its own curriculum different from the Nairobi University.

When all these lawyers arrive in Kenya, Mr. Temporary Deputy Speaker, Sir, it is important that they are placed in one channel that makes them relevant to the Kenyan market and the Kenya School of Law, always attempts to standardise all these various academic learning and cuts the lawyers into the Kenyan situation. If for instance, you learned Land Law, you come to be squeezed into the particular aspect of the Kenyan Land Law and the Kenya School of Law is very indispensable. You can never append the Kenya School of Law to any single university. You must make it an independent body that must be able to perform these duties.

Mr. Temporary Deputy Speaker, Sir, as I said earlier, the teachers in the Kenya School of Law are lacking because remuneration is very low and it is important that we give the Kenya School of Law authority to raise its own funds.

Mr Temporary Deputy Speaker, Sir, as I said, I wanted only to say a few words and outside that, I would like to say the following things.

With respect to the Kenya School of Law, it is important that in future, the training of lawyers in Kenya does not demand that no legal subject becomes automatically compulsory. Some of us who are lawyers cannot do mathematics and I am one of those, who happened to have gone through my school process without undue regard to mathematics. The present situation in the Kenya School of Law is that you must pass accounts which is related to mathematics. Accounts is a subject which is totally unrelated to law and in fact, I would like to say that very many of my colleagues, some of them are in this House, do not in fact keep their own books of accounts. They do engage the services of a professional accountant to keep books of accounts. It is really difficult to demand from a law student that he must pass accounts in order for him to be able to get a diploma in law.

**Mr. Murungi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for---

**An hon. Member:** For your former student!

**Mr. Murungi:** Is it in order for the Assistant Minister, to say that lawyers do not need to learn accounts because they cannot keep their books of accounts, while the purpose of teaching accounts at the Kenya School of Law is to enable the lawyers to understand accounts like balance sheet when they represent their clients in court and not to make them accountants? I thought the Assistant Minister understood that from his course at the Kenya School of Law.

*(Laughter)*

**The Assistant Minister, Office of the President (Mr. Sunkuli):** Mr. Temporary Deputy Speaker, Sir, I can assure the hon. Member, that I passed accounts and that is why I am an advocate. But I know a number of my colleagues who continued repeating their studies in the Kenya School of Law, simply because they could not pass a subject that they did not exactly need outside the Kenya School of Law. The hon. Murungi, must never forget that he was my lecturer and I am still going to discuss a little about fairness later on.

*(Laughter)*

Mr. Temporary Deputy Speaker, Sir, it is not important for the Kenya School of Law to demand that you pass law; it is just sufficient that you pass accounts. It is just sufficient for me to be informed about the balance sheet and the trial balance. For instance, I passed that but I can assure you, if I am told to draw a trial balance now, I am humble enough to say, I cannot do it. I did it for exam purposes. Many people who are science-oriented cannot pass accounts. I would like to call upon the Kenya School of Law, when it attains this status, to consider changing this particular aspect and make it a little more accommodative.

The second matter which has been referred to by hon. Muite, is about pupillage. I entirely agree with the hon. Member for Kikuyu that it is no longer possible for law students to take pupillage in the hands of senior advocates alone or in the hands of advocates at all. It is also my experience, and having been a Magistrate, that in fact, these same students can learn about advocates if they sit in court not necessarily when they sit in the

Chambers of the Advocates. Even in the case where law students sit in the Chambers of senior advocates, they have an experience of exploitation. This is because when you work in a senior counsel's office, what he does is to make you an all round office boy and pay you nothing.

I think it is very important that the senior advocates in this country do not exploit law students. Some of them do pay peanuts and they know that peanuts are for monkeys. They pay something like Kshs500 in the City of Nairobi. It is absolutely important to pay them something reasonable. Some of them, I agree with my senior colleagues, pay nothing. Law students are the ones who draft the plaints and affidavits. They are the ones who go to file cases in court until the year ends and are paid nothing. The clerks earn Kshs16,000 a month, but students earn nothing. I think this is exploitation and it is very important that those of us who are in private practice should learn a little bit of justice and do justice to the students.

Mr. Temporary Deputy Speaker, Sir, another sad factor that I would like to discuss about the Kenya School of Law, and generally about the teaching of law in Kenya, is that those who have the duty of teaching law should not frustrate the students unduly. I know that in the University of Nairobi, one is required to write a dissertation or nearly a thesis, although one is not doing a Masters degree and this is the area where very many students get frustrated by lecturers.

Mr. Temporary Deputy Speaker, Sir, I said earlier on that certain lecturers in the University of Nairobi take advantage of the female students to frustrate those of them that do not meet their demands and make them continue repeating their studies in law. For that matter, I do not know about this particular time, that in the Kenya School of Law, the man who is teaching you accounts can make you do accounts for six years. For instance, if you are a girl and you are not very co-operative towards him, he can make you do accounts for six years and continue frustrating your efforts of qualifying to be a lawyer. I think it is important that those who are our lecturers should have a responsibility of being just to the students, so that they do not unnecessarily frustrate their students.

Mr. Temporary deputy Speaker, Sir, it is important, and hon. Wetangula himself stated this, that the students be employed in more useful duties when they are doing their clinical studies and their pupillage because many areas of our laws require research and many judges are unable to perform their duties as speedily as they can because they do not have research assistants. When I was in the University of Nairobi, I could easily have written a book because I had the time to do it and I had the inclination to do it; I was inclined towards research. Right now, I cannot do that, but the judges in the High Court, the Senior Principal Magistrate, the Principal and Senior Resident Magistrates, can be allowed to scoop a bit of that knowledge from the Kenya School of Law and utilise it in research.

Mr. Temporary Deputy Speaker, Sir, the land laws of this country require to be researched on. They are based on wrong premises and I think one requires to research a little bit more on the true feelings of the people with respect to their land laws. It is only the students in the Kenya School of Law who have the time to do that particular thing.

My second to last point is about professional ethics. Hon. Muite has said something that is very surprising, coming from him. He said that ethics of the lawyers depend on the ethics of the society of Kenya. I would like to say that for once, I fully agree with hon. Muite, that ethics of lawyers depend on the ethics of the entire community in Kenya. Even the ethics of the police depend on the ethics of everybody else in this country.

Mr. Temporary Deputy Speaker, Sir, the ethics of the Civil Service depend on the ethics of the entire country. That is why I keep saying that corruption is not the problem of KANU but it is the problem of Kenya because it exists also, among the lawyers and we must never look at one section of Kenya as being the only corrupt one. This is very important because it is possible for some people to stand on one side of the House and accuse the Government side as being corrupt.

It is never possible because so long as we acknowledge one fact that we are all Kenyans, we must be able to deal with this problem. This is not the problem of the Government, but it is the problem of our country. There do exist corrupt people inside the Government as well as outside the Government; within the lawyers and outside the lawyers. But one thing that we cannot check is institutionalisation of corruption.

**Mr. Muite:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member really, to say that corruption is a problem of the whole country when he knows or he ought to know that corruption has ruined the country and that it is only the large scale corruption which is only capable of being performed by those in power; those who collude with Mr. Kamlesh Pattni and the Somaias. That is the corruption that is ruining the country.

**The Assistant Minister, Office of the President (Mr. Sunkuli):** Mr. Temporary Deputy Speaker, Sir, in the Government, there is nothing like "ambulance chasing." This idea that a lawyer goes to Kenyatta National Hospital, gets a clerk who should help him to tell him how many people have been involved in accidents and

reports to the lawyer and the lawyer goes to the bedside of the dying man and tells him that he defend him but when the dying man is sighing the papers, the lawyer is already getting money from the insurance and never remits the money to the person who is entitled to receive that money. That, being practice of law by the way, it is even much more developed than what perhaps a wayward policeman can do. That type of corruption, in fact, cries more for higher punishment than that which is practised by perhaps a wayward civil servant. What I am talking about is that hon. Muite seems to be suggesting that, that can be pardoned because it is not done by the Government. I must say that everyone of us who has a duty towards his brother must do justice. I am saying this because very many people even, in the Opposition, have become rich in ways which we cannot necessarily call the just ways of getting rich. Some of them have actually been lawyers and they have become rich because of doing something that was not exactly straightforward. We must be able to say that the reason why one is corrupt is not because one is in the Government but because one is corrupt.

I must say that it is the duty of the Law Society of Kenya to remove the log in its own eye because that is where lies the problem. I know that is a threat sometimes. I know when eventually I decide to take out a practising certificate, I must really plead with those who are there because in the first place, I may not belong to their tribe and in the second place I may not belong to the type of politics that is presented by the Law Society of Kenya. Politics is what is going to ruin the Law Society of Kenya because unless one conforms to that class of people who do not like the Government, the policies of KANU and so on, one cannot be a good member of the Law Society of Kenya. That kind of thing is ruining the Law Society of Kenya and transforming it into another political orientation or school of thought and that is what is going to ruin the Law Society of Kenya.

Hon. Muite for instance, who knows very well what the Law Society of Kenya should have done having been a member and having been the Chairman of the Law Society of Kenya in its worst days, he should be able to tell us that the Law Society of Kenya should retrace its steps from where it left its original purpose. I know that the Law Society of Kenya departed from its path during the days of hon. Muite. Therefore, he should help us to retrace the steps of the Law Society of Kenya.

**Mr. Muite:** Mr. Temporary Deputy Speaker, Sir, is it in order for the hon. Assistant Minister---

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): He did not mention you. Did he?

**Mr. Muite:** I have not raised my point of order, Mr. Temporary Deputy Speaker, Sir. First is it in order for the hon. Assistant Minister to suggest that an internationally respected body like the Law Society of Kenya--- Is it in order for him to suggest that it has become another political party when he knows or he ought to know that it is purely a convergence of the principles that the Law Society of Kenya stands for in a very non-partisan manner like the rule of law. What the Law Society of Kenya is doing is being expounded by some political parties.

Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister not out of order for suggesting that the Law Society departed from its ideals during my tenure as its Chairman? If he was on the Roll of Advocates which is he not, he requires to be disciplined and struck off.

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): Mr. Muite the hon. Assistant Minister enjoys the immunity of this House.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, in the first place, the Law Society of Kenya is only respected East of Tom Mboya Street. The Law Society of Kenya does not enjoy any sort of respect where I come from because it departed from its original purpose and we have a duty to bring back the Law Society of Kenya into its professional duty.

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

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): Disallowed!

**The Assistant Minister, Office of the President** (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I think that it is also very important that a mechanism of disciplining lawyers should be developed because to date, there is no way in which a common mwananchi can complain about a lawyer successfully. It is a situation where the prosecutor becomes the judge. If you look carefully at the mechanism as to who is supposed to listen to the complaints of the mwananchi, it is one of those people who committed the offence against the mwananchi. I think we must be able to rectify that situation, but because I do not want to unduly provoke my hon. colleague Martha, I would like to say that, that is enough for today and I beg to support.

**Ms. Karua:** Thank you, Mr. Temporary Deputy Speaker, Sir. I rise in partial support of this

Bill and before I make my comments, I would like to respond to a few points raised by my learned junior, hon. Sunkuli. Those who do not understand the legal profession should be pleased to learn that having qualified after me, he does become my learned junior, although he may be sitting on the Front Bench.

Mr. Temporary Deputy Speaker, Sir, it is very erroneous to say that the Law Society of Kenya has become another political party. The LSK is one of the few professional bodies in this country that lives up to its ideals. Lawyers have realised that they cannot operate in a vacuum and, therefore, they must attend to the pressing current issues in the society. The Government has come to view the LSK as an enemy, merely because it points the shortcomings of the Government. When you are in Government and when you seek to be in Government like we in the Opposition do, you must be ready to face very harsh criticism on a daily basis and you must be ready to maintain standards as expected of you by the society. The problem today is that quite a few of those in Government are not ready to stand up to the standards Kenyans would want to maintain and that is why they view the LSK as an enemy. Perhaps if the hon. Member was a member of the LSK, he would understand it a little and I would like him to subscribe and become a member of the LSK, so that he will start to understand the body.

The Law Society of Kenya does not only deal with matters that affect its members. It is also charged with the duty of assisting in the administration of justice and to help the Government and the Kenyan society in matters appertaining to the rule of law. Therefore, when human rights are violated, be it by a villager or a politician, it is the duty of the LSK to speak out. When we think that the office of the Attorney-General or the Police Department is getting lax in enforcing the law, it is the duty of the LSK to rise up. When there is massive looting of public funds, it is the duty of the LSK to rise up like it is the duty of all other Kenyans. Perhaps, the LSK stands out because other professionals are shying away from their responsibilities as citizens of this country.

**An hon. Member:** Is hon. Sunkuli listening?

**Mr. Nthenge:** He is getting a free lecture.

**The Assistant Minister, Office of the President** (Mr. Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. I appreciate the free lecture if it were only correct. I would like to know whether it is in order for hon. Karua to say that the LSK defends the human rights of people whose rights have been violated when, in fact, the LSK never defends the rights of other tribes like Maasai and the Kisii. They only fight for the rights of certain tribes.

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, whatever has been raised is not a point that needs to be responded to. The record of the LSK is quite clear and Kenyans know what I am talking about. The previous speaker did complain that the people in the leadership of the LSK come from certain tribes. No one single tribe is barred from campaigning for leadership in the LSK. When you sit back and you do not seek an elective post, you should not be heard to complain that others are dominating. Hold your peace forever or get up and seek that elective post. We in the legal profession have no apologies for the people who from time to time, have held positions in the LSK. They have campaigned and have been elected and I am glad to have served in such a well respected and deserving body as the LSK.

Coming to the Bill, it is a matter of opinion and I think majority of Kenyans know that the second liberation had a lot to do with the legal profession. I would call upon all other professions to join the LSK in the noble duty of raising the standards of governance and making sure that there is good governance in this country.

Coming to the Bill, the objectives of the Bill appear and are actually noble, but they should be expanded. Turning to the Memorandum of Objects and Reasons, we are told that the object and purpose of the Bill is to incorporate the Council of Legal Education in order to give it the legal mandate to take over and manage the Kenya School of Law. So far so good, but I would like to suggest that the mandate of the Council for Legal Education should be expanded to incorporate maintaining continuing legal education for all professionals including judges, magistrates and lawyers. If we leave it to just training of lawyers, we are restricting this body. It should be in charge of training and also maintaining continuing legal education. This was echoed by hon. Wetangula when he said that the judges and magistrates and even lawyers should keep themselves abreast of developments in the law. Therefore, I would suggest that there would be an amendment to expand the objectives to cover continuing legal education.

Mr. Temporary Deputy Speaker, Sir, a previous speaker mentioned that the Bill---

**The Attorney-General**(Mr. Wako): On a point of information---

**The Temporary Deputy Speaker** (Mr. Wetangula): Mr. Wako, has some information to give. Is he welcome to do so?

**Ms. Karua:** Yes, Mr. Temporary Deputy Speaker, Sir, I would give way to the point.

**The Attorney-General**(Mr. Wako): Thank you very much. I am listening to that good contribution very attentively. Actually, the Continuing Legal Education is already there under Clause 6.2 (a)(vi) on page 124. As far as the

[**The Attorney-General**]

Magistrates are concerned again, it is mentioned in part (iii) on the same page.

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, I am glad for that point of information, but looking at page 124 of the Bill, I fail to see the specific provision--- Yes, I stand corrected. I can see that it has provided for organising and conducting legal education courses. It should be specific about continuing legal education, especially for those who are holding positions where they adjudicate on the rights of citizens so that it should be a requirement in this Bill that everybody who sits in adjudication of the citizens rights, namely magistrates and judges, must undergo a continuing legal education course in a limited period, say of two years or one year. It happens in other jurisdictions like in the US where judges have to go for continuing legal education so often. So, I am saying that let us be specific and let it be mandatory, especially for those who sit in judgement over other members of this society. If we leave it open, some of them may never avail themselves of the continuing legal education and the benefits we are seeking to Kenyans will be lost.

Mr. Temporary Deputy Speaker, Sir, a previous speaker did mention that what this Act intends to do is to leave the professionals to manage the training of lawyers. I disagree with those sentiments. Looking at Section 3 of the Bill, it seems that the Government will be in control of training lawyers rather than the professionals themselves. I say so because looking at Clause 3, it has 11 members of the Council and only three are to be nominated by the LSK. So, we are giving control to the Government through the Chief Justice and the Attorney-General. This is totally undesirable. If this Bill is intended to enhance the professional standards and the training of professionals, control must be retained by the professionals and in this case, the lawyers. I am suggesting that Clause 3 should be amended to give control of legal education to the professionals. A majority of members of the Council should be nominated by the LSK or in any event, at least, half should be nominated by the LSK while half should be left to the control of the Government. Looking at it, I can see that it is the Chief Justice and the Attorney-General who will be nominating the majority. It means that through these two officers, who are appointees of the Government, the control of legal education is being left in the hands of the Government. If the Government wants to control training of lawyers, let the Government pay for it. Let the Government not ask the lawyers to pay for training of lawyers and then come and control such training.

I am saying so because looking at clause 15, which talks of legal education levy, to me this is a punitive clause to members of the legal profession. Why should the legal profession fund the training of lawyers? We must ask ourselves: Who are the consumers of the professional services of lawyers? Are they only consumed by lawyers? The answer is "no". The majority of the consumers of the professional services of lawyers are in this House and the rest are outside in the society. Therefore, if Kenyans are the consumers of legal services, it is they who must train lawyers and not members of the legal profession only.

At present, I do not know of any one profession which is training its professionals, except the hotel industry where there is the catering levy which, to some extent, may go towards training of personnel in the industry. But even this levy cannot be compared to the levy which clause 15 is seeking to impose on lawyers. Doctors and architects are not paying any levy for the training of interns and trainee architects! The list is endless. Why must lawyers be asked to shoulder the burden exclusively, of training fellow lawyers? Is it a punishment?

We all know in this country that lawyers and the Government have not had a very comfortable relationship and there are those within the profession and within society who are seeing this clause as being vindictive and punitive: that the Government wants to put extra burden on lawyers, merely because they have been outspoken, as they are entitled under the Constitution, on topical issues and good governance. I would propose that this clause be entirely removed and that the funds for training lawyers be provided for from the Consolidated Fund as we do in the case of other disciplines.

If this is not possible, the Government should find ways and means of raising this amount from members of the society. It is to be remembered that lawyers are among the very few professionals who are paying Value Added Tax (VAT) in this country. Other than people in the building industry like architects and, perhaps, accountants, most other professionals were exempted from paying VAT. But lawyers were not exempted although they sought exemption. Why then must the lawyer be overtaxed? Why must the lawyer be overtaxed when that farmer who has several cows and makes a lot of money from milk is not overtaxed; even when my colleague on the other side of the House harvests a bumper harvest he is not overtaxed for that bumper harvest. Lawyers should be looked at like other citizens in our society and should not be overburdened with extra levies.

I would also like to support the call by the previous speaker that the staff at the Kenya School of Law should be well remunerated. I do not agree that staff at the Attorney-General's Chambers are

**[Ms. Karua]**

poorer than staff at the universities. I think it is the question of the Government addressing the question of

professionals, not only in the legal profession but in this country. Do we really, as a country, value the services of our professionals? Are we rewarding them with competitive packages which will enable them to continue serving in public service and not to keep on leaving the service for greener pastures? I think the hon. Attorney-General knows better than I do that his Chambers has suffered from mass exodus of legal staff from it, so that it comes to a time when only one or two senior officers are left in an entire Department. The question to be addressed is: How do we retain professionals, people of quality, in the public service in this country? The only answer is that we must learn to appreciate services of professionals. We must adequately remunerate them. The other question that will arise is: Do we have the funds? Yes, we do have the funds and it is a question of what our priorities are. Is it buying an executive jet or providing better salaries for our professionals? Is it taking so many people on state trips and using up all our funds? If we really re-allocate our resources, we will find that we have enough money not only to pay the professionals but the entire Civil Service, so that the salaries our civil servants get can reflect the rising cost of living and make life comfortable for them.

Mr. Temporary Deputy Speaker, Sir, on discipline, which was touched on by the previous speaker, I know of no professional body in this country which has handled the discipline of its own professionals in a more transparent manner than the Law Society of Kenya (LSK). Offenders are published in the open minutes of the LSK and the public get to know how many lawyers and which one of them has been disciplined every year. We never get to know, for instance, whether any architect has been disciplined in any given year. We never get to know how many doctors have been disciplined. It seems that it becomes news when a lawyer is involved in a disciplinary matter. I would like to say that members of the legal profession are human beings. So, we will find among them, people with various shortcomings which we cannot laud and which we must, if they relate to honesty, condemn. This is adequately currently being dealt with by the Disciplinary Committee of the LSK, of which the chairman is none other than the Attorney-General himself. So, discipline has not been left entirely to the lawyers. The Government has a hand in it through the chairman of the Discipline Committee, the hon. Attorney-General. So, I would like to tell hon. Sunkuli, through the Chair, that discipline is a matter which is being handled jointly by the LSK and the Attorney-General's Office. If there are any shortcomings in that regard, they should be addressed to both the LSK and the Chairman of the Disciplinary Committee, the hon. Attorney-General. Even when non-practising members of the LSK are summoned by the Disciplinary Committee, it means that the hon. Attorney-General is aware of this fact, as the Chairman of the disciplining body.

Members of the public should also be aware that a complainant can file a complaint to the Disciplinary Committee under Section 60 of the relevant Act without going to the LSK. When litigants file complaints directly like this, people should not confuse these as complaints filed by the LSK, as has happened in the recent past. These are complaints that appear before the Committee and the Committee ought to be able to deal with them impartially. Nobody should have the fear that they will be victimised. With the Attorney-General sitting together with other members of the legal professional, we should be able to expect fairness and justice from this Committee.

I have said that my support for this Bill is partial. It is partial because it is subject to the various amendments that I have suggested. Otherwise, I would say that the Bill's intentions are good. But clause 15 should be deleted in its entirety and clause 6 should be expanded, so as to spell out specifically, the requirements that those sitting in judgement must have continuous legal education at agreed intervals. Also clause 3 should be amended to the extent that members of the council should be appointed by the LSK and representatives of the Government equally. A fifty to fifty situation is better. Finally, if any levy is necessary for the training of lawyers, it should be sought from the entire Kenyan community and not only from lawyers.

I would like to add that lawyers are already sacrificing a lot by having to train pupils in their chambers, when they are undergoing training at the Law School. Lawyers often have to create space even where they have limited space to absorb the large number of pupils that are coming, either from graduates who have been abroad or those who have been here locally. That is more than lawyers should be asked to do and, therefore, a levy on top of these voluntary services that we are giving should not be imposed on members of the legal profession.

Mr. Temporary Deputy Speaker, Sir, I would like to say that we are not saturated with lawyers as has been suggested. I have said in this House before that, until such a time as we are able to have the officer in charge of the crime desk in every police station as a trained lawyer to be able to assess cases that should not go to court and those which ought to go to court, and in which case, we shall reduce the backlog in court, we will continue to need more lawyers. I happen to have served as a magistrate and I know that more than 50 per cent of the criminal cases filed end up in acquittals. If we had trained people sieving through and only taking meritorious cases to court, the problem of backlog and overcrowding in remand prisons would be solved. How, therefore, can we say that the legal profession is saturated when we do not have trained personnel as legal

enforcement officers? Until such a time as we have prosecutors in all our courts in the country as trained lawyers, we cannot say that the legal profession is saturated.

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

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

When we have a professional person prosecuting, the prosecutor is able to assist the court more and also, he is able to quickly deal with the issues at hand. We are not assisting our courts enough. Until such a time as we have, attached to each judge of the High Court, a fully trained lawyer as an assistant to do research for the judge, we cannot say that the legal profession is saturated. Until such a time as we have a professionally trained lawyer in every office of the Provincial Administration, that is the PCs and the DCs, to advise them on procedural matters, we cannot say that we are saturated. If we had lawyers in the PCs' and DCs' offices, most of the frustrations currently being faced by Opposition Members of Parliament would not arise. They would, for instance, know that the powers under the Public Order Act are not meant to prevent Opposition Members of Parliament from meeting their constituents, but are merely meant to regulate such meetings and to maintain law and order. So, most of the problems that we have, including, backlog in cases and frustration of Opposition Members of Parliament arise because of ignorance of law. We need lawyers in all these departments.

Therefore, this Bill ought to be supported in that it seeks better training facilities for lawyers which we so much need in this country for the nurturing of a democratic society and enhancing the rule of law and democracy in this country. To this end, I call upon the Government to see the Law Society of Kenya (LSK) as a partner in the enhancing of democracy and the rule of law in this country, rather than an enemy. I call upon the hon. Attorney-General to impress upon the Government and to advise his colleagues on that side that the LSK, by virtue of section Four of the Law Society's Act, is a partner with the Government in the administration of the rule of law and justice in this country. The lawyers should be viewed as part and parcel of this country and of the citizenry in this country, and not as an enemy of the Government. They will, however, in discharge of their duties, continue to point out shortcomings. We have agreed that there are shortcomings in every profession and in both sides of the House, for that matter, but the Government side will always bear heavier responsibilities because they are in a position of power and of making decisions.

So, whenever the Government appears to condone corruption, it should expect criticism and censure from members of the society who include lawyers. When the Government appears to condone any ill in society, it should expect censure and, therefore, those in Government should not complain. They should, instead, be telling us how they hope to address the problems that are being pinpointed by lawyers and other members of the society.

Mr. Temporary Deputy Speaker, Sir, with those few points, I beg to support the Bill.

**The Minister for Information and Broadcasting** (Mr. Makau): Mr. Temporary Deputy Speaker, Sir, let me break this monotony of legal jargon and just contribute as a layman to this Bill. This Bill is timely in that, when you go past the Kenya School of Law, what you see there is a dilapidated building. When you look at the Memorandum of Objects and Reasons, it says that this problem has been caused by financial constraints. This is an institution that was started in 1963 and, up to now, no physical facility has been added. This fact does not speak well for a profession that is respected internationally, although sometimes, the members of that profession spoil it.

Mr. Temporary Deputy Speaker, Sir, one of the areas which I feel is important and crucial is that, while we have heard all the lawyers here talk about the question of lawyers and the buildings, none of them has touched on one very important part of the legal profession: The para legal staff. These are the people that the mwananchi sees, not the lawyers. These include clerks in the law firms and the process servers. These are people that, I feel, need to be offered seminars and legal education because most of the para legal staff are just picked by lawyers from anywhere. They are just put in offices and most of them do not even know the job they are supposed to do. The ones that I have in mind are, particularly, the process servers. Every now and then, you hear that you have been served, but nobody has ever served you. Even the bulk of the petitions in this country are full of complaints that nobody was served. So, these para legal staff need to be trained. There is need for seminars and for these staff to be taken for continuous training so as to understand a bit of law and to behave decently. Most of the time, they are an embarrassment.

Mr. Temporary Deputy Speaker, Sir, when you get a chance to visit the Kenya School of Law, you will note that the location of that institution is congested. If you happen to go inside, you find that you cannot match the type of professional who is being trained there and the facilities that are available. As the Attorney-General

says, it has become extremely impossible to promote this institution internationally, especially for those who would like to make the Kenya School of Law an institution like any other famous institution of law that can train students from outside countries. In clause 3, which is talking about members of the Council of Legal Education, we find that there is a provision for three members to be nominated by the Law Society of Kenya.

Mr. Temporary Deputy Speaker, Sir, with due respect to the Law Society of Kenya (LSK), I would like to say that there are times, although lawyers all over the world take themselves to be the custodian of human rights, some have gone beyond the limits of what they are supposed to do. We would like them to continue with checks and balances as the international lawyers believe that they are the custodian of human rights although sometimes they do not conform to what they pretend to protect. The LSK should adhere to its professional duties. We would like them to be professionals and desist from getting too much involved in politics. Many times, you will find that those who have been elected to head the LSK become politicians and forget the fact that they are professionals. We would like to appeal to them to concentrate more on the profession because they are professionals and leave politics alone. When I tell them to leave politics to the politicians, I am not saying that any member of the LSK or any lawyer who is a member should not be involved in politics. Those that have gone into politics can continue being in politics but many a times, you will find that those who are elected like for example, the chairman and other officials, concentrate more on the political side than on their professional side. Sometimes, when it comes to the discipline of lawyers, one wonders what happens. We passed an Act here, whereby there was a creation of a Complaints Commission because lawyers are always dealing with members of the public. The other day, we saw a very embarrassing situation in the corridors of the High Court where a woman grabbed a certain lawyer for conning her out of her Kshs 1.5 million. It was a total shame that a member of the law profession should get money and start avoiding the clients. There is a silent majority of people who have been conned by lawyers. There are many people who would like to grab such lawyers on the court corridors. This is why I am appealing to the Complaints Commission that was established to function because we have never heard of its work. When you think of the discipline of the lawyers this is an area that I would like to urge those who are in the legal profession to carry themselves in a dignified manner. When their clients entrust them with some work to do and they pay them, they should do their work. There are so many cases of lawyers who have been paid money by their clients but the clients cannot get services from them. There is one area that has been extremely embarrassing for these lawyers. When I say this, I know that many people who have been involved in accidents will understand what I am talking about. When one gets involved in an accident, there is some money paid by insurance companies and this is sometimes done through lawyers but unfortunately this money does not reach the victims.

So, I would like to appeal to the lawyers to maintain professional integrity. When we talk about this, we are not saying that all lawyers are bad but those who have been involved in these malpractices where clients have paid money through their law firms, they should desist from misusing it. One of the ways of maintaining integrity as a lawyer, and being able to be respected, is to make sure that any money that is in the clients account is not used for any other purpose. I would like to appeal to the lawyers in this country to make sure that their professional standards are maintained. The area that I talked about, that of clerks and generally that of para-legal staff should be funded. Those lawyers who are in practice should be able to pay a levy and some of the money that will come from this should be used for seminars, so as to make sure that the para-legal staff are trained because although we condemn and speak ill about lawyers, they are what we can call a necessary evil because no Member of Parliament can do without a lawyer. A lawyer is like a doctor. We would like to appeal to them to maintain professional standards and the standards of their Society, since this is a professional society that is governed by an Act of parliament. They should concentrate on their profession and leave politics to the politicians and when it comes to matters that they can advise, to continue doing so.

I hope that with the passing of this Bill, the Attorney-General will take the first step to look for a good site which would be in conformity with what we would like to see as a quality training institute. Lawyers who go for pupillage from the Kenya School of Law are a total shame. I would like to appeal to my friend, the Attorney-General to make sure that the Kenya School of Law is like any other School of Law that you can find anywhere in the world.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Mr. Ndotto): Mr. Murungi, let us hear your contribution.

**An hon. Member:** Kwani ni lawyers peke yao!

**Mr. Murungi:** This is a Bill for lawyers.

Thank you, Mr. Temporary Deputy Speaker, Sir. I am appealing to my colleagues to respect the Chair.

*(Laughter)*



First, I wish to thank the Attorney-General for bringing to this House, a Bill which is relevant to the legal Education in this country. This Bill comes at a time when the entire educational system of this country is in crisis.

Kenya and the Continent of Africa are faced with a prospect of intellectual recolonization by the West. Part of the reason is because as a result of the poverty or impoverishment partly caused by the Structural Adjustment Policy (SAPs), we have called our intellectuals to come from ivory towers and to face the realities of life.

We have said that professors should come down and know how difficult it is to live in this country. So, instead of spending all the time on academic research and other intellectual work, we have even law professors selling eggs for survival. Ministers might not know this but I meet professors often and this is what they are doing.

We have professors who are busy running kiosks instead of engaging in research. The quality of the intellectual products which are coming out of our institutions of higher education have gone down considerably.

If a multinational company like LONRHO or any other company wants to consult lawyers, it is no longer consulting local lawyers. They are consulting expatriate lawyers who might be based here or some imported directly from the United Kingdom or the United States of America because they no longer trust that our lawyers are equipped with the necessary skills for dealing with sophisticated business matters. It is high time that we looked afresh into the quality of our legal education and institutions that are providing that education. During the Colonial period, the British Government deliberately did not train any lawyers in this country because lawyers were considered to be trouble-makers.

Mr. Temporary Deputy Speaker, Sir, in 1963, Kenya was in an unfortunate situation for two lawyers, and those two lawyers had not gone abroad to study law. One of them had gone to study medicine, another one had gone to study economics. So, when I heard His Excellency the President saying that law students should not be eligible for bursary because we have too many lawyers, I thought he had that colonial influence; that we do not need to produce more "trouble makers" in this country. The statement---

**The Minister for labour and Manpower Development** (Mr. Masinde): On a point of order. Mr. Temporary Deputy Speaker, is the hon. Member in order to mislead the House by saying that His Excellency the President said that those going for law studies should not be given the bursary? I do not think he said that.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, I would advice the hon. Minister to be reading the Daily Nation every day because this information was in the Press and the President said those reading political science and those reading law should not be eligible for loans, because we have too many lawyers and we have too many political science students. So, I think---

**The Temporary Deputy Speaker** (Mr. Ndotto): Order! You have been asked whether it is true what you were saying and so, do not dismiss it. Could you deal with that point of order? Order! It is hon. Murungi, on the Floor.

**Mr. Murungi:** If I recall correctly, Sir, I read such a statement in the daily Press, and I am sharing with you honestly, what I think I read.

**Temporary Deputy Speaker** (Mr. Ndotto): Mr. Murungi, I think you should continue with the Bill. You know that you cannot use the name of the President as the authority. I want you to withdraw and proceed with your speech. You know it is out of order to do that, and I think the best thing is to withdraw and continue.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, the Standing Order, I think, it is number 72 or 73, does not say that we should not mention the name of the President. What it says is that we should not use the President as the authority.

**The Temporary Deputy Speaker** (Mr. Ndotto): Order! Hon. Murungi, I have said you withdraw and you proceed. I think you should not challenge the ruling.

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, I withdraw and apologize, and I wish to continue.

But, Mr. Temporary Deputy Speaker, Sir, I want to inform Kenyans that we do not have too many lawyers in this country. In the whole of North Eastern Province, we do not have a single lawyer, practising in North Eastern Province. We do not have a magistrate in Mandera. And all those police prosecutors should not be there because that is a job for lawyers. So, we have a lot of jobs for lawyers in this country and nobody should ever say that we have enough lawyers or political science students in this country.

I would also want to inform Kenyans that we are opening a new faculty of law in Moi University in Eldoret to train more lawyers in this country. Mr. Temporary Deputy Speaker, Sir, I had talked on the need for us to look at the content of Legal Education. When the Law Society was incorporated by an Act of Parliament in 1949, we were dealing with a completely different legal profession. The legal profession in 1949, in this country did not have a single African; it was composed of Indians and Europeans who had trained outside the country. Although there was great oppression, by the brutal colonial regime, there are very few lawyers who challenged the colonial system in this country. That situation of the Law Society, as a trade union for lawyers, which fought for

bread and butter issues for expatriate lawyers continued until 1970s, and I must congratulate the Attorney-General for this, when he (Attorney-General) and another lawyer called Mr. Lee Muthoga, spearheaded a campaign among African lawyers to take over the Law Society of Kenya.

The Attorney-General was the first African Chairman of the Law Society of Kenya in 1970, and he did an excellent job in introducing new concepts in the Law Society of Kenya, concepts based on human rights and democratization. And the Law Society of Kenya that you see today is the law society that was re-launched anew by the Attorney-General and Mr. Lee Muthoga.

The Law Society of Kenya, which is giving hon. Kamotho many sleepless nights, is this Law Society which is addressing issues pertinent to the Kenyans, which is addressing the oppression of Kenyans, which is addressing issues of democratization.

Mr. Temporary Deputy Speaker, Sir, we think, contrary to what the Assistant Minister, hon. Sunkuli has said, the Law Society is doing an excellent job. The Law Society is keeping the "fires of freedom" burning in this country, so that this country will never go back to colonialism, so that this country will never go back to the rule of oppression, whether by Black people or White people.

I am proud to be a member of Safina and I would like to assure the Minister that Safina is not interested in bringing back colonialism in this country. Safina wants to consolidate and increase the freedom in this country. We need more legal research.

**The Minister for Information and Broadcasting** (Mr. Makau): On a point of order, Mr. Temporary Deputy Speaker, Sir. My point of order here is that the hon. Member on the Floor said that he is very proud to be a member of Safina, if I heard him well. Can he substantiate that he is a member of Safina?

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, I think that was not a point of order and, as you know, hon. Makau was a great friend of mine when he was Chairman of the Social Democratic Party. I do not think there has been a change of heart. I was talking about legal research---

**The Minister for Information and Broadcasting** (Mr. Makau): On a point of order. Mr. Temporary Deputy Speaker, Sir, my point of order here is very clear. I am not ashamed of having been or founded that party and left it. We would like you to substantiate and tell us whether you are a member of Safina, because you have said that you are a member of Safina.

**The Temporary Deputy Speaker** (Mr. Ndotto): I do not think that is a valid point of order! Could you proceed.

**Mr. Murungi:** Thank you, Mr. Temporary Deputy Speaker, Sir. I was talking about legal research and, Mr. Makau already knows I am a founder member of Safina. So, I do not know what the big issue here is. There is "great legal illiteracy", even among lawyers in this country. There is great legal illiteracy among Judges, there is great legal illiteracy even among Magistrates and Policemen, and especially among Ministers.

**The Minister for Information and Broadcasting** (Mr. Makau): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Member in order to now talk about the illiteracy among Judges? Is he not violating Standing Order No. 74?

**The Temporary Deputy Speaker** (Mr. Ndotto): Order, by any chance, I might not have heard you well. Did you say what hon. Makau is questioning?

Mr. Temporary Deputy Speaker, Sir, I am trying to lay the basis that the Kenya School of Law is going to offer refresher courses even for judges and I am not out of order to say that there is great legal illiteracy even among judges. That is why they are always overruled in the Court of Appeal.

**The Temporary Deputy Speaker** (Mr. Ndotto): Order! Order! Did you say anything adverse about judges? Did you? "Legal illiteracy", did you say that? Withdraw and proceed!

**Mr. Murungi:** Mr. Temporary Deputy Speaker, Sir, because I want to proceed, I withdraw that.

**Mr. Ruhiu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I think, hon. Murungi is right and there is no need for him to withdraw because the Standing Order says that you cannot discuss a particular judicial officer but he is talking about judges in general and, therefore, he is in order.

**The Temporary Deputy Speaker** (Mr. Ndotto): Mr. Ruhiu, you are out of order. You are completely out of order, Mr. Ruhiu. Continue Mr. Murungi.

**Mr. Murungi:** Thank you, Mr. Temporary Deputy Speaker, Sir. One of the purposes of the

Council will be to organise courses for magistrates. It would be also organising courses for officers of Government, with a view to promoting better understanding of the law. What we are saying is that when this Bill will be passed, it will be possible to get judges to understand the law better. It would also be possible to get the magistrates to understand the law better. Maybe, the use of the term "legal illiteracy" is all that is causing

problems.

Mr. Temporary Deputy Speaker, Sir, there was a research conducted among lawyers, I think, about ten years ago and the findings of that research were as follows: It was trying to establish whether the lawyers read after they leave the law schools and according to the research, 75 percent of the European lawyers in this country did not read professional journals and magazines; 53 percent of the Asian lawyers did not also read professional journals and magazines, so they were not able to update their professional knowledge or catch up with the development, in the law. It also indicated that 60 percent of African lawyers did not read professional journals and magazines. The research was conducted by somebody called C. J. Diaz and others. It was carried out in the context of all the lawyers in the Third World. So, it will be very good when this Bill is passed into law because it will be possible to bring lawyers back to school because I have met lawyers in the corridors of the High Court, carrying the Civil Procedure Code of 1948 without knowing that it has been amended so many times, up to 1989.

Mr. Temporary Deputy Speaker, Sir, we have many lawyers who are practising upcountry who do not even know the new laws which Parliament has passed and it would be important to bring them to the Law School occasionally, so that they are briefed on the new laws which have been passed in Parliament and the implications of these laws. So, when we say that there is a considerable amount of legal illiteracy even among lawyers, we mean it and the lawyers themselves know it. So, it is only some of the MPs here who would challenge that. The lawyers would not. I taught at the Kenya School of Law in the year 1979, and I can speak from my own knowledge of the institution. The Kenya School of Law used to be an old people's home. European women who were about to die were the ones who were housed at the Kenya School of Law; at those old buildings were built in 1930. We were spending our time in an old dilapidated leaking building which was not regularly painted; with cracking walls and all that.

Mr. Temporary Deputy Speaker Sir, hon. Mulusya is informing me that even Sheria House is leaking and files are getting destroyed. We hope the Safina file was not destroyed. To date in the 1990s, the Kenya School of Law, although it sits on prime property, it is still a dilapidated, shameful and an embarrassing institution. The Attorney-General said that of the ten positions in the school, only one position has been filled, that of the principal. I am qualified to go and teach at that school but I cannot accept a job there today because of the filth and the dirt in which the students are being taught. I think there has been a recommendation, and which we support, that the current premises of the Kenya School of Law be sold to a private developer, so that he can put up either a hotel or a high-cost building in that prime land and from the money we will make from the sale of the Kenya School of law and the building, we acquire some good land slightly outside the city and we ask the same contractor to put up for us modern buildings in a beautiful environment in which students, judges and magistrates can study law.

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

**Mr. Murungi:** Let me proceed Mr. Mulusya!. We think if the Attorney-General considers this, we already have capital to start the law school of our dreams. Also having taught at the school, we were greatly disappointed by the course contents. At the school, what was new there was civil procedure which is now taught at the University of Nairobi. There was also Criminal Procedure which is also taught at the University of Nairobi, and we were also learning accounts up to Trial balance which hon. Sunkuli was complaining about. Those were not difficult accounts but book keeping. It was not even accounts; but elementary book keeping for lawyers.

Mr. Temporary Deputy Speaker, Sir, unfortunately, some lawyers kept repeating the bookkeeping course for six years. So we had recommended that since there is a Faculty of Commerce at the University of Nairobi, the bookkeeping course can also be taught to first year law students at the University so that they do not have to waste time at the school of law. We had other subjects and the school was supposed to be a practical training institution; teaching lawyers practical law skills but my experience at the school was that, it was not a practical training institution but it was another theoretical institution which was offering students a mediocre low class academic course after the university.

I think it is important that we look at those courses again. We are sending students to India where they get poor training and then we come and give them further poor training at the Kenya School of Law and it is no wonder that they turn out to be poor lawyers in the court corridors. So, I would like to urge the Attorney-General to follow what the former Attorney-General, Mr. Charles Njonjo said.

He said that law is a very important profession and lawyers should not be produced like instant coffee. I also happen to have gone to a law school abroad; one of the best universities in the world called Harvard and at Harvard, I was able to compare the content of the law school there and the content of the law school here and we were learning practical skills, taking instructions from clients, negotiations, arbitration, litigation, cross-examination, trial techniques and so on.

I urge the Attorney-General to send the principal of the Kenya School of law to visit some law

schools abroad, so that he can see what law techniques the lawyers there are taught.

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr.Ndotto): Hon, Members it is now time for the interruption of the business and the House is, therefore, adjourned until tomorrow Wednesday, 22nd, November, at 9.00 a.m.

The House rose at 6.30 p.m.