

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 2nd October, 1997

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

DEATH OF HON. MUTERE

Mr. Speaker: Hon. Members, it is with great regret that I announce the sudden death of a dear friend and colleague, Mr. John Peter Omuko Mutere, the Member for Makadara Constituency, who passed away suddenly, last night. The hon. John Mutere was here with us yesterday doing his normal Parliamentary duties and attending to Parliamentarians SACCO Society business till late in the evening. His sudden demise is, indeed, a great shock to all of us.

The late John Mutere was born on 2nd April, 1943. He was educated in various schools in Nairobi before proceeding to St. George's College, Uganda, Rapid Results College, London, Portsmouth College, South East England, and University of Helsinki, Finland, where he studied Business Management, Management Accountancy and Consumer Co-operative Management, among other disciplines.

He was employed as a Shipping Accounts Public Relations Officer at Mitchell Cotts East Africa Limited, in 1964. He later worked in the Department of co-operative Development as a Co-operative officer. Between 1970 to 1978 he was employed as the Industrial Relations Manager at the Firestone East Africa. He later resigned to go into private business.

The late John Mutere went into politics in 1974 when he became a councillor in the Nairobi City Council. He made his debut to Parliament in 1992 when he was elected as the Member for Makadara Constituency.

During his stint, he served in the Privileges Committee and was elected Chairman of the Public Investments Committee in 1996. He was also the Chairman of the Parliamentarians SACCO Society.

He leaves behind two widows, 11 children and four grand children. Those who knew the late John Mutere will always remember him for his commitment to duty and his dedication to serving his people.

On behalf of all of us, and on my own behalf, I convey our most heart-felt condolences to the bereaved family, constituents and friends of the late John Mutere.

May the Almighty God rest his soul in eternal peace.

Hon. Members, let us in our usual tradition, rise and observe a few moments of silence in honour of our departed colleague.

(Hon. Members stood for one minute in silence)

Mr. Speaker: Thank you!

ORAL ANSWERS TO QUESTIONS

Question No.292

CAUSES OF DECLINE IN POPULATION GROWTH IN NYANZA

Dr. Otieno-Kopiyo asked the Minister for Planning and National Development:-

(a) what the causes of the decline in population growth of residents of Siaya, Kisumu, Homa Bay and Migori districts in Nyanza Province between 1979 and 1989 were; and,

(b) what steps the Government is taking to stem the decline.

The Assistant Minister for Planning and National Development (Mr. Nooru): Mr. Speaker, Sir, I beg to reply.

(a) The observed apparent trend of declining population growth rate of the residents of Siaya, Kisumu, Homa Bay, Rachuonyo and Migori districts of Nyanza Province between 1979 and 1989 is not unique to the province alone. This trend was observed in several districts in other provinces, mainly Western, Eastern, Central, North-Eastern and at the national level. This apparent trend of declining population growth rate can be attributed to the combination of the following factors:-

(1) Out-migration of the population to other parts of the country in search of better employment opportunities in urban centres and areas of high agricultural potential such as Nairobi, Coast and Rift-Valley Provinces.

(2) The effectiveness of the Government's population management policy measures which have been in force since 1980s.

(3) The declining fertility levels as more families faced with current social economic realities choose to have families with fewer members who they are capable of supporting.

(b) The Government policy on population clearly demonstrates the need for households to have manageable families which can withstand the shocks associated with the restructuring of the economy.

The Government is committed to pursue this policy and other policies geared towards the improvement of the living standards of the people. As such, it is expected that the population growth rate will decline further from the rates observed during the 1989 census as more people, particularly the poor, become aware of the dangers of having large families.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, following that answer from the Assistant Minister, could he agree with me that some of the causes of the decline in population in Nyanza Province are poverty and economic neglect?

Mr. Nooru: Mr. Speaker, Sir, this trend is not only confined to Nyanza as such. As I mentioned earlier on, it has affected several provinces including my own North Eastern Province. The problem of poverty affects the whole country and not just Nyanza Province. This decline in population is as a result of policies formulated by the Government from time to time.

Mr. Mak'Onyango: Mr. Speaker, Sir, arising from the answer given by the Assistant Minister, would he deny or confirm the fact that due to negligence, we have a situation in Nyanza Province, where the number of people dying far exceeds those who are being born? What is the Government doing to, at least, arrest the situation?

Mr. Noor: Mr. Speaker, Sir, the Government's policy on family planning campaign has ever been very clear. The purpose has been to manage the population of this country and reduce fertility rate. Reduction in mortality rate is the policy which this Government has ever been undertaking.

Mr. Mak'Onyango: On a point of order, Mr. Speaker, Sir. The Assistant Minister is evading answering a straight forward supplementary question I raised. I have told him that the situation in Nyanza Province, as I know it today, is such that the number of people who are dying far exceeds those who are being born. It is a dangerous situation that needs to be addressed here and now. He is talking about family planning. Would family planning help to arrest that situation?

Mr. Noor: Mr. Speaker, Sir, this Government has been fully committed right from the beginning to eliminate poverty and diseases among its populace not only in Nyanza Province, but in the entire country. This trend has been changing from time to time. Between 1969 and 1959, we were growing at a rate of 3.3 per cent while between 1969 and 1979, the growth rate was 3.8 per cent. We have declined to 3.6 per cent. This is a national phenomenon and not an issue that is affecting Nyanza Province alone.

Mr. Farah: Mr. Speaker, Sir, despite the fact that our population growth has declined from 3.9 per cent to 3.6, there is still a growth, although a negative growth. The negative growth is occasioned by among other things, diseases that are killing adults as opposed to children who are being born. What is the Government doing to arrest the situation of people dying from cholera, AIDS, Malaria and other diseases in Nyanza Province?

Mr. Noor: Mr. Speaker, Sir, maybe, the number of people who die in Nyanza Province are more than those who are born. The hon. Member has a responsibility to educate the people to live above their cultural values and avoid wife or husband inheritance. He should tell them to discard such traditions and seek medical assistance from hospitals.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, the Assistant Minister should realise that the Luos are leading in population in this country because we marry many wives. Be that as it may, how does he explain this apparent contradiction where in Nyanza Province, the population is declining, while in other parts of the country, like Rift Valley Province, the population is increasing? When he says that it is a natural phenomenon, how is it that it is only affecting Nyanza, Western and North Eastern Provinces, and not Rift Valley Province?

Mr. Noor: Mr. Speaker, Sir, I have mentioned the economical factor, the potentiality of the area and the immigration from rural to urban areas as the main factors affecting population growth. Although, Nyanza Province has the highest fertility rate, it has also the highest percentage of AIDS cases.

Mr. Speaker: Next Question, Dr. Kituyi.

Question No.522

CONSTRUCTION OF KIBABII TEACHERS' COLLEGE

Dr. Kituyi asked the Minister for Education why the Government is building a new primary school teachers' college at Kibabii in Bungoma District.

Mr. Speaker: Is anyone here from the Ministry of Education?

Hon. Members: They are on strike! The teachers sent him home!

(Laughter)

Mr. Speaker: We will revisit that Question later. Next Question, Mr. Sankori.

Question No.258

TARMACKING OF EMALI-LOITOKITOK ROAD

Mr. Sankori asked the Minister for Public Works and Housing when the Loitokitok-Emali Road, which was allocated funds in the 1990/1991 financial year, will be tarmacked.

The Minister for Public Works and Housing (Prof. Ng'eno): Mr. Speaker, Sir, I beg to reply.

The Loitokitok-Emali Road will be tarmacked when funds become available. However, to date, feasibility study and detailed design for the road has been completed at a cost of Kshs8,773,240.00. This road is 100 kilometres long and will cost approximately Kshs1.5 billion at current prices.

Action has been initiated to solicit funding from a donor, but discussions are on-going.

Mr. Sankori: Mr. Speaker, Sir, it is just unfortunate that the Minister has to bring a chorus to this House of, "when funds become available". Be that as it may, when was the feasibility study done and what will happen to the GOK component of Kshs50 million that was budgeted for this road this year?

Prof. Ng'eno: Mr. Speaker, Sir, the feasibility study was started in 1987, but the detailed one was done in 1993. The GOK component is there to show that if the donor gives us the money, we will not run into the problem of not having the local component, which is usually required.

Mr. Leshore: Mr. Speaker, Sir, I would like to the Minister to tell us why it is that roads leading to Masaai inhabited districts in Rift Valley Province are the only ones which are not tarmacked in the Province, yet roads leading to Kalenjin inhabited areas in Rift Valley Province are tarmacked?

Prof. Ng'eno: Well, I do not think that the hon. Member can substantiate those allegations, Mr. Speaker, Sir. Roads leading to Kalenjin inhabited areas are even worse. That is why Bishop Tanui has been complaining about the Londiani-Fort Ternan Road which should have been tarmacked long ago, but it has not. It is not true that roads leading to Masaai inhabited areas are not given attention. They are given attention. When the money becomes available, they will be tarmacked.

Mr. Sankori: On a point of order, Mr. Speaker, Sir. There are four roads that come up to Narok, Trans Mara border, Kajiado and Samburu and they are not tarmacked. I can mention them, if the Minister deems it fit, although he knows them. Are we allergic to tarmac?

Prof. Ng'eno: Mr. Speaker, Sir, that is not true because the road from Mulot to Narok is in Masaailand. The road from Nakuru through Mau Narok to Narok is in Masaailand. So, it is not true.

Mr. Sambu: On a point of order, Mr. Speaker, Sir. Hon. Leshore should substantiate the allegation that the roads leading to Kalenjin inhabited areas are tarmacked. I come from the heart of the so-called Kalenjin inhabited areas; Nandi District, but not a single road in Nandi District has been tarmacked since the Kenyatta era.

Mr. Speaker: Order! Order! I think I must bring to an end this "Kalenjin-Masaai war". So, can we come back to reason?

Mr. Farah: On a point of order, Mr. Speaker, Sir. It is not a "Kalenjin-Masaai war", but the fact of the matter is that the Masaais are junior partners in this thing and have never had any development in their areas. The

Kalenjins, except the Nandis, have had development. So, we are talking about resources and not war between tribes.

(Laughter)

Mr. Speaker: Order, Mr. Farah! You are now adding a Somali factor, making it worse! Next Question, Mr. Ruhii.

Mr. Sankori: Now the Minister has just told this House that action is to be initiated to solicit funds. Could he tell us from where and how far the negotiations have gone?

Prof. Ng'eno: We are holding discussions with ADB and the negotiations are going on right now.

Mr. Ndicho: n a point of order, Mr. Speaker, Sir. The Minister has deliberately misled this House. We know that during the 1996/97 Fiscal Year, the Government received Kshs175 billion. We have received some information from the Treasury [**Mr. Ndicho**]

that all roads in Kenya could be tarmacked, all children in this country could be educated without paying and we end up with a balance of Kshs35 billion. When you are telling us "when funds become available," What do you mean? what are you doing with the Kshs175 billion? It is there!

Prof. Ng'eno: Mr. Speaker, Sir, I am very sorry that an hon. Member can actually show his great ignorance on this matter concerning finance. Kshs175 billion is the total Budget of Kenya, it cannot go to roads only.

Mr. Speaker: Next Question, hon. Henry Ruhii!

Question No.437

ALLOCATION OF LAND TO CANAN RESIDENTS

Mr. Ruhii asked the Minister for Local Government;

(a) whether he is aware that a portion of land known as Canan (C) in Dandora Phase Five(5) has been illegally allocated and fenced off by some people, ostensibly for the National Youth Development;

(b) whether he is further aware that this land has already been allocated to the poor people of Canan Village who could not be accommodated within Canan during the current upgrading exercise; and,

(c) if the answers to "a" and "b" above are in the affirmative, whether he could direct that this illegal allocation be cancelled and the fence demolished to give way for allottees to be shown their plots by the City Council.

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

(a) The land referred to as Canan in Dandora belongs to the City Council and it is true that it was illegally fenced off by some people led by one of the local leaders in Dandora Area ostensibly for the National Youth Development.

(b) It is correct that land had been planned and allocated to some people who could not be accommodated within Canan proper during the current upgrading exercise.

(c) I have directed the Nairobi City Council to ensure that the said plot is retained by the Council for the people who could not be accommodated within Canan proper. I have further directed that the illegal fence should be removed.

Mr. Ruhii: Mr. Speaker, Sir, I do not have any supplementary question other than to thank the Assistant Minister for Local Government.

Mr. Speaker: Next Question! Hon. Munyasia!

Question No.509

EXPANSION OF WATER SCHEMES

Mr. Munyasia asked the Minister for Land Reclamation, Regional and Water Development:

(a) what steps he is taking to improve the treatment works at the Kibichori, Bokoli and Chesikaki water schemes; and

(b) whether he could consider expanding these water schemes as recommended by the Bungoma District Development Committee.

The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Ligale):Mr. Speaker, Sir, I beg to reply.

(a) My Ministry is taking the following measures to improve the treatment works at the Kibichori, Bokoli and Chesikaki water schemes. With regard to the Old Kibichori Water Supply, we shall construct two additional composite treatment units at an estimated cost of Kshs600,000 in order to increase the output capacity of the scheme from 480 to 960 cubic metres of water per day. On Kibichori/Bokoli Water Supply, two measures are planned for the supply as follows:- The short term Measure is to improve the quality of water by replacing the filter media, back wash pump and chemical dosing units at an estimated cost of Kshs900,000. Our long term measure is to construct an additional treatment plant with an output capacity of 2,500 cubic metres per day. The treatment works, together with laying of distribution pipelines and construction of additional tanks are estimated to cost Kshs23.7 million. On Chesikaki Water Supply, the intention is to expand treatment work and intake and upgrade gravity rising main all at an estimated cost of Kshs 11 million. Meanwhile, the newly completed Lwandanyi/Lwakhakha Water Supply is expected to ease demand on Chesikaki Water Supply in Sirisia Division and the neighbouring Cheptais Division in Mt. Elgon District.

(b) My Ministry will consider extending these water schemes as recommended by the Bungoma District Development Committee when the proposed rehabilitation works are completed in order to produce sufficient water for supply to the proposed additional areas.

Mr. Munyasia: Mr. Speaker, Sir, could the Assistant Minister tell the House why he has given up treating the water in these schemes named in the Question? This is because the water that these schemes give, if it is not milky at certain times of the year, it is muddy and sometimes you see even small snakes passing through the pipes. What I want this Assistant Minister to tell the House is why he has given up treating the water before it reaches the consumer, because nothing is being done now.

Mr. Ligale: Mr. Speaker, Sir, we have not given up treating the water. The officers on the ground are expected to ensure that the water is treated. But if there are incidents of untreated water going through, I shall certainly look into that.

Mr. Nthenge: Mr. Speaker, Sir, could the Assistant Minister, since he has been informed by the Member from the area that the water is not being treated although the Ministry has been informed that the water is being treated--- could he send CID officers to investigate because some people might be selling the chemicals?

Mr. Ligale: I do not require CID officers to do that, Mr. Speaker, Sir, because I have given an undertaking that I will investigate this matter further.

Mr. Busolo: Mr. Speaker, Sir, it is very interesting that whenever this Assistant Minister answers Questions, he uses very flowery language; his officers write very good answers, but what I want to tell this Assistant Minister, is that he does not seem to know what is going on on the ground. Bokoli, for instance, is my home location, Kibichori is my neighbouring location, Chesikaki is also a neighbouring location. The answer the Assistant Minister was given is false. There is no truth in it because the officers have lied to him and he should not rely on those officers because even for the three years I have asked Questions to do with this Ministry I have received flowery answers without any substance. They have nothing to do with the what is happening on the ground. I want to ask the Assistant Minister to actually go back to the field officers and check whether what they write is actually what is happening on the ground. Otherwise there is nothing going on. Are you aware that the answer you have been given is false?

Mr. Ligale: Mr. Speaker, Sir, I am not aware that I have been given a false answer. No, I am not aware of that, I have informed hon. Munyasia, that I will certainly investigate this aspect of treatment.

Mr. Munyasia: On a point of order, Mr. Speaker, Sir, I am encouraged by the Assistant Minister's answer that there are plans to expand these schemes. Could he indicate when these plans are going to be put into effect? Have they been included in this Financial Year or are they going to wait until a FORD(K) Government comes into power year?

Mr. Ligale: Mr. Speaker, Sir, I do not know about any other Government coming into power. This Government will ensure that those plans are implemented. The short term ones will be implemented during the current Financial Year, the long term ones may take two or three years.

Mr. Speaker: Next Question! Mr. Immanuel Immana!

Question No.643

STOPPAGE OF MR. LOKOR'S SALARY

Mr. Speaker: Is Mr. Immana not in? Next Question!

Question No.587

PAYMENT OF SALARY ARREARS TO MR. ASIMETO

Mr. Speaker: Is there anybody from the Ministry of Environment and Natural Resources? We will come back to that Question. Next Question, Dr. Lwali-Oyondi!

*Question No.560*IRREGULAR DISPOSAL OF PROPERTY BY
RIFT VALLEY INSTITUTE OF TECHNOLOGY

Dr. Lwali-Oyondi asked the Minister for Research, Technical Training and Technology:-

- (a) whether he is aware that many of the items such as computers, ploughs and tractors donated to the Rift Valley Institute of Science and Technology are irregularly being disposed of by the management;
- (b) whether he is further aware that money paid by farmers when they hire the institute's combine harvester is not paid into the institute's account; and,
- (c) if the answers to "a" and "b" above are in the affirmative, what remedial measures he is taking to correct these anomalies.

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): Mr. Speaker, Sir, I beg to give the following reply.

- (a) I am not aware that the equipment, herein listed are being misappropriated.
- (b) The money collected from the use of the combine harvester owned by the institute has been banked in the institute's account in Nakuru.
- (c) It is illegal to misappropriate public facilities and if anybody is found doing this anywhere in the country, he should know that this is illegal and punishable.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, it is possible that the Assistant Minister is not well informed about what is happening in the Rift Valley Institute of Science and Technology, which was built with public funds through Harambee both during the late Mzee Jomo Kenyatta's time and during President Moi's time. Some items, for instance leister engines, cars and many other equipment have been taken away. I had a list of those items, but I forgot to carry it with me. In addition to that, 2,000 acres of land belonging to the institute has been grabbed by some people. I brought the document here and it is with the Assistant Minister for Research, Technical Training and Technology.

In view of this, could the Minister visit that institute to verify what I am saying? This college is very important to the people of the Rift Valley and Kenya as a whole. At the moment, people are meeting at the Nakuru Show ground, led by the Mayor of Nakuru Town, planning how to buy the rest of the farm. They have sub-divided it and they want to buy it. Could the Assistant Minister take steps, so that this very corrupt move to acquire the institute's land is not effected and that it is saved for the betterment of Kenyans?

Mr. Kagwima: Mr. Speaker, Sir, I want to assure hon. Dr. Lwali-Oyondi that the Ministry will take every step to protect the facilities that are there in that institution and also to protect properties owned by other public institutions in the country. I also want to undertake to check whether anybody has taken the items which the hon. Member has mentioned and we will take appropriate action. I would appreciate if that list was here to be used as a guidance by the Ministry.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, I am grateful for the assurance given by the Assistant Minister. But we have been assured every time we raise this issue, but the grabbers get away with it. Could the Assistant Minister explain why the Principal of that college has been moved after I asked a Question about land-grabbing here?

Mr. Kagwima: Mr. Speaker, Sir, that is not part of this Question but I am not sure whether the hon. Member would want the principal back or he is happy that he has been moved.

*Question No.625*NON-REMITTANCE OF FUNDS TO NEW
MIWANI SACCO SOCIETY

Mr. Speaker: Mr. Raila is not here? We will now go back to the Questions that had been stood over. Mr. Imana for the second time! I am sorry, I mean Dr. Kituyi's Question for the second time.

Dr. Kituyi: I wish to thank hon. Munyi for being here during Question Time. However, I beg to ask Question No.522 for the second time.

Question No.522

CONSTRUCTION OF KIBABII TEACHERS COLLEGE

Dr. Kituyi asked the Minister for Education why the Government is building a new primary school teacher's college at Kibabii in Bungoma District.

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

(a) The construction of a primary teacher's college at Kibabii in Bungoma was found necessary because of the following five reasons:

(i) The college is an old development project in Bungoma District in which the Government committed itself, through a 1993 agreement with the African Development Bank.

(ii) In support of the project, the local leaders and community identified the site and provided land for the college.

(iii) It is among the three additional colleges, namely: Kibabii, Kitui and Voi which are being constructed, to provide teacher training and development centres. Such teachers colleges are used by my Ministry for improving teacher quality through quality pre-service and in-service training. Even trained teachers do require additional skills through improvement by courses.

(iv) The new colleges were intended to help de-congest some 15 of the 21 already existing primary teachers colleges whose facilities and services were overstretched.

(v) We still require the new teachers colleges to strengthen the life-long education centres for intended expanded distance education for teachers' improvement. There are over 200,000 teachers and we expect that by the year 2000, there will be 210,000 teachers who will require this service.

Dr. Kituyi: Mr. Speaker, Sir, Kibabii Teachers' Training College was requested for and approved for construction in 1979. Since then, the Government has constructed seven new teachers' training colleges. The Government has installed over-capacity of 3,000 teachers. Today, the Government is talking of demobilising over 85,000 teachers who are a surplus over the number of teachers which the Government can afford to sustain. If the Government is demobilising 85,000 teachers, we have already over-installed the capacity in existing teachers colleges and we also know that short-term training for teachers is possible at development centres which are not necessarily attached to teachers training colleges.

Why do you find it necessary to waste taxpayers' money to do what you have been doing in Kisii-Chemosit Road. The construction starts in the run-up to an election and it stops after an election. When there is a by-election, work starts again. That has been happening since 1979. Could he tell this House why it is necessary for the Government, when the objective conditions have changed; instead of building something that has direct bearing to the needs of the country today, to build a primary school teachers' college in Bungoma?

Mr. Komora: Mr. Speaker, Sir, I have already replied adequately to the Question of the hon. Member. The education situation in the world is changing so fast that, we may not even know whether what we have built is enough. With the changing circumstances, I have no doubt that the Kenya Government will need these facilities.

Mr. Munyasia: Mr. Speaker, Sir, is this Assistant Minister aware that the construction of Kibabii Teachers' College has stalled after the offices and stores had been completed? The trucks that had been put on the site have now been withdrawn and no foundation has been dug for that particular college?

Mr. Komora: Mr. Speaker, Sir, I am aware of the delays and action is being taken, to rectify the situation by ensuring that construction starts immediately.

Mr. Magwaga: Can the Assistant Minister tell the House what the policy of the Ministry of Education is? He had already told this House that teachers who graduated from private teachers colleges could not find places in the present system and now, the Government is building a new college. Are the students who are going to graduate from these colleges going to be absorbed by the Government?

Mr. Komora: Mr. Speaker, Sir, in the five reasons I have given we take care of all the trained personnel from Government teachers colleges.

Dr. Kituyi: Mr. Speaker, Sir, it is painful that the Assistant Minister does not seem to understand the questions we are asking because what he purports to be offering us as a reply here, has no bearing to the questions we are asking him. The best continuing training institution for primary teachers in this country, is a teacher-empowerment centre outside Lodwar Town in Turkana District. It is not a TTC and it costs much less to either

build such a vocational training centre as it is outside Lodwar in Turkana District or to complete existing training facilities like Mabanga Training Centre in Bungoma, for purposes of short term training of teachers and other community-based training needs. Could the Assistant Minister tell this House why a Ministry which has no money to pay teachers is trying to demobilise some of the teachers? Why is the Ministry wasting money building a brand Primary School Teachers college, albeit only working on it during the election time, when there is a facility that can be completed with much less money for the purposes of short-term training of teachers? Let him not tell us that he has answered this Question here because he has not.

Mr. Komora: Mr. Speaker, Sir, this exercise the hon. Member has referred to, started a very long time ago and its implementation is being done in relation to studies that have been made into the requirements of this country and construction will continue.

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

Mr. Speaker: Sorry! Sorry! We have to move ahead. Mr. Imana's Question for the Second Time.

Question No.643

STOPPAGE OF MR. LOKOR'S SALARY

Mr. Speaker: Mr. Imana still not here? The Question is dropped. For the second time, Mr. Magwaga's Question.

(Question dropped)

Question No.587

PAYMENT OF SALARY ARREARS FOR MR. ASIMETO

Mr. Magwaga asked the Minister for Environment and Natural Resources:-

- (a) whether he is aware that Mr. Harrison M. Asimeto, who was posted to Kakamega Forest Station on 18th April, 1995, as a Forest Assistant III, has not been paid his salary; and,
- (b) if the answer to "a" above is in the affirmative, when Mr. Asimeto will be paid his salary and accrued arrears.

Mr. Speaker: Where is the Minister for Environment and Natural Resources?

An hon. Member: Not here yet!

Mr. Speaker: I am afraid, we have to defer your Question Mr. Magwaga.

Mr. Magwaga: On a point of order, Mr. Speaker, Sir. When will this Question be answered?

Mr. Speaker: I will defer it to next week.

(Question deferred)

Mr. Mbeo: On a point of order, Mr. Speaker, Sir. I was given authority to ask Question No.625.

Question No.625

NON-REMITTANCE OF FUNDS TO NEW
MIWANI SACCO SOCIETY

Mr. Mbeo, on behalf of **Mr. Raila**, asked the Minister for Co-operative Development:-

- (a) whether he is aware that Miwani Sugar Company is withholding Kshs1.4 million belonging to New Miwani Sacco Society; and,
- (b) if the answer to "a" above is in the affirmative, whether he could take urgent measures to ensure that the money is remitted to the society.

The Minister for Co-operative Development (Mr. Munyi): Mr. Speaker, Sir, I beg to excuse him because he was not in when I was ready to answer that Question.

(a) I am aware that the Miwani Sugar Company is holding Kshs1.4 million for New Miwani Sacco Society.

(b) We have already made arrangements for the money to be paid as follows:- May, 1997, Kshs200,000; June, 1997, Kshs226,622; and in July, 1997, Kshs267,917 will be paid. The remaining balance will be paid in similar

instalments.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Of course we are used to certain drama from this ebullient hon. Minister but you heard as well as I did, that in June, 1997, there will be some payments and in July, 1997, there will be some other payment. Does this Minister understand June and July, 1997 to be somewhere in the future.

Mr. Speaker: Has it been paid or will it be paid?

Mr. Munyi: It has already been paid, Mr. Speaker, Sir.

Mr. Mbeo: Thank you, Mr. Speaker, Sir. I am wondering whether the Minister is aware that Miwani Sugar Company was sold at Kshs400 million and that payment supposedly made to the Government and not even a single penny reached the coffers of the Government. Could the Minister tell this House why there has been a delay in paying back Kshs1.4 million? After explaining that, could he also tell us when exactly, the balance of the money will be paid to that Sacco Society?

Mr. Munyi: Mr. Speaker, Sir, I am not dealing with the sale of Miwani Sugar Factory. I am dealing with the Sacco and the payments. I have already said that the balance, will be paid.

Mr. Onyango: Mr. Speaker, Sir, is the Minister in order to avoid answering the Question? He was asked to explain why Kshs1.4 million has not been paid. Why was there a delay and when will the balance be paid?

Mr. Munyi: Mr. Speaker, Sir, the money was paid following my intervention. I am the one who told them to pay.

Dr. Kituyi: Mr. Speaker, Sir, in his written reply, the Minister said that today, the second day of October, 1997, he is aware that there is Kshs1.4 million which belongs to the Sacco Society and which is held by the Miwani Sugar Company, and then he gave us dates when they will pay and later on said that they actually paid. Now could he tell us if they paid on those dates, are they holding Kshs1.4 million or the balance Kshs1.4 million because both of his answers cannot be correct? Either they owe Kshs1.4 million or they owed Kshs1.4 million before they started paying. Which one is correct?

Mr. Munyi: Mr. Speaker, Sir, I have already explained that out of the Kshs1.4 million, half of it has been paid. What is remaining is only half of that amount.

Mr. Mak'Onyango: Mr. Speaker, Sir, arising from this somewhat unfortunate reply, the Minister says that here is a situation where this money was deducted for the purposes of this particular Sacco Society. This is money that should have been in the kitty of the company. Why has the Minister allowed the company to trade with the society's money and why can Minister not order them to pay the whole sum at once? It is money already deducted. The money should be there?

Mr. Munyi: Mr. Speaker, Sir, the hon. Member is trying to say something which does not arise. I have already said that the amount which was given has been paid and I will see to it that the balance is paid.

QUESTIONS BY PRIVATE NOTICE

DEDUCTIONS FROM CHIEFS SALARIES

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

(a) Is the Minister aware that between July 1995 and June 1997, all chiefs and assistant chiefs in Nandi District had their monthly salaries deducted at source?

(b) If the answer to "a" above is in the affirmative, could the Minister explain what the deductions were meant for since the employees concerned did not authorise the Ministry to deduct the said money?

(c) Could the Minister urgently refund the money to the employees?

Mr. Speaker: Any Minister from the Office of the President?

An hon. Member: There is none!

Mr. Speaker: If there is nobody, I will defer the Question to next week.

(Question deferred)

ARREST AND DEATH OF MAMA MANG'ERA

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

(a) Is the Minister aware that on Friday, 19th September, 1997, three Administration Policemen from

Gachuba Chiefs Camp in Kitutu Masaba arrested Mama Prisca Bonareri Mang'era and tortured here until she became unconscious?

(b) Is he further aware that Mama Prisca Bonareri Mang'era was admitted to Kisii District Hospital while still unconscious and died on Sunday, 21st September, 1997?

(c) If the answers to "a" and "b" above are in the affirmative, could the Minister make a comprehensive statement (including a postmortem report) on the circumstances in which Mama Prisca Bonareri Mang'era was arrested, tortured and died and the measures taken against the officers involved in this brutal murder?

Mr. Speaker: It appears that it will suffer the same fate. Anybody here from Office of the President? I am afraid, there is nobody.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. Earlier on, I met hon. Moody Awori out there and I asked him whether he is going to answer my Question and he said that he was prepared to answer it. It is very surprising now that none of the Ministers from the Office of the President is here. This appears like a deliberate conspiracy to undermine the House. Here is a case where a Kenyan and an elderly mother, for that matter has been killed by Government officers and yet the Government is absent. What can we do?

Mr. Maundu: On a point of order, Mr. Speaker, Sir. When you said Office of the President, did you mean any Minister from the Office of the President because I can see hon. Manga here or has he been temporarily sacked?

Mr. Speaker: Mr. Manga, are you present?

The Assistant Minister, Office of the President (Mr. Manga): Mr. Speaker, Sir, the Office of the President has Ministries or departments and each one of them is dedicated under one Minister. So, hon. Awori was looking for the answer to the Question. I am unable to tackle that question because it is not under my jurisdiction.

Mr. Speaker: I am asking Mr. Manga this: As a matter of courtesy to the Chair and to the House, when I call the Office of the President and you happen to be there, does courtesy not demand that you give that explanation in the first place?

The Assistant Minister, Office of the President (Mr. Manga): Mr. Speaker, Sir, I am sorry. Maybe I should have done that.

Mr. Speaker: Very well, Question deferred.

(Question deferred)

Next order!

POINTS OF ORDER

MINISTERIAL STATEMENT SOUGHT:

STOPPAGE OF TEACHERS' SALARIES

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. I rise to request a Ministerial Statement from the Minister for Education. At the time when this side of the House is finding new talk about accommodation, consensus building and civilised conduct in solving disputes, it is painful to note that the crisis that has been occasioned by the teacher's strike is spilling out of control and rather than seeking methods of civilised dialogue to deal with the problem, in typical perfidy and intelligence, the Ministry is even now moving to stop banks from paying salaries of teachers which is money that they have already earned. Could the Minister tell us what lesson he has learnt from the process of dialogue and consensus building and what action is he going to take to show that he is aware that this perfidy is not going to win and that the Government by pretending that the strike is not going to win and that instead this country is going to lose more and they will be humiliated when they have to succumb to more pressure?

Mr. Speaker: Mr. Komora, would you like to respond?

The Assistant Minister for Education (Mr. Komora): Mr. Speaker, Sir, I am prepared to make a Ministerial Statement later next week. But the matter right now is in the Industrial Court.

Mr. Nthenge: On a point of order, Mr. Speaker, Sir. The issue is this: If the teachers have worked for their salaries, should they be punished for the job they have already done by not being paid? Why did the Assistant Minister not answer that question?

The Assistant Minister for Education (Mr. Komora): Mr. Speaker, Sir, I am not aware of that particular issue of stopping salaries which have already been earned.

MINISTERIAL STATEMENT SOUGHT: ILLEGAL ARREST OF

THREE PEOPLE BY NAKURU POLICE

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. My point of order is directed to the Attorney-General. Three people have been arrested by Nakuru Police for publishing *The Times* and *The Rift Valley Times* in their lead story entitled: *The life and times of Joshua Kulei*. Yesterday, they arrested the director of Techno Press, a Mr. Joseph Agolla. Now, these people are being held at Menengai Police Station. Can the Attorney-General tell us whether he is now backpedalling about the assurance that he gave us here that there is nobody who will be arrested for what he writes either in the past or in the future? I am very concerned about this matter because I have been put in for writing about personalities in this country and all the times I was never taken to court. In the new spirit of IPPG package, can you promise that you are going to direct this police to release these pressmen because it is against your spirit?

An Hon. Member: He has forgotten!

MINISTERIAL STATEMENT SOUGHT:

EVICTON OF TENANT

Mr. Ndicho: Mr. Speaker, Sir, in the same breath, I will invoke what the Attorney-General told us at the IPPG meeting. The patron of Rift Valley Provincial Hospital has been thrown out of her house. In the IPPG package you talked about repossession of public utility land. Now her household property has been thrown outside because her Government house has been allocated to an individual. Can the Attorney-General now tell us why this is so? That is the reason why we are fearing whether the IPPG package will really work. All these things are contained in that package and yet you can see these things are happening.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I am not responding now but it appears as if the hon. Member is relying on newspaper reports in respect of the two incidents. As to the first, the assurance in this House that there will be no prosecution on charges which are being deleted pursuant to the IPPG recommendations, there will be no prosecutions and I can assure this House that if the issue is about arrest which is a matter of the Commissioner of Police, I am not in charge of the police, but I promise the House to look into it.

As to the second issue of selling Government property and so on, that is a matter for the Ministry of Lands and Settlement to answer, but I will look into it.

Mr. Muite: On a point of order, Mr. Speaker, Sir. Through you, may I seek a clarification from the hon. Attorney-General. He says that no people will be prosecuted. These Kenyans have been arrested and they are in police custody. Is the Attorney-General, perhaps, telling us that despite the assurances that he gave to this House and dispute the passage of these Bills and becoming laws, we can expect to continue being arrested and held in police stations so long as we are not taken to court and prosecuted?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, the Attorney-General is in charge of prosecutions and I have given the assurance. As far as the arrest is concerned, the hon. Member relied on a newspaper report and all I can do as of now, is to investigate that particular matter and take appropriate action.

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Order, Dr. Lwali-Oyondi. Whether you are from Nakuru or Mongolia, you are not going to make this thing a debate. So that ends it.

MINISTERIAL STATEMENT

INTEREST ON DEPOSITS CHARGED

BY KPTC AND KPLC

The Assistant Minister for Finance (Mr. Keah): On a point of order, Mr. Speaker, Sir. I thank you for this opportunity to enable me make a Ministerial Statement with regard to interests on deposits charged by the KPLC Limited as well as the estate agents which was a matter that was promised to this House following a Question on interest on deposits sometime last week. This is a statement which my colleague was going to make, but I will make it on his behalf.

Mr. Speaker, Sir, it is general practice for utility suppliers to request cash deposits from their consumers. Such deposits are used as security in case of default in paying for services rendered. The KPLC receives deposits from clients who are supplied with electricity. The deposits are necessary as security to the company against default on customer debts. The deposit amount is usually determined by the level of the estimated average monthly electricity consumption and billing. The company pays interests on the deposits collected at the rate of five per cent per annum. The KPTC receives deposits from its subscribers. These deposits are treated as security for default and do not attract any interest just as the KPTC telephone debts from subscribers do not attract interest as a matter of policy. Such

deposits are usually refunded in full on final account.

With regard to real estate agents and landlords, the same procedure applies. They ask for cash deposits, as safeguards against defaulting tenants. The deposits may range from one to three months rent. However, when the tenant wants to leave the house, the deposits are refunded in full. But in case a tenant has caused some damage to the house, the deposit is used to meet the cost of repair, and the balance is given back to him without any interest.

Mr. Speaker, Sir, with regard to the introduction of regulations affecting utility suppliers and deposits, it is necessary to carry out a survey, in order to establish the magnitude of the problem on both the utility suppliers and consumers, who are required to pay the deposits. If the regulations are introduced, they should not inhibit investment in those services. Otherwise, the same consumers will suffer when supplies are inadequate. The appropriate regulations need to protect the investors, as well as the subscribers and consumers from defaulting consumers, while at the same time, protecting consumers from exploitation by unscrupulous suppliers.

Since each of this sector has problems peculiar to itself, namely water, housing electricity power suppliers, it will be necessary to examine each legislation and develop safeguards that are appropriate to the particular sector.

Finally, the Law Reform Commission may need to scrutinize each of these areas, where deposits are required, and provide for fair play. In this case, both the consumer and the investor will need protection in the spirit of mutual inter-dependency. This is necessary in order to ensure that the regulations do not inhibit the growth of our economy. Thank you.

POINTS OF ORDER

MASSACRE OF POLICEMEN AND CIVILIANS IN GARISSA DISTRICT

Mr. Farah: Mr. Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from a Minister of State, Office of the President. On Friday, last week, 10 members of our security forces and two civilians were killed in a very grotesque manner in Garissa District, between the Thaihere and Aldere. One week before the killings, four Administration Policemen (APs) and a chief were also killed in a similar manner. These young men, who every hon. Member of Parliament from Garissa District knows, maintained law and order against bandits in North-Eastern Province, for the last two years. They did it in a very successful manner.

On the fateful day, they went out to track the bandits who had killed the chief and four Administration Policemen. They tracked the bandits for eight days, but for the last three days, they did not have food and water. They also ran out of bullets. For all that time, they used their communication system to communicate to the Provincial Administration Officials in Garissa, to rush in provisions. When they engaged the bandits and were being killed, they were talking on the radio seeking helicopter army support. They failed to get any support. As a result, the 10 security men and two civilians who were helping them to track those bandits were killed. Had it not been for the action of 10 other Administration Policemen, who heard the radio communication and disobeyed their officers, and decided to take a private vehicle to provide reinforcement, the other 24 policemen would also have been killed.

Mr. Speaker, Sir, the information we have right now is that, these bandits are equipped with telescopic-sighted guns and bullet proof vests. In fact, our security men were being killed from a range in which they could not see with their bare eyes. Up-to-day, none of the bandits have been killed or apprehended. As the APs were being engaged in this fight, none of the military officers in Garbatulla Base, Garissa Commanding Unit or the Provincial Administration Officials in Garissa town bothered to ask for helicopters to move in and support them.

Right now, Garissa District is at the mercy of those bandits. Our ordinary Administration Policemen cannot fight them as they will be killed in cold blood. What the Government needs to do is to try and meet those bandits with a force that is superior. I ask the Minister to give us a detailed statement on this matter. The Government should bring in helicopters and a force that is commensurate with the kind of force that we are faced with now. None of us is safe in Garissa District. Even the bodies of the policemen remained in the war site for 30 hours. They could not be brought to Garissa. The Government has literary given an indication that it is not in a position to tackle that problem.

That is why the residents of Garissa District demonstrated in the town, well prepared to burn the office of the DC and fight anybody with stones and sticks, because of frustration. As you read in the daily newspapers, only one suspect who was believed to have seen the bandits was arrested. Can the Government take action now, to arrest the situation and maintain security, law and order in Garissa District? Thank you.

(Applause)

CLOSURE OF HOLA AIR STRIP

Mr. Mbeo: Mr. Speaker, Sir, last week, I asked a Question by Private Notice with regard to what happened when our plane was refused landing in Hola Air strip. This is because the air strip was cluttered with objects. The Assistant Minister in the Office of the President responded that nothing of that nature actually took place. I indicated to the Assistant Minister that we were in the aircraft with a press photographer, who took the photographs and a video cameraman whose film recordings were aired live at Kenya Television Network (KTN). The photographs have since then been processed. I promised this House that I was going to lay the photographs on the Table, and ask the Minister the action he was going to take in case I proved that those objects were there, and there was hinderance in landing. He said he would look at them, give an explanation and take action.

Today, I have the photographs which show the objects which were on the runway, completely hindering the landing of the aircraft. I also have with me photographs of the Police Station which was barricaded to ensure that nobody could pass into the air strip. Therefore, the DC who indicated in the press yesterday that nothing of this sort happened, has been proved to be false. I have the signature and the name of the photographer at the back of the photographs. I lay these photographs on the Table and expect a Ministerial response to the matter.

(Mr. Mbeo laid the photographs on the Table)

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. I am standing on a point of order to seek a ruling from the Chair on an incident that took place here last evening when hon. Muite was contributing on this particular Bill, and hon. Nyagah stood here and made a categorical statement that those MPs who are against the IPPG "sleep with President Moi". We did not raise that issue because the person who was in the Chair was not friendly to us as you are. I am now asking you whether to use that derogatory, abhorrent and obscene language is acceptable in the House, in the first instance. Secondly, is it in order for hon. Nyagah to use the name of the Head of State? Why can he not use it with any other person, but not the Head of the State? So, can you make a ruling whether---

Mr. Speaker: Order! Mr. Ndicho, I was not here yesterday and you did not appraise me of this issue. You do not think that I will automatically give a ruling on anything, even if I was absent, I am only humane!

Proceed, Mr. Muite.

Mr. Shikuku: Jambo la nidhamu, Bw. Spika. Hayo maneno yangeweza kusemwa jana. Kufuatana na kifungu cha 69 cha Kanuni za Bunge, kama mhe. Mbunge hakuwako katika kikao fulani cha Bunge hana haki kusimama na kueleza yale yote yaliyoyasoma magazetini. Lakini kama mhe. Mbunge alikuwako hana haki kufuatana na Kanuni za Bunge hili kusimama kesho yake na kuanza kuzungumza mambo ya jana. Akifanya hivyo, basi mhe. Mbunge mwingine ataleta mambo ya mwaka 1963. Kwa hivyo, kama alikuwa hapa hana haki ya kuuliza maneno hayo wakati huu!

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

Mr. Speaker: Order! Order, hon. Nyagah! As Mr. Shikuku said, anybody grieved on the matter that arose yesterday and you were present, Mr. Ndicho, but much more important, if you want to follow this issue, let the Chair know the full circumstances and the word uttered. I cannot accept that you were here yesterday and I was not here, and you stand now, and ask me, who was absent, to make a ruling on something that could have been done yesterday. By the way, I dissociate myself with sentiments expressed by Mr. Ndicho that the Chair is "unfriendly". The Chair is very "friendly" to all Members, take it from me. Maybe you are scared of the Chair.

Mr. Ndicho: The other "Chairs"!

Mr. Speaker: Order! All "Chairs" are Member-friendly; unless, you yourself suffer a problem of hearing and this sort of thing and there is not much I can do about it. Proceed, Mr. Muite.

Mr. Nyagah: On a point of order, Mr. Speaker, Sir. I do not want to revisit your ruling, but there is one thing I want to correct. Hon. Ndicho did not presume what I said. What I said was things that are said in English. I know what it means "to go to sleep with a person and that I do not need to go into. But the phrase "going to bed" -in English - means "binding a deal with a person". That is precisely what it means. If he cares to look at the records of the HANSARD, that will bear me witness. That is the advantage of having gone to a good school!

(Applause)

BILL

Second Reading

THE STATUTE LAW (REPEALS AND
MISCELLANEOUS AMENDMENTS) BILL

*(The Attorney-General on 25.9.97)
(Resumption of Debate interrupted on 1.10.97)*

Mr. Muite: Mr. Speaker, Sir, I was winding up my contributions on the Societies Act when we adjourned yesterday and I would like to move to a different area. I would like to move now to the Electoral Code of Conduct.

Mr. Speaker, Sir, there is no quarrel with the provisions being proposed to the code of conduct. The quarrel here is that it is absolutely suicidal for this sort of draconian powers to be given to an Electoral Commission which does not enjoy the confidence of the majority of the Kenyan people. There is nothing wrong with the proposed provisions, with proposed powers, but it is suicidal to give the Electoral Commission, which does not enjoy the confidence of the Kenyan people. It is not truly independent and it is wrong to give the sort of powers that are being given here, to disqualify parties, disqualify even contending candidates, to deny them access to the media and so on and so forth. Here lies a very great danger! These sort of powers should only be given to an Electoral Commission which is truly independent, which has got absolute integrity and which is perceived to be so.

Mr. Speaker, Sir, yesterday, a number of my colleagues were waving at me the document setting out the agreement at Limuru. That document, if you read it very clearly, it was recommending the disbanding of the current Electoral Commission and the replacement of that Electoral Commission by Commissioners appointed by the churches, the NCK, Muslims, National Council of NGOs and political parties.

Mr. Shikuku: Mr. Speaker, Sir, I am standing on a point of order, which is provided for under Standing Order No.68. Is it in order for the hon. Member to refer to a document and not quote the section that talks about this disbanding when we are debating the IPPG document which in itself accepted that fact that this Commission cannot be independent? Now we have put ten more Commissioners from the Opposition to make it independent. This is what we are debating, but he is talking of the past. We are discussing the IPPG document which provides for ten more commissioners to join the present Commission.

Prof. Mzee: On a point of argument, Mr. Speaker, Sir.

Mr. Speaker: Order! Whether argument or no argument, the argument must be relevant to the issue at hand. What we have now is the Statute Law (Repeals and Miscellaneous Amendments) Bill. There are provisions in that Bill and Members contributing must be relevant.

I must also touch one other issue. I think, as long as I remember, even the early 1960, the Chair has made consistent ruling that no Member will use the Floor of this House to ask for an illegality to be committed or breaking of law without asking for the law to be changed. Can Members:- (a) be relevant to the Bill; and (b) if you want anything to be done, then ask for the amendment of the law.

Mr. Muite: Mr. Speaker, Sir, I am criticising the powers that are sought to be vested in the Electoral Commission of Kenya (ECK). With utmost respect, I would submit that I could not be more relevant. I am saying that these are not the sort of powers that should be given to an electoral commission which is not independent. That is what I was expounding on.

For example, I challenge every hon. Member in this House to go and confirm that during the recent registration of voters exercise the current ECK paid money to district officers (DOs) chiefs and assistant chiefs. What was that money for? The DOs, chiefs and assistant chiefs were paid money and yet they receive their salaries. That money was paid by the current ECK during the recent voter registration exercise. If the DOs, chiefs and assistant chiefs assisted the ECK in one way or the other in that exercise, they did so as part of their duties for which they receive their normal salaries. So, what was that money for? These are some of the issues that make us be very apprehensive about the current ECK.

Mr. Maundu: On a point of order, Mr. Speaker, Sir. Hon. Muite is making a serious allegation here, that DOs and chiefs were paid allowances. However, we are all aware that initially people were not turning up for the voter registration exercise until DOs and chiefs were asked to assist in mobilising the people for the exercise, but were paid nothing at the end of the day. Is he in order to continue making this serious allegation?

Mr. Muite: Mr. Speaker, Sir, I said that each hon. Member here should go and find out what happened in their own constituency. The Attorney-General (AG) can also investigate this issue. We would like to have an explanation as to what this money was paid for. I would like to add that even when hon. Murungi was seconding this Motion, he was aware of the dangers of these excessive powers. **The Assistant Minister for Transport and Communications** (Mr. arap Saina): On a point of order, Mr. Speaker, Sir. Hon. Muite has challenged hon. Members to go and find out whether chiefs and DOs were not paid allowances for assisting the ECK in the voter registration exercise. Is he saying that we are not aware of what was happening? Is he the only one who was aware of what was happening?

Mr. Muite: Mr. Speaker, Sir, I am not casting aspersions on any hon. Member here. I was saying that there

is a serious issue here, which demonstrates the basis on which we are very apprehensive about the independence of the current ECK. That is why we had suggested a methodology of ensuring the setting up of a truly independent ECK. If that independent ECK was set up we would have no problem with the powers being given here. Without that independent ECK--

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): On a point of order, Mr. Speaker, Sir. This House deals with accountability of public funds. We have been told that officers who get salaries were paid allowances, which means double payment. This means there has been a wrong accounting system for public funds and, therefore, the allowances must be recovered. Can we have evidence of the money paid to DOs and chiefs so that action can be taken to recover it?

Mr. Muite: Mr. Speaker, Sir, each DO received Kshs7,000 from the ECK!

Mr. Wamae: On a point of order, Mr. Speaker, Sir. My point order follows from what hon. Nyachae has said. Hon. Muite has made a serious allegation and it is for him to lay on the Table the facts showing that DOs and chiefs have been paid allowances.

Mr. Michuki: On a point of information, Mr. Speaker, Sir. I would like to inform hon. Muite that immediately after the voter registration exercise a group of policemen in Vihiga District went to the Press and complained about allowances that were due to them, which had not been paid. I suppose that, that was part and parcel of what hon. Muite is referring to.

The Attorney-General (Mr. Wako): On a point of information, Mr Speaker, Sir.

Mr. Muite: Mr. Speaker, Sir, I would like to be informed by the AG when he is replying to this debate, and not at this point in time. Through you, let me ask the AG to go and carry out investigations and he will find out that each DO was paid Kshs7,000, and also that each chief, assistant chief and every police officer who was involved in the voter registration exercise was paid money over and above their salaries.

The Attorney-General (Mr. Wako): On a point of order, Mr. Speaker, Sir. If what the hon. Member is saying is correct it could have happened because Section 41(10) of the Constitution provides:-

"The Commission may, in so far as it is relevant, confer powers or impose duties on any public officer or authority for the purpose of the discharge of its duties".

DOs, chiefs and assistant chiefs are public officers and, therefore, it could very well be that, using this section, the ECK imposed duties on them and paid for their services.

Further, if the hon. Member has read the Constitution of Kenya (Amendment) Bill he must have seen that the Inter-Parties Parliamentary Group (IPPG) is deleting the above sub-section and substituting another one. But as of now, it may very well be that this is the section that gave the ECK authority to do what the hon. Member is referring to.

Mr. Muite: Mr. Speaker, Sir, in a very subtle manner the AG is, in fact, confirming that these officers were paid. He is thus providing excuses. But these DOs, chiefs, assistant chiefs and police officers were not doing extra duties.

Mr. Speaker: Mr. Muite, I think we are now diverting the whole debate. Can we come back to it? You have made your point!

Mr. Karengi: On a point of order, Mr. Speaker, Sir. You heard the AG alluding to the fact that it is probable that these officers were actually paid the amounts hon. Muite is referring to. We also heard hon. Nyachae say that if this payment was made it was wrong and the money should be recovered. Could we have your guidance as to where we stand and what should be done?

Mr. Speaker: Mr. Karengi, I think where you stand is very clear. The word "allowance" has not been invented today in this House. Officers are known to draw salaries at the end of each month. But if circumstances warrant it, they are also paid allowances on top of their salaries. This includes hon. Members who sit on various committees. So, that is nothing new! Can we proceed?

Mr. Muite: Mr. Speaker, Sir, I shall now move on to a different area, but before I do so, I would like to take the opportunity to emphasise that when we were talking about the "minimum" reform agenda, the engine of that vehicle is in the disbanding of the current Electoral Commission, and in the setting up of a truly independent Electoral Commission, the members of which were to be appointed in the manner that I see. Without that engine, this vehicle that is driven by the IPPG cannot move. That is all I was saying. The vehicle can have a very nice coat of paint, very nice tyres or wheels, but the engine is missing. The engine is in that independent Electoral Commission.

Dr. Lwali-Oyondi: On a point of order, Mr. Speaker, Sir. I think hon. Muite is misleading the House. It was passed in Limuru that the

[Dr. Lwali-Oyondi]

Constitution, as it is, would be adhered to. The Opposition and Non-Governmental Organisations (NGOs) were to put in their own members so that they are more or less on equal basis.

Mr. Speaker: May I ask a very simple thing: What is this "Limuru" you are talking about?

Dr. Lwali-Oyondi: Mr. Speaker, Sir, the whole reform system started from the Limuru Convention. Our working paper in the IPPG was based on the Limuru Convention. The Limuru Convention says, and I have got the original part here, that we have to add and not subtract.

Mr. Speaker: Order! I think in a way, Dr. Lwali-Oyondi, is right and, I think I have already alluded to that. So long as the Constitution remains unchanged, it is unlawful for any member to advocate for the breach of that Constitution. As a matter of fact, it is out of order.

Mr. Muite: Mr. Speaker, Sir, I have great respect for the Chair. The Constitution is being amended. In fact, there is a Bill here to amend Section 41 of the Constitution. All I was saying is that, since we are going to carry out surgery, to me, it looks like a waste of time for the surgeon to open up the stomach of a person who has got cancer, take a little piece of the diseased tissue out and leave the rest of it in and sew him up. If we are going to open up the stomach, then we should take out the whole cancer. That is all I am saying. We are amending the Electoral Commission Act and Section 41. We are not leaving it intact. So, why do you not amend it thoroughly in order to appoint people from the National Christian Council of Kenya (NCCCK), the Catholic Church, the Muslims and also permit each Opposition political party to nominate two people?

Mr. Speaker: Order, hon. Muite! I am now warning you to be relevant to the Bill. You are anticipating debate on a Bill that has already been published and one that will come to this House. So, when that other Bill comes to amend the Constitution, say all you want on it. In the meantime, you are forbidden by me from talking about a Bill that is yet to be brought before the House. So, only talk about what is before the House.

Mr. Muite: Mr. Speaker, Sir, I accept that and I will leave that discussion. I would like to say that I was merely responding to the Chair and to the Attorney-General, who has also---

I will now move on to a different area, which is the Local Government. Happily, the former Minister for Local Government was replaced by another one, but I am not going into the merits of that. I was saying that the amendments, which appear on page 525 - The Proposed Amendments by the IPPG, will not cure the problems being faced by the local authorities. The real problem facing the local authorities again, is the over-concentration of power in the institution of the presidency. Hon. ole Ntimama, the Member for Narok North, was previously the Minister for Local Government, and he was transferred to another Ministry. That is the right of the President because he is the one who nominates Ministers. Therefore, all those Chief Officers appointed by the Minister owe their allegiance to the Minister and the Minister owes his allegiance to the President. So, until such time that we democratise the power which is vested in the institution of the presidency, we are always going to have problems with the local authorities. The power rests with the Minister for Local Government and from the Minister, it rests with the President. The elected councillors and the Mayors, merely have the flag. That is why we have got a situation like the current one where even the Mayor of the capital city of a country has had his official limousine taken away from him. That is why the elected councillors in the City of Nairobi are not even aware of land being grabbed. The elected councillors have no powers. So, what we need to do, if we need to correct the situation, is to bring about major structural changes to the Local Authorities Act, so that we can give the power to the elected councillors. The Ministry of Local Government should get off the back of the elected councillors. We must strengthen the local authorities in this country. This is a critical way forward.

If we are seeking to harmonise the management of public affairs in this nation, we should stop focusing on majimbo because majimbo focuses on political power. It is not the political power that we need to decentralise, but the economic power. For example, Western Province, where sugarcane is being grown, the Local Authority in that area---

Mr. Nthenge: On a point of order, Mr. Speaker, Sir. Is the hon. Member on the Floor in order to talk about majimbo when he does not know anything about it? I participated in the majimbo debate and I am sure by then, he was a boy and he did not know anything about it.

(Laughter)

Mr. Muite: Mr. Speaker, Sir, they talk about age before beauty, but I would like to remind some of my hon. colleagues that if they have been around on the stage for so long, perhaps, time has come for them to go and look after their grandchildren and leave some of these things to other people.

Mr. Speaker, Sir, I was saying that it is important to focus on democratisation of economic [Mr. Muite] power. The County Council of Narok should be given power to manage the resources, which are in that area, including the natural resources that are there. We should not give the Central Government so much power that it is going to dictate---

(Mr. Maundu stood up in his place)

Mr. Speaker: What is it Mr. Maundu?

Mr. Maundu: On a point of order, Mr. Speaker, Sir. I am persuaded by the manner in which my honourable colleague is arguing, but is it not out of order to digress and "undress" the role of the Ministry of Local Government? Why does he not move surgically to the critical area which we are addressing now without having to beat about the bush?

Mr. Nthenge: Very good!

Mr. Muite: Mr. Speaker, Sir, I was "addressing", not "undressing". I was criticising the proposed amendments which appear on page 525, and saying that they do not go far enough. If we want to go far enough, that is the issue that we should be focusing on. We should be focusing on how we should remove---

The Assistant Minister for Transport and Communication (Mr. Saina): Mr. Speaker, Sir, I think it is wrong for the hon. Member on the Floor to pretend that he is teaching some of us the English language. He did not go to a better English School than some of us. So, he should stick to the relevant point and contribute on the Motion.

Mr. Speaker: Order! Can we now address the Bill, not address each other? Mr. Muite, will you treat all your colleagues with due respect?

(Dr. Kituyi stood up in his place)

Order, Dr. Kituyi! I am mindful of the fact that we have probably 42 different ways in which we pronounce certain words in this House and there is nobody who can claim to be perfect. So, can we give every hon. Member respect?

Proceed, Mr. Muite.

Mr. Muite: Mr. Speaker, Sir, you heard hon. Saina addressing me directly instead of doing so through the Chair.

Mr. Speaker: I have already warned him and you and everybody else. So can we now be serious?

Mr. Muite: Mr. Speaker, Sir, I was saying that these amendments that have been proposed are not going to bring any solution to the problems that are being faced by the local authorities in this country. If we want to resolve the problems being faced by the local authorities, we must restructure the Local Authorities Act completely and give power to the local authorities and, more importantly, vest them with power over their economic destiny.

Mr. Speaker, Sir, one of the recommendations that had been suggested by the NCKK and the Kenya Episcopal Conference was to amend Section 33, so as to allow people registering as voters not to just use the identity card, but to be able to use their school leaving certificates, passports and other documents, both for the local authorities and the parliamentary elections.

Mr. Speaker, Sir, if I may now move to the Public Order Act which appears on page 510, the hon. Attorney-General went out of his way to say that in all the jurisdictions including Britain and America, the police have got power to disperse meetings. I was saying, first and foremost, to the best of my knowledge, Britain does not have the equivalent of the Public Order Act. This is a statute that only appears in the former British colonies. Our argument here is that the police have got enough powers under the Police Act and the Penal Code, so we do not have to give them additional specific power in the Public Order Act to disperse a public meeting.

Mr. Speaker, Sir, at the bottom of page 510, it is quite clear that in respect of the excluded meetings, the organizer of the excluded meeting can invite a police officer to come and keep order at that excluded meeting. We are saying that the same total provision should apply to a public meeting which is convened after notifying the local police station of the desire to hold a public meeting.

Mr. Speaker, Sir, we are saying that the police in Kenya have got the equipment, personnel and ability to keep order at public meetings. Order is normally disturbed by youth wingers from one or the other party which has not convened this meeting. We are saying that surely, the police can arrest those people who are seeking to come and cause disorder to that organised public meeting. But, so long as we are giving a discretion of some kind to a police officer to disperse a public meeting, our history and culture is that, that discretion is going to be abused.

Mr. Speaker, Sir, not too long ago when I was conducting the defence of a fabricated case in Nakuru and I was arrested together with colleagues of mine allegedly because of taking photographs of Bahati Police Station, which I had not and which nobody had done I eventually ended up in the office of Mr. Korir who was at that time the Provincial CID Officer in Rift-Valley Province. He held the rank of Senior Assistant Commissioner of Police. I was in his office with him and a few of his officers, at 8.00 p.m. He incidentally started his profession as a driver, his

formal education having not exceeded Standard Three. I said to him: "Open your book and look at the forces rules".

These are regulations made under the Police Act. These rules permit a person to make a call either to their lawyer or family. I went further and told him: "Mr. Korir, I want you to obey the law. I want to use your telephone in order to make a call to my wife". The law is clear, I was entitled to make a call. The law entitles any person in police custody to make at least two telephone calls. When I told Mr. Korir - a very huge person - that I wanted to make a telephone call, he burst out laughing at me. He laughed for about three minutes and at the end of it, told me: "Mr. Muite, I do not know any law, I do not want to know law, I am not interested in your law, when I take you to court, go and argue your law in the court. What I understand is power and I am not going to allow you to use my telephone." Of course, I was not permitted to use that telephone.

Mr. Speaker, Sir, Mr. Korir and every police officer, from the lowest ranking officer in the force to the Commissioner of Police, hold their offices at the pleasure of the President. As long as that is the position in Kenya today, any discretion that is left in the hands of a police officer is going to be abused. It does not matter what we provide in this law, we have got to dismantle and decentralise that power. As long as the position in law is that one individual - whether it is me, anybody else or an angel from heaven - has the powers presently vested in the institution of the Presidency, that police officer will owe allegiance to the person who can sack him. He will not owe allegiance to the public or even to the law. So, his primary consideration will be his own survival. Therefore, if he is told to disperse a meeting, not just of Opposition Members, but even Members who fall out of favour on the opposite side, he will do so without question. Their meetings are still going to be dispersed.

Mr. Speaker, Sir, the amendments that the IPPG has proposed, commendable as they are, are not going to resolve the problem. Two things must happen. The first thing is that, the ruling party, KANU, must agree to completely delink itself from the Government and the police. Secondly, we must address the root-cause of this problem, which is the over concentration of power in the institution of the Presidency. Thirdly, as a short-term measure, we must go further and remove this discretion of dispersing a public meeting from the police. The police must be told that it is their duty to keep peace. For example, when the NDP held a public meeting in the Vice-President's Ngong' Constituency, the police who were there kept the peace. There was no violence. The police were on hand to arrest anybody trying to disperse the meeting. That is what should happen. The police have got the capacity, the equipment, the personnel and the ability to ensure that every public meeting is not rendered disorderly by any youth wingers or anybody. They should move in and arrest anybody trying to disrupt a public meeting. Whether they are from another rival Opposition party, the ruling party or anywhere, such people should be arrested. But the meeting must go on. As long as we are leaving to the police officer the discretion to go and disperse that meeting, the meetings will continue to be dispersed.

Mr. Speaker, Sir, the other point I would like to make is that, if these laws are to have any difference in practical terms, whichever Government is there, it must have the political will and commitment to respect the law. As long as they are going to pull strings behind the scene and instruct police officers on what they are to do or what they are not to do, then all these laws that we are passing will not get us anywhere. One way of delinking the Police from the party in power, is through following the recommendation that had been made by NCEC, that key positions should be subjected to the approval of two-thirds majority in this House. If that is done, it is not possible to get two-thirds majority of hon. Members here on a free vote to confirm a person who does not enjoy the integrity and the confidence of the public.

If we were to say that the Commissioner of Police must receive approval by two-thirds majority of this House, the ruling party, KANU, will then be forced to bring forward only names of the people they know are of integrity and who are likely to get the approval of two-thirds majority. Currently, I cannot think of many individuals who have been given key positions by the KANU Government, who will be able to get endorsement of two-thirds majority in this House, with the exception of the current Governor of the Central Bank of Kenya and the current Director of Intelligence. These are the sort of calibre of people who are serving the public according to the law without fear and are non-partisan. This is the sort of calibre that would save this nation. So, one way forward as an interim measure, is, indeed, for this Government to agree that key positions be held by men and women who will receive the approval of two-thirds majority of this House.

Mr. Speaker, Sir, if I may very quickly go through some other points in the proposed amendments, one of them is on page 508. This is the exemption of the "impromptu meet-the-people tours" by Members of Parliament. This is the amendment suggested to Section 2 of the Public Order Act. I can understand the thinking behind this recommendation, but I would say that we should exempt all meet-the-people tours by any Kenyan. They should be exempted. For example, when Parliament is dissolved, then we all cease to be Members of Parliament. That is the time when one may most need to go around on meet-the-people tours. My suggestion is that this exemption should not just apply to the sitting Members of Parliament. What about those who are going to lose elections? Their opponents, those who will be elected, are going to have an unfair advantage over them because they are permitted to go

round on meet-the-people tours when they themselves cannot do so. Suppose hon. Martin Shikuku, for example, loses his seat, during the next term, his opponent is permitted to go round any time on meet-the-people tours, but he, himself will not be permitted to do so. In any case, why do we want to discriminate against other public officers who may want to meet Kenyans, including the councillors? Why should the councillors not also be able to go round on meet-the-people tours; after all, they are the ones at the grassroots and they are the ones with the people all the time. Why do we want to say that it is only Members of Parliament who meet Kenyans? Let us open this recommendation to allow everybody to freely meet the people because, anybody who is openly going around and talking to people, is not doing any harm. This Government has got the Special Branch all over in all the villages. So, why do we want to restrict interaction by people? Let anybody who wants to go, go round. I am saying that this amendment is confined to Members of Parliament.

If I may go to page 509, the amendment proposed to Section 5, is (iii)(b), "Confining the proposed hours of public meetings from 6.00 a.m to 6.00 p.m." Again, in practical terms, most of these meetings start from about 10 o'clock and they go on up to 6.30 p.m. and 7.00 p.m. In fact, that one hour is the one that is most critical. I was attending a meeting in Uplands the other day and the policemen were looking at their watches. At 6.00 p.m., they tell you, "You must stop", even where there are some guests who have just arrived. I do not see the magic in being so specific that we must only meet as Kenyans from 6.00 a.m. to 6.00 p.m. There is no magic in this. Why do we not leave these hours open? What are the people going to do? If they meet at 7.00 p.m. or 8.00 p.m, what harm are they going to cause? In any case, for the people who are arranging for weddings and other ceremonies, they may want to meet up to 7.00 p.m. or 8.00 p.m. At least, 6.00 o'clock in the evening and 6.00 a.m is too early. I would urge that some thinking should get into this.

(Dr. Wameyo interjected)

Mr. Speaker, Sir, I can hear the hon. Dr. Wameyo interrupting me by shouting. I was elected to come and make my contribution.

Mr. Shikuku: On a point of order, Mr. Speaker, Sir. I think my hon. colleague is going out of the point. We are talking about public meetings, while he is talking about weddings. I may not be very good in English, but I know that there is a difference between "weddings" and "public meetings". We are not talking of weddings. Weddings can go on until dawn. We are talking of "public meetings". Is he in order to talk about "weddings"?

Mr. Muite: Mr. Speaker, Sir, for public meetings, I do not see the logic in saying that we cannot go beyond 6.00 p.m. In practice, that is the time that the meeting---

Hon. Members: Up to what time do you want it to be?

Mr. Muite: 7.00 o'clock. That is the ideal time, so that the people can then go home. But 6.00 p.m. is a bit too early for a public meeting.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. If the hon. Member for Kikuyu does not have anything to say, he should finish his contribution and give other hon. Members a chance to contribute. He is repeating himself on the same issues that he talked about yesterday and even this afternoon, and yet, he ran away from our IPPG meetings, where he could have expressed himself fully and for long hours.

(Laughter)

Mr. Muite: Mr. Speaker, Sir, yesterday, I did not talk about this issue. This is the first time, I am raising this issue, but yesterday I endeavoured to articulate the reasons for my not going to County Hall. I do not want to get into that argument again, I want to go on.

Mr. Mutahi: On a point of order, Mr. Speaker, Sir. Since yesterday, my good friend, hon. Muite, has been talking about going to County Hall. On two occasions, I remember myself and some other hon. Members, including Mr. Muite and Members of the NCEC, meeting at County Hall. So, I do not know what became so bad of County Hall that he had to stop attending our meetings there?

Mr. Muite: Mr. Speaker, Sir, I went to County Hall to participate in a meeting which was presided over by the NCEC, and I do not wish to say that the people who went to County Hall did not try their best. They did. I am just saying that the deal they struck will not enable this country to have free and fair elections. I am saying that if my colleagues had agreed to negotiate what was not negotiable; an independent Electoral Commission and the 50 per cent clause, I would have slaughtered many goats and bulls for them.

An hon. Member: Where were you?

Mr. Muite: Without those two clauses, Mr. Speaker, Sir, it is not possible for this country to have free and

fair elections. What they have done, and history will prove me right, is that by giving in on the independent Electoral Commission and on the 50 per cent clause, they have reassured the re-election of President Moi and KANU. That is what they have done.

Mr. Lwali-Oyondi: On a point of Order, Mr. Speaker, Sir. Is hon. Muite in order to keep on anticipating debate on the constitutional reforms when---

Mr. Speaker: He is not only anticipating himself, but as far as this question of an impartial Electoral Commission is concerned, he has become repetitive. So, from now on, you are ordered not to talk any further about an impartial Electoral Commission. You have already said it 20 times, which is a repetition.

An hon. Member: He thinks we are deaf! Hata anamaliza maji!

Mr. Muite: Kuna mengine kwa mfereji.

Mr. Speaker: There is no problem, hon. Muite; you are entitled to all the water. Proceed!

Mr. Muite: Thank you Mr. Speaker, Sir. It is a deliberate provocation. You will see when you go to elections; that is when wananchi will judge you for what you did.

Mr. Munyasia: On a point order, Mr. Speaker, Sir. If hon. Muite, the MP for Kikuyu, is not misleading this House, could he explain to this House how the 50 per cent rule would level the playing field for all people?

Mr. Muite: Mr. Speaker, Sir, without anticipating what you might say, I will do that when we come to debating the Constitution.

Mr. Speaker: Very good! Proceed!

Mr. Muite: Mr. Speaker, Sir, on page 511, the following amendment is suggested bring about the Preservation of Public Security Act: this suggested amendment here, "provided that no person shall be restricted on account of his political beliefs and activities." This does not make much difference because the Government does not ever own up. It never tells you that you are being restricted on account of your political beliefs and yet quite often, that is what it has been doing in the past. That is the culture of this Government. That is what the Government has been doing in the past. If it does so, even tomorrow, it will not own up. It will not tell you the reason why they are detaining you.

On the Penal Code, section 52, the suggested amendment is the replacement of the words "if it appears to the Minister," and replacing those words with "where the Minister on reasonable grounds considers," again, this does not take the matter any further. The discretion remains vested in the Minister. If it appears to him that he has reasonable grounds to decide whatever it is that he is deciding, he will continue to exercise the discretion arbitrarily like has always been the case in the past.

Mr. Speaker, Sir, one finds the same weakness on page 512, subsection (2), which says; "where the Minister on reasonable grounds considers that it is necessary---" Of course the Minister will always consider it necessary. On page 515, I voice the same criticism; subsection (2) says; "No police officer shall subject any person to torture or to any other cruel, inhuman or degrading treatment." Again, this is in the Constitution. The Constitution already prohibits this and yet this is what goes on on a daily basis.

Mr. Speaker, Sir, this is a demonstration of the need to change the political culture in this country. The question that we should be addressing is whether this Government has got the commitment and the political will to change its habit from what it has been doing, to respecting legality and the rights of Kenyans. There is no use saying here that no police officer shall subject any person to torture, because this wording, requirement or provision is already in the current Constitution which is not being respected.

So, Mr. Speaker, Sir, I would say that apart from the provision and the print, we must address two important issues. The first one is the major problem that this country has been having in terms of over-concentration of powers in the presidency. As long as the sub-chief, the chief, police officer and everybody else holds office at the pleasure of the president, then those civil servants will always regard their allegiance as being to a person and not to the public.

The second issue is one of whether this Government is going really to practise what we are saying here and that is what we shall be watching. Finally, I do sincerely hope that the issue of timing is one that is going to be supported, not just by my colleagues on this side, but also my colleagues on that side. It would take a very simple amendment to the Constitution to extend the life of this Parliament for six months in order for the parties to actually enjoy or utilise the little democratic space that is created here, because if these elections are going to be called in November or December, then clearly, there is no way in which those elections can be fair.

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): Thank you, Mr. Speaker, Sir, I am not going to take long because I learned quite a bit of what the other colleagues said when we were at the IPPG. Therefore, I am standing here to endorse everything that is in the Bill.

(Applause)

I think it is very important that we in the Seventh Parliament should congratulate ourselves for having brought about all these amendments because for the more than 30 years that we have had a Parliament in this country, not much homework has been done to go through our laws in order to bring them up to date. I think our colleagues who feel concerned that there are some things missing in the amendments to the Bills, must appreciate the fact that the history of mankind has always been there and it will continue to be there and that we deserve congratulations for having started the ball rolling. Today, we are dealing with a Bill which is making substantive changes in the laws of this country and all these substantive changes are for the better. At no time did the AG mention to this House that the amendments he has brought to this House are the last ones.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, this is the beginning of the improvement of national management. Once we have started improving the national management, this will give us the encouragement to look more closely at what we have not done this time. We are going to be there. We are not going to die and say this generation is going to collapse and therefore, there will be no changes. We have not told the Attorney-General to abolish the groups that are studying various laws in this country. They are still studying those laws in order to bring about improvement.

Mr. Deputy Speaker, Sir, I want to indicate one thing and I believe hon. Muite would appreciate it. Over the last 30 years, the Members, right from the First Parliament to the Sixth Parliament, did not do enough homework as we have done. Hon. Muite should appreciate that the Seventh Parliament has done a lot of homework and I would like to encourage him and others to accept that in the Eighth Parliament, and I hope some of us will be re-elected. Let us establish more committees of this House, so that if we have for instance, the Committee---

Mr. Orenge: But they are there! The Committees exist but they are not effective!

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): Mr. Deputy Speaker, Sir, they do not exist the way I am stating. We need committees, for instance an Agricultural Committee which will look at the law. Such a Committee does not exist at the moment. Hon. Orenge is talking about what is on paper and not what is in practice. So, let us talk about what should be in practice. Hon. Orenge is not right, because I was a Minister for Agriculture for four years and there was no---

Mr. Orenge: On a point of order, Mr. Deputy Speaker, Sir. Hon. Nyachae is making very useful and important contribution but in accordance with Standing Order No.151, General Purposes Committees were established in 1993. There are several committees and one of them falls under Standing Order No.151(2): Committee on Agriculture, Land, Natural Resources and Environment. Such a Committee exists and Members---

Mr. Deputy Speaker: Mr. Orenge, I think your point of order is frivolous in view of his observation that he is not bothered with what is in the Standing Orders.

Mr. Orenge: Mr. Deputy Speaker, Sir, they do not just exist on paper. These committees have Members of Parliament who belong to them. What he should be saying is that Parliament--- And this Government is yet to make this committee system to work. They are not operational. We can only blame it on this Government, because it has made it impossible for these committees to work. When I was in this Parliament in 1980, I was a Member of the Foreign Affairs Committee which was working until certain matters which were brought to question were not well regarded by the Government and they abolished the work of the committee system but the committees are here. The Leader of Government Business, who is also the Chairman of the Sessional Committee is here and he should ensure that these committees work. It is not just a question of existing on paper.

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): Mr. Deputy Speaker, Sir, I was simply making a proposal that one way of rectifying the weaknesses that exist in our laws is to constitute more committees. That should include the ones which may be existing in the Standing Orders but they must be accurate and do their job in the sense that, if we are dealing with agriculture, we must start by looking at the Agriculture Act and the rules so that, where we find weaknesses, they are corrected. The Peace and Order Committee for example, should be dealing with the Police Act, Law and Order, the Penal Codes and so on. Where weaknesses are seen, they will be brought here and rectified.

Mr. Deputy Speaker, Sir, what I am saying is that in terms of management of our nation and this Parliament, it is only today that I am hearing that the committees are there and they are not working. Nobody has complained that the committees are not working. I believe that we are not going to solve the problems of this nation in terms of bringing about effective management, by simply looking for the mistakes of others. If you look for my mistakes, you will always find them. If I started looking for hon. Orenge's mistakes, it will not take me 24 hours to get them. So, if

we are here and we are dealing with issues of bringing about good management of our nation, then, let us encourage whoever has come about with good suggestions like what the IPPG has brought. Let us accept it because they have done a good job. But the job they have done may not be completely satisfactory to the extent which the other people want. Once we have passed this one, let us come up with other suggestions and we will also look at them and bring about the desired improvement.

Mr. Deputy Speaker, Sir, there is this terminology which has come up in the recent years, called: "Level playing ground." In my view, I do not know what we mean by level playing ground in terms of politics anywhere in the world. In this country, when people talk about level playing ground, what they mean is that we should have a game where when one sees prospects of winning; then the ground is level. That is not a level playing ground because in politics---

Dr. Lwali-Oyondi: On a point of order, Mr. Deputy Speaker, Sir. I have been listening to the hon. Minister very keenly. Is he in order to mislead the House that when we talk of level playing ground, we just mean getting the chance to have an advantage over your opponent? We want to have a level playing ground by having the rules apply equally to everybody, like having the right to hold meetings without discrimination. We are not having it as a relative term but as an absolute thing. Is the Minister in order, therefore, to mislead the House while we are debating what he is opposing, that we want a level playing ground?

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): Mr. Deputy Speaker, Sir, what I am referring to here is this; the way we are discussing a level playing ground in this Parliament is not the solution to our problems because the level playing ground cannot be brought about by mere changes of laws. You can change all the laws in this country in accordance with what you want, as Members of Parliament, but the attitudes of individuals--- That is where you can now say that, "be fair and impartial" but to draw a line in a graphic form and say that this is a level playing ground", that does not exist in whatever---

Dr. Otieno-Kopiyo: On a point of order, Mr. Deputy Speaker, Sir. The hon. Member who is my neighbour, and I respect him very much, is misleading this House because there is no level playing ground in KANU. How can KANU supervise a process which will bring a level playing ground in the country? He himself wanted to vie for Vice-President, but he was not even allowed to stand!

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): Hon. Otieno-Kopiyo is providing the country with news; that there was a time I wanted to be the Vice-President and I was not allowed. I have never heard about it and I have never known about it.

Mr. Deputy Speaker, Sir, the level playing ground which I am talking about--- Let us not use it in the manner we are using it here in this House. Let us appeal to the Kenyans that whether you are in the Opposition, KANU, or where, you have to be fair to one another. That is what should be done. Now, when you say "let us have a level playing ground between KANU and the Opposition," the truth of the matter is that, we have to start with the so-called level playing ground within our own parties because among the registered parties here in Kenya there is no party which has got the so-called level playing ground. Every party has got hiccups here and there. Therefore, before we even start telling other people to play well, first you must play well within your own parties and that is where it should start from. We should not, as Members of Parliament, start telling Kenyans that we want a level playing ground all over the country. Wananchi are very intelligent, they will say "you people sort out your problems within your own parties first."

An hon. Member: We know the problems that exist in KANU!

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): Oh yes! They know what is going on in KANU and we know what is going on in their parties as well. There is no level playing ground yet. So let us now become fresh new Kenyans with the right attitude towards one another.

Mr. Deputy Speaker, Sir, I have heard people talk about impartiality; fair play by the media, including KBC and the rest of the media. I am for that view, but is it going to work? The problem we have here is not the law. We are changing the law here, but the problem we are having is not the law, it is the attitude of people who are running those things. I have watched, as a person, the games that have been played on me.

(Applause)

Mr. Deputy Speaker, Sir, for example, when I took over the Ministry of Agriculture, Livestock Development and Marketing, there were a lot of problems there and I started sorting out those problems and, for political reasons, I got into trouble with the media. When I was transferred, out of the blue, those problems disappeared. How can that happen? Problems cannot just disappear because an individual has moved out. Is that a fair game?

Mr. Mulusya: On a point of information, Mr. Deputy Speaker, Sir. I would like to inform hon. Nyachae that, the reason why those problems disappeared all of a sudden is because he also disappeared from the centre of

influence where those problems were channelled and at the same time it was thought that, once hon. Nyachae is out of the Ministry of Agriculture, Livestock Development and Marketing, because that is where money comes through, he is going to cease having the influence and, therefore, he will not be eligible to vie for the KANU seat and those are the reasons why there were no KANU elections the other day.

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): Mr. Deputy Speaker, Sir, I am very surprised that there is a human being called hon. Mulusya who has become an angel to know what goes in other people's minds.

(Laughter)

It is a very difficult situation in which we find ourselves as a nation. We have developed an attitude where everybody, including us Members of Parliament in this House, are more concerned about self-service and self-survival than serving this nation. This is because when you listen to what the hon. Members have been saying about this Bill, one question arises: We are asking for a level playing ground, but to what extent are we concerned about improving the living conditions of mwananchi out there? If you look at all the amendments that we are trying to make in the law, whether it is the media, it is because the politicians want to talk and be covered. When you start talking about meeting the people, public meetings, it is the politicians who want to talk. But we should have also thought about looking into our laws to bring about certain changes in our style of managing our nation as a whole with the objective of improving the living conditions of the people. That is more important to Kenyans than we the politicians who want a level playing field which we can always talk about.

Dr. Lwali-Oyondi: On a point of information, Mr. Deputy Speaker, Sir.

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): I do not need your point of information now.

Dr. Lwali-Oyondi: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Dr. Lwali-Oyondi, I disallow it. I think you are not quite sure what you want to do.

Dr. Lwali-Oyondi: I have a genuine point of order!

Mr. Deputy Speaker: Order! You shot up on the grounds that you had a point of information and when the Minister declined, you decided okay, it is a point of order now. I do not think that I can allow that.

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): Mr. Deputy Speaker, Sir, I would like to talk about the media. I think, when for instance KANU is being blamed that it dominates the public media, I think if anybody did some homework, because you must have been listening to the radio, watching the TV news and so on--- It is not simply the fairness that is to be given to the parties, but even to the individuals. Individuals need also to be given a fair deal.

For the last four to five years, KBC has been serving about nine to ten people only. So, it is not even KANU, it is a few individuals who have been covered! So, here we need a fair treatment, not only to the parties, but to individuals whether they are in the Opposition or in KANU, business or they are farmers. Fair treatment should be for all because they are taxpayers.

Mr. Deputy Speaker, Sir, I would like to appeal to our brothers, who maybe for genuine reasons had misgivings about IPPG, because history can sometimes force you to have misgivings on whatever is going to happen--- We understand that. Perhaps, for historical reasons, they may not have believed that things were going to work. That is my conviction and I do not blame them for having had that misgiving because, in nature, there are daring people who can say: "Yes, they have been bad, but let me see whether this time they will be alright." There are others who would say: "No, these people have come to the conclusion that, I cannot trust them." So, if you had reached that stage of saying "I cannot trust these people", now we are appealing to you to move a little nearer because we mean business. We are serious and we want to bring about changes and good management.

Mr. Deputy Speaker, Sir, when hon. Muite was talking and hon. Nthenge interjected, hon. Muite said: "Old people should be looking after their grandchildren." I told hon. Nthenge that, that is a good statement because when we sit here and we are discussing good management, it is because I am concerned about my grandchildren and, therefore, I should be allowed to comment here and plan well for my grandchildren. I should not go out here and start handling my grandchildren in my hand. I think, we have a future here to take care of and this future is---

An hon. Member: You will become old also!

The Minister for Regional, Land Reclamation and Water Development (Mr. Nyachae): Mr. Deputy Speaker, Sir, when I used to work as a Provincial Commissioner, I had the fortune of working with very enterprising and quite democratic people in Central Province where everytime, I would hear people saying: "*Muingi umesema*." which means "majority have said". Now, those who were at the IPPG meetings were "*wengi*", that is the majority. So,

majority have said and you people must also accept that "*Muingi wamesema*". Hon. Muite, that is what we are saying.

Mr. J. N. Mungai: On a point of order, Mr. Deputy Speaker, Sir. Although I admire the contribution by the hon. Minister, he has used some language that I did not understand and, indeed, I need some interpretation because it is a vocabulary which I have never heard. What does he really mean by "*muingi*?" I do not know whether it is in Kikuyu or not. All I am saying is that I did not understand that vocabulary. Would I, therefore, be in order to demand from the hon. Minister to tell us what he means by "*Muingi*?" What is the interpretation of this word?

The Minister for Regional, Water and Land Reclamation (Mr. Nyachae): Mr. Deputy Speaker, Sir, hon. J. N. Mungai happens to be my Member of Parliament in Molo and he knows that I am one of his oldest constituents. I lived there before he was elected as a Member of Parliament and he knows my home. So, if he needs a bit of education in interpretation, I will give him very good training because where I get stuck, my wife knows that language more than myself. So, he is very much welcome to come and learn about what I mean by "*muingi*". If he visits an old man to learn, he knows that according to African traditions and even according to Kikuyu traditions what he is required to bring---

An hon. Member: You have to bring a goat!

The Minister for Regional, Land Reclamation and Water Development (Mr. Nyachae): Yes, but not simply a goat. It has its own name. So, I will tell you what that name means. I was actually trying to emphasise one area which is that we are not going to have perfection today. Hon. Muite and hon. Raila said six months should elapse before we know what we mean by these changes. Let me emphasise one thing and both hon. Muite and Raila should know that we are being watched on a daily basis by wananchi. Everything that we are deciding on today reaches every corner of Kenya today. Therefore, anybody who wants to go along with us can do so. Indeed the majority of Kenyans became very peaceful the day the IPPG met. This is because they learnt on the same day that our leaders want peace. Therefore, whatever changes we are making or whatever changes we are discussing today, wananchi do not need six months to wait for them. So, we need to move fast because any delay will make wananchi feel that there is something that is worrying the leaders which has to be sorted out and that kind of thing creates tension among wananchi.

Mr. Deputy Speaker, Sir, therefore, what I am saying is that let us endorse what we have agreed upon to do because all of us are actually not saying "no" to what we want to do. All of us want improvement. Why do we not then endorse these recommendations by the IPPG and say: "As soon as we finish this and we get into another programme, hon. Attorney-General should hurry up those task forces." So we can set up these other committees of Parliament. Let us look at our laws and the changes that we need. Let us also go out to wananchi and hear what they want to say. So long as we have the spirit of bringing about changes for good management, we shall be successful.

Mr. Mulusya: With those few remarks---

The Minister for Regional, Land Reclamation and Water Development (Mr. Nyachae): Mr. Deputy Speaker, Sir, hon. Muite took two days. I have taken a few minutes and I do not want somebody to tell me: "With those few remarks". I am a trained man in public speaking. Therefore, I can take a long time in speaking, but I do not want to take that long time.

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

The Minister for Regional, Land Reclamation and Water Development (Mr. Nyachae): But you told me to finish quickly!

Hon. Members: Wacha Waziri amalize!

The Minister for Regional, Land Reclamation and Water Development (Mr. Nyachae): Mr. Deputy Speaker, Sir, there is a point that I wanted to make which is very important in my winding up remarks. Africa has complained of dictatorship, mismanagement and corruption. These things have been created by ourselves. I want to say how these things have been created. If you want to develop a dictatorship in any country, say yes to everything, court jesters and all kinds of people who salute you and say "yes" to whatever you do. After five to ten years - and in the case of Kenya, it is 34 years now - you will have a dictatorship firmly in place. You created whatever you are complaining about today. Do not blame an individual. It was a creation by Kenyans. Look at what happened in Ghana. It had a very good leader called Kwame Nkrumah. Immediately he took power, people sang and called him the saviour and other things. Consequently, something else happened thereafter. Everybody was a fool and he was the only one who knew. That is how you create mismanagement of a nation. Who does this? It is the middle-grade leaders in the country. Right now as we are talking, I would like my colleagues across there to look at some of the people they are calling hon. Members. They may not be in today's Session of Parliament. But some of those who are criticising the system today here, were the court jesters. They were the court jesters and now they are turning around and blaming the same house they built.

Mr. Shikuku: Jambo la ufahamisho, Bw. Naibu Spika. Ningependa kumjulisha mhe. Nyachae kwamba anayoyasema ni ya ukweli. Hata hii Katiba tunayoizungumzia, ukweli ni kwamba, katika mwaka wa 1963 tulirudi na

Katiba ya Majimbo. Baadaye, marehemu Kenyatta akampa kijana mmoja aliyekuwa anaitwa Tom Joseph Mboya, mtoto wa Ondiege kutoka huko Rusinga, lakini alizaliwa hapa Kilimambogo. Alikatakata hiyo Katiba na akaondoa majimbo yote na ikabaki Katiba ya Kuunganisha. Katiba tunayoizungumzia sasa ni ya Serikali ya Mtukufu marehemu Kenyatta.

Kwa wakati huo, wanaozungumza walikuwa wamezaliwa, na wote, katika pande zote za Bunge hili, hawakusema lolote. Ilikuwa nzuri na tamu, na sisi wengine tuliokuwa tunapinga tukaonekana kama mashetani. Lakini sasa, Katiba hiyo hiyo ndiyo inatukanwa na waliofaidika na hiyo Katiba.

Zaidi ya hayo, kwa Katiba hiyo, Mtukufu Rais Moi aliongeza Kifungu cha 2(A). Huyu anayezungumza na wengine tulipinga Kifungu hicho na kikaondolewa. Kwa hivyo, Katiba tunayozungumzia ni hiyo hiyo ya marehemu Kenyatta. Wanaozungumza hapa walikuwa wamezaliwa na walikuwa wanakula matunda ya hiyo Katiba.

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): Mr. Deputy Speaker, Sir, in winding up, I would like to say that we middle level leaders - there are the top leaders above us--- What we are going through is the fault of the middle leaders. This is because I remember when you claim that the courts are not independent, we ourselves in this Parliament - I was not there - killed the independence of the courts. I remember that there was a petition where, in an election---

Mr. Deputy Speaker: Hon. Nyachae, I would request you to stick to the Bill. The number of other hon. Members who are waiting to contribute is big.

The Minister for Land Reclamation, Regional and Water Development (Mr. Nyachae): Mr. Deputy Speaker, Sir, let me finish that remark only, and then wind up. I am referring to the amendments that need to be done in order to bring back what we want; and that is good management. What happened is that the courts nullified the election of a person. Within one week, the Constitution was changed and the man who had been thrown out by the courts was back in this House. What do you make the courts feel, when they take a decision and you people reverse it? That is what I am saying. So, here in this House, we have got to accept that if we make laws or amendments, let us allow them to work.

With those few remarks, I once again appeal to my friend, hon. Muite, to come along with us.

Ms. Karua: Thank you, Mr. Deputy Speaker, Sir.

I rise to support the Statute Law (Repeals and Miscellaneous Amendments) Bill. This Bill is intended to further the process of democratisation in this country.

Mr. Deputy Speaker, Sir, with your permission, I will go a bit into the history of the democratisation and the struggle for freedom in this country, which started at Independence. When the freedom fighters ushered in Independence in 1963, we did not inherit a perfect system. We had come from colonial rule. Yet, those who were fighting for Independence did not ask the colonial masters for six months to prepare for Independence. They took responsibility, took over power, and the process of democratisation began. In 1992, when Section 2(A) was repealed, I did not hear any voice saying: "Give us one year to campaign because we have ushered in a new era of multi-partyism, before we can go to the elections". The year 1997 is not different. We are still on the road to democracy and greater freedom. I see no reason why we should be told today, that because we are amending our laws and, perhaps, the Constitution when the time comes, we need six months, a year or any other period to prepare ourselves. I think those are self-serving statements. We have other Kenyans interested in leading this nation, who believe that, perhaps, we have not done our best, and who are ready to take over from us, and steer this nation towards greater freedom and democracy. By what token can we insist on going beyond our mandate and remaining in this Parliament without seeking for proper mandate from the electorate?

Mr. Deputy Speaker, Sir, I am saying that - like it has been said by the previous speaker, hon. Nyachae - these are not the last amendments, nor are they the first. We shall continue having amendments and we should be able to take them in our stride and carry on, on the road to greater freedoms, to a better society. Having said that, I would like to say that it is also good to take a sober approach and to appreciate where we are coming from.

I do agree that certain institutions have been monopolised by the ruling party, therefore, making them have an unfair advantage over other political parties. That is why we are having these amendments. They are intended to put all the parties at par. It will not come over night and it is up to each one of us and to each and every Kenyan to ensure that the amendments, that will be passed by this House, are translated into reality. Where Government officers or institutions fall short, it is up to us to challenge them in the courts of law and try and enforce the laws that we have. It is up to every Kenyan to utilise the law to enjoy their freedom. It is will, therefore, be up to the political parties to ensure that we enjoy the amendments that we are passing, to the maximum.

For instance, Mr. Deputy Speaker, Sir, it is true that the ruling party has monopolised KBC. It is true also that within the ruling party certain individuals had far more than their great share of publicity through KBC, but other parties were totally marginalised. Listening to the radio and television, all that one hears is about KANU sub-branch chairman, KANU divisional chairman and so on. They never hear of their elected Members of Parliament, especially

those in the Opposition.

It had come to a stage when our contributions in this House, sometimes, are given a total of blackout by KBC so that our constituents do not even know that we are doing or what we are supposed to be doing here. We must appreciate that it has been that bad and we are saying that, after these amendments, let us get on with business and let us enjoy the freedoms that the amendments are going to usher in.

But as a mark of good faith, Mr. Deputy Speaker, Sir, the Government should go ahead of these amendments.

By now, we should have seen a change of attitude. So, I am saying that the Government is failing the spirit contained in the reforms package. They should not wait for these amendments to be passed. We should see changes immediately in KBC. Let us have equal air time. Let Opposition activities be covered because we do not have to wait for a whip to be held over the heads of the directors of KBC for them to start being fair. Let them start now and when the amendments come, let the situation be legalised. We need to see the spirit of reforms and the agreements being translated into action on the part of the Government.

Mr. Deputy Speaker, Sir, it is also true that the Provincial Administration has not woken up. I will single out the chiefs who have been used and abused by the ruling party. Meetings of the ruling party are convened by chiefs and where they cannot get enough people to attend their meetings the chiefs have been using their authority to force people to attend barazas which are turned into KANU meetings. The amendments intend to level the playing field and to leave KANU, like all other parties, to convene their own meetings without the assistance of the chiefs. I am saying here again, let us not wait for the Bill to be passed. Let us see a circular from the Office of the President telling chiefs to disengage themselves from political activities of the ruling party. Even if it is a Presidential tour, let people come of their own free will. Let people not be coerced by chiefs to line-up; let us not order the children out of classes, but let it be out of their free will. Even if tomorrow there is a DP Government, to which I will belong, let the children not be called out of classrooms. Let the Government or the President or an hon. MP attract people along their entourage because of the respect they have been able to earn from the electorate.

Mr. Deputy Speaker, Sir, these amendments are intended to do precisely that, but we want the Government to go ahead and to implement the spirit of the reform long before this House passes these amendments.

Mr. Deputy Speaker, Sir, we have also seen members of the Civil Service, supposedly the educated in this country, turning themselves into sycophants instead of serving the public in their duties. When a civil servant stands in a public meeting to campaign for a political party using his or her office, it is wrong. I am not saying as Kenyans they are not entitled to be politicians. But when you stand up to use your office to endear a certain political party to ensure that you retain your job, then you make us wonder whether the country was right to spend any money on your education. For those civil servants, I would say that they have retarded this country by stagnating the democratic development through their very unfortunate behaviour. Before this Bill becomes law, let them stop their illegal activities and their very unseemly activities of misusing their offices.

Mr. Deputy Speaker, Sir, the DCs and PCs, to a less extent, have also been used, but they in turn use the chiefs because they have no power to summon people. So, in my view, once we amend the Chiefs Authority Act and disengage the chiefs from politics, the DO, DC and PC should remain powerless. We shall, therefore, have disengaged the Provincial Administration from political activities.

Mr. Deputy Speaker, Sir, I would also like to say that those who are saying that the struggle for democratisation began with the NCEC are wrong. The struggle for democratisation began with the struggle against colonial rule. It has not ended. When section 2(A) was repealed we did not have the NCEC. Some of those shouting loudest about bringing reforms were busy getting on with life when only very few Kenyans were sacrificing their time and their businesses fighting for reforms. It is, therefore, self-serving to claim to be a better advocate of reforms than any other Kenyans. Even the ordinary member of public who has gone to Uhuru Park when those rallies have been called or other meetings is also an advocate of reforms.

Mr. Deputy Speaker, Sir, let us not give ourselves accolades. It is a job that each and every Kenyan has in their own way participated in.

Mr. Deputy Speaker, Sir, I would like also to support what has been said by hon. Nyachae, that we must also democratise our own political parties and even ourselves. We must be democratic in our behaviour. I do recall when there was only one political Opposition party, that is at the advent of multipartyism in 1992, when there was only the original FORD, even before we went to the election, three were those who are now shouting loudest about reforms who were trying to bar some of us from the new political party. Let us re-examine ourselves, let us begin by being democrats as opposed to despots and then we shall be able to agitate truly for reforms.

That is why, Mr. Deputy Speaker, Sir, one doubts a little, the motive of anyone who will stand here and say that the package by the IPPG on the legal and administrative reforms which is now before the House, is totally useless.

Irrespective of who broke the amendments, anybody will see for themselves that these are great strides towards democratisation. It will be up to us how we utilise them to realise our goals. But what has been demanded by the

reformists so-called, and what was offered by the Government was far below what has been achieved by the IPPG. I would say if what was being demanded by the NCEC is viewed as 100 per cent, the IPPG has achieved 120 per cent.

Mr. Deputy Speaker, Sir, it would be dishonest to start by saying these reforms are not good, but bring out any amendment that will make the reform package even better. I start from the view that there is nothing which is too good to be improved. So, I admit yes, there are some sensible and reasonable amendments that can be made. Let those who contribute to this debate come up with those amendments. But let us not hear name-calling and insinuations, or outright untruths, claiming that those who discussed with our colleagues on the opposite side had been compromised. When someone stands up in broad daylight, or even in darkness, to allege that people have been compromised, knowing it to be false, then we doubt his motive. We doubt whether it was reforms such a person wanted or whether he had another hidden agenda.

Mr. Deputy Speaker, Sir, the National Convention Executive Council (NCEC) and all other reformists, churches included, have been calling for dialogue. For quite a while we accused the Government, and rightly so, of refusing to sit down and talk. Why should somebody turn their back and run away when dialogue has come? The reason is only that dialogue that has come too easily cannot be dialogue, and therefore you must run away.

What have we been asking for? We were asking for dialogue. But it appears to me that those who thought that the Inter-Parties Parliamentary Group (IPPG) negotiations were wrong were more concerned not with dialogue but wanted dialogue with specific faces and names. That is not the meaning of dialogue. Any person, or group of persons, can become the messenger if the message is the same.

Kenyans elected us to this House. When someone starts to question the mandate of elected representatives in Parliament, and to claim that any other group is any more credible than elected representatives then he has doubtful motives. Although the so-called NCEC consisted of political parties, civil society and the churches, the messengers themselves were not elected through universal suffrage as we were elected. Not everybody had a representative in that group. Nobody can, therefore, claim that, that body is more representative as opposed to Parliament. But I am saying that their role was complimentary to what was being done here in the House.

I want to say that the NCEC no longer exists. If we all agree that it was made up of political parties and civil society, once the main parties have left the remnants cannot be NCEC. What there is now is a group of individuals because all the civil societies left it. Not all civil societies are doubtful of the IPPG package. The majority of Kenyans, including the churches, are willing to give the reforms that have been laid in this House a chance.

So, who has been left in that group? Who is claiming to have the people's mandate and calling themselves the NCEC? It is true that they have a right to differ with us, but I am saying that what remains of the NCEC is a grouping of the remnants of what used to be the NCEC. It is a grouping of those people who felt that they did not want to give dialogue a chance. We need not fight with any Kenyan who holds a different view from ours. But, let us all accept the right of every Kenyan to hold a view which is different from ours. You cannot arrogate yourself the role of dictating what is right and wrong, and calling everybody else who disagrees with you a fool. Indeed, it is cowardly to refuse to dialogue. It is not wise leadership to dismiss everybody without giving them a chance.

I am, therefore, calling on all Kenyans, including the remnants of the NCEC, to join hands with us. If there is any idea that can improve this package then it is doubly welcome. Let us listen to it dispassionately and incorporate it to strengthen what we have. When the Constitution of Kenya Review Commission Bill is passed we shall be able to once again sit down and do some serious business.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, I want to say that what hon. Members did by coming together to deliberate on the reforms now before the House happens all over the world. Even in the "mother of Parliaments" in the United Kingdom hon. Members come together to discuss critical issues, negotiate and agree on what needs to be done. We should be happy that at last we have come of age and done what we should have done long ago. We are building on a tradition, so that in future we shall be able to sit down, shed off our party hats and agree and show the way forward on issues of critical concern.

A question has been asked as to what the difference is between KANU and the Opposition hon. Members with regard to the IPPG package. I want to say that there is none. It does not belong to KANU or to the Opposition. It belongs to all of us. So, with regard to these agreed points, there is no difference between the two sides at all. We do not have to differ to be able to do our work. We do not have to differ for the sake of it. We only differ when there is need for it. We sat down and went through this package together. So, why should we differ on it? But if anyone of

us comes up with an amendment that is worthy of consideration we should not turn a blind eye and a deaf ear to it. We should be able to get on with the reforms.

I would want to say that the amendments to the Local Government Act have been criticised on the ground that the power of controlling local authorities is still largely centred on the Minister. This is a worthy criticism. We removed the powers of the Minister where elections of local authorities are concerned. We have transferred those powers to the Electoral Commission of Kenya (ECK). Nomination of councillors in proportion to the parties' strength within a council has been returned to the parties. Perhaps this is an area we should look into and return the power to run councils to local authorities.

We have been criticised on the electoral process, especially the fact that we have proposed to add 10 commissioners to the ECK. Even in other old democracies electoral commission members and all appointees to constitutional offices are vetted, not by the civil society, but by committees of Parliament or Parliament itself. I do not know, nor do I see any good reason, why we should transfer vetting powers to the civil society when we have elected representatives of the people. Members of the civil societies are citizens of this country and we represent them in this House. We take their views and when the time comes for us to deliberate on appointments, we shall support the proposition that this House, or its committee, should vet the appointments.

That is why, with regard to the ECK, we have proposed appointment of additional commissioners. This will enable Parliamentary parties that had no chance to nominate members to the ECK do so. This is not unique to Kenya.

In Germany, it is political parties that suggest names of members of the electoral commission, and not the civil society or the churches. It is assumed that the church minister and the member of the civil society has a representative in Parliament. I believe that we represent all Kenyans.

(Applause)

Mr. Nyagah: On a point of order of information, Mr. Temporary Deputy Speaker, Sir. Whereas I do not want to take much time of hon. Karua I would like to inform her that in Germany it is mandatory for every person to belong to a political party. It is also compulsory for every German to contribute towards a political party. Therefore, churches and non-governmental organisations (NGOs) belong to a political party. Similarly, NGOs and churches in Kenya are represented in this House by hon. Members. We can only consult these organisations. I would also like to inform hon. Karua that if you knock a Maasai down three times the next thing he will do is to pick up a rungu and he will surely kill you. When we noticed that there was a stalemate between the Government and Opposition sides we accepted to just negotiate, knowing that we had not lost the battle. We had to negotiate with the other side of the House in order to prevent bloodshed in the country.

Ms. Karua: Thank you for that piece of information. I would also like to say that Non-Governmental Organisations (NGOs) are pressure groups. They pressurise Parliament and the Government to act. Therefore, the NCEC pressurised us and the Government and us took responsibility.

(Applause)

They, therefore, may take pride in saying that they acted as the society's conscience and they pricked us to act. Except that I must say, political parties on this side of the House were represented and were part of that process, when the NCEC was a body and not the remnants of that body.

Mr. Temporary Deputy Speaker, Sir, going to the reforms, we have been told that the section of the Public Order Act, where the police are empowered to break-up a meeting where law and order are threatened, or where there is clear and imminent danger to law and order, has been criticised. I would like to say that this very provision is in the Penal Code. Sections 78 to 87 of the Penal Code deal with riots. The reformists never suggested the repeal of those sections of the Penal Code, meaning that it is accepted that there has to be law and order in any civilised society. What we did was merely to restrict what is in the Penal Code in the amendment to the Public Order Act. We are not, therefore, bringing anything new. Unless we are going to be anarchists, even where there is right to assemble, we still want law and order.

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform the hon. Member that, in fact, those who alleged that they are members of the NCEC and contributed on this Bill this afternoon, did not refer to their own document, which did not challenge that at all. In fact, the IPPG improved on it. The NCEC document gave the Administrative Officer the power to disperse the crowd, but the IPPG said: "No, we cannot have the Provincial Administration dispersing the crowd". So, that was deleted, reserving the powers exclusively to the police officer. So, the IPPG document acted on this very issue and improved on the NCEC document.

Ms. Karua: I thank the hon. Attorney-General for that piece of information. That is why I am saying that the reform package before the House is 120 per cent of what the reformists were demanding. That is just a demonstration of that fact. Therefore, I am saying: Let us examine what is before us dispassionately. To hurl insults is not the way to resolve an argument. Come with reasons and do not let it be that when your name is mentioned in relation to this House, the only distinction will be that you were a distinguished heckler. Let there be something constructive you did in this House. Being responsible as leaders means that we have a responsibility to steer this country to peace. As was said by hon. Murungi when he seconded this Motion: "We stand for reforms in an orderly and peaceful manner." Already, blood of Kenyans has been shed in the name of reforms. That is enough. Let that blood not be in vain, and let us not look for ways of shedding more blood if we can achieve reforms peacefully. This is what the Bill before the House seeks to do. It seeks to usher in reforms without bloodshed. We should not be accused of congratulating ourselves too much, because I do think that we averted a crisis and Kenyans are with us on that. We represent various constituencies, and each one of us has gathered the views of their constituents. My experience is that my constituents, and the people I have come in contact with, are all happy that we have found a solution to the impasse that was there. Let us improve on it, build on it and continue doing that. Dialogue is not dictatorship. You cannot go to a negotiation table with fixed positions. Those who are accusing us of having given in, must be reminded that dialogue is give and take. As I am saying, there was more taking than giving in the legal reforms, and that is why they are 120 per cent instead of the 100 per cent demanded. It is, therefore, irresponsible to run away from the process of dialogue and to actually call for civil war, when we are told that the country will be made ungovernable. I am urging all Kenyans of good will to support the process of reforms in a peaceful manner and to build a peaceful, strong and democratic Kenya.

In the name of the reforms, Kenyans have been asked to burn their voters cards. Those asking Kenyans to burn their voters cards are still coming to this House. If the process of governance in this country was so hopeless, why come to a hopeless House?

(Applause)

If there was sincerity, one would not only burn the voters card, but they would also go away from the House, never to come back, attend the parallel assembly and get the murderous results we are being told would have come from there. Let us not mislead Kenyans. Let us not ask Kenyans to do what we ourselves are not prepared to do. Let us be responsible and support the process of peaceful change which has now started in this country. I would like to say that there is no going back. We are on the road to greater democracy, to respecting and pursuing dialogue whenever the occasion calls for it. Nobody is going to change that fact and nobody can hold Kenyans to ransom by saying: "It is either my way or I will create chaos." Only if Kenyans agree to that, but nobody has that kind of power over 25 million Kenyans. I would like to say that most Kenyans want peace and change.

Mr. Temporary Deputy Speaker, Sir, when we are told that the reforms are not good, that they have given KANU and President Moi victory, I would say that it is easy to make those empty statements. What we expect is clause by clause demonstration of where we have made it better for KANU. How can we be accused of having made it easier for KANU to win the elections when we are taking their campaign machines, the Chiefs, away? How have we strengthened them? When we remove barriers of political parties visiting any area in this country, when we advocate Government security for Presidential candidates, are we making it easier for KANU to win?

Mr. Temporary Deputy Speaker, Sir, it is easy to make that kind of statement but what we expect them to do, is to show us how we have enhanced the powers of the President through these reforms or how we have made it easier for KANU to win. Perhaps there is confusion of what it ought to be. Perhaps, there are people who would hold the view that the reforms can only be good if the law can remove the incumbent President and Government. It is for us politicians to campaign and remove the incumbent from power. The law will not do that for us, it will merely facilitate.

Mr. Temporary Deputy Speaker, Sir, it is true that many impediments have been placed in the way of Opposition politicians who sometimes do not get licences or have their meetings and meet-the-people tours disrupted. But there are those of us who have taken the easier option. For example, simply because hon. Shikuku's rally was disrupted, I decide to sit back and refuse to organize any rally in my constituency under the pretext of being denied a licence the same way they denied hon. Shikuku, though I may never have applied for a licence.

Mr. Temporary Deputy Speaker, Sir, as the Opposition, we must also take responsibility and admit perhaps, we did not do as well as we should have. All is not lost, we still have time. Why do we not put our act together and get on with it? We should stop blaming the Government for all our failures. The Government must also take responsibility for where it has been the impediment. Let us admit that we have been wanting.

Mr. Temporary Deputy Speaker, Sir, I know of no country where the law decides who comes to power next. That is a decision that must be left to the people. The law should merely facilitate. I think these reforms are facilitative

and they are going to level the playing field considerably. I would like to call upon every Member of this House and all Kenyans of goodwill to make the package well known to all Kenyans. Let the changes in the legal reforms be known to Kenyans so that we can all take advantage of the reforms during this election. If we are ignorant, we may not be able to take advantage of the changes.

Mr. Temporary Deputy Speaker, Sir, it is therefore, our duty, and we hope that the Kenya Broadcasting Corporation (KBC) will mend its ways and give enough air time to all political parties, so that as we sell policies, and also to enlighten the Kenyan public on what the reform package contains. People do not actually know what reforms we are talking about. We have been addressing the international community more than Kenyans. We have been addressing diplomats more than our citizens. It is time we left Chester House and went to the villages to tell the people what the reforms are all about. If we intend to take advantage of the new provisions of the law that are going to be ushered in by these reforms, it is time we left the Embassies and the international community and concentrated on the masses, so that they may understand what we mean by the reforms. Those who think that we have performed below what we should have should also go ahead, tour the countryside and tell Kenyans where we have fallen short.

Mr. Temporary Deputy Speaker, Sir, we would like to make Kenya a better, freer society for everyone, so that each one of us can be able to propagate the ideas they believe in, each one of us can be able to associate and assemble whenever they want.

Mr. Temporary Deputy Speaker, Sir, I see no fault in the provisions providing that public meetings and processions be held between 6.00 a.m. and 6.00 p.m. This has been criticised and some persons have suggested that they end at 7.00 p.m. The day-light hours fall between 6.00 a.m and 6.00 p.m. These are the hours within which we should hold our meetings if we want orderliness. Somebody else may hold a different view. Why would we want public night meetings if we want law and order? We know that even criminal activities are more prevalent during the hours of darkness than during day time.

Why do we want occasions that may degenerate into chaos? It is okay to have private parties the whole night, but for public meetings and processions, let us have them during daylight. We do not have electricity in the countryside, and we may not be able to light our streets for people to have a procession at night. Let us be practical. Like hon. Nyachae said, if we want to find fault in something, we will find it. I see no problem with public meetings being held between six o'clock in the morning and six o'clock in the evening. The argument that seven o'clock is better, is an argument, in my view and with respect to the propagator of the idea, an argument for the sake of it. Let us offer what is of benefit to Kenyans.

Mr. Temporary Deputy Speaker, Sir, let us also tell Kenyans that when amending the Chiefs Authority Act, we removed the power of the chief to conduct searches in peoples' houses. One of the greatest nuisances in the everyday life in the village is the terror of the chief. We cannot even invite our relatives for dinner without the chief telling us, we are having an illegal meeting. We cannot even have negotiations over weddings taking place without having to report to the chief. People cannot attend a prayer meeting when someone has passed away without notifying the chief. We are saying that Kenyans have been crying due to oppression by the chiefs everywhere and we have opened the door for Kenyans to meet privately in their homes without notifying the chief. We know that some chiefs abused this authority unjustly to enrich themselves. We know that before permission is granted for a prayer meeting, a funeral or a wedding, the chief has been asking for "Harambee". We put the word "Harambee" in quotes because that is their own way of asking for something small. We have removed the terror of the chief from the everyday life of Kenyans. Nobody can tell us that this is going to assist KANU in the coming general elections. We have freed every Kenyan, irrespective of their party affiliation. That is why I am saying, let us be told clause by clause, where we have actually strengthened the ruling party or the Executive Powers. I see no section which gives more powers to the Executive than it had before.

Mr. Temporary Deputy Speaker, Sir, when we come to the Societies Act, the period of 120 days has been criticised as too long. It must be accepted that the Office of the Registrar of Societies is a busy office, considering that very many Kenyans will be applying on a daily basis to register new societies. Before, there was no specified time within which the registration was supposed to take place and that is why the Registrar of Societies has been able to stay without replying to applications for the registration of parties and other societies, for more than a year. Giving him a limit of four months is a straight forward approach. We are now saying that when he fails to do that, the court avenue is available just like it is available for anybody else who fails to adhere to the enactments that are now before the House.

Mr. Temporary Deputy Speaker, Sir, before the amendments, there was blanket discretion to public officers. That discretion has now been curtailed and guidelines given. For instance, the period of time within which the public officer must reply to an application or the guidelines upon which the public officer must make decisions have been provided. The standard of reasonableness has been introduced in the actions of public servants, especially in the Societies Act, and even in the Public Order Act. The police officers stopping a meeting must be guided by

reasonableness and must act upon reasonable grounds. In other words, they are meant to safeguard the interests of those who want to assemble and the interests of the Kenyan society as a whole.

Mr. Temporary Deputy Speaker, Sir, I agree that it is not ideal to lump up political parties with all other societies. Political parties should have their own separate Bill, which ideally, should be under the Electoral Commission. That is why we have two stages of these reforms; the minimum facilitative reforms before the coming General Elections and the long term reforms. All Kenyans will have a chance to give their views on the long-term reforms when the Bill concerning those reforms is passed. So, we have not shut out ideas on how best, we should reform our laws in this country. The door is going to remain wide open and nobody will have an excuse of saying that their views have been locked out by Members of Parliament. When the time for comprehensive reforms comes, the Commission will collect the views of all Kenyans.

Mr. Temporary Deputy Speaker, Sir, since 1963 to date, this House has been passing laws on behalf of Kenyans. It has been deliberating on all the changes that have come. Some have been good and some have been bad. Why is it that in 1997, we are being told that this House is no longer good enough to usher in change? All the changes that have taken place since 1963 to date have been through this House. Unless we are saying we do not want a Parliamentary system and the elected representatives of the people to be making laws, I do not see any other reason why we should say that this House is not good enough to deliberate on the amendments. I call upon those who are opposing these reforms to take up their responsibility as elected Members, discuss these reforms with an open mind and to bring in whatever amendments they feel should justly be part of these reforms.

Mr. Temporary Deputy Speaker, Sir, I join those hon. Members who have said that, County Hall is part of Parliament. The public may not know that County Hall belongs to Parliament, and not the City Council or any other body. It is an extension of Parliament. So, when we say that we went to County Hall, we were within Parliament when we discussed these reforms. Even if the IPPG is not provided for in the Standing Orders, it was a caucus of Parliamentarians, the same way we may meet outside this House, deliberate, canvass with each other and come into the House and pass a Bill. This is what happens all over the world. We just did what was expected of us, as elected representatives of the people. I do not wish to dwell on what has been said by other hon. Members.

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

The Minister for Home Affairs and National Heritage (Mr. Ntimama): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute on this Bill.

Mr. Temporary Deputy Speaker, Sir, first of all, I want to take this opportunity to pay glowing gritudes to the Members of Parliament from both sides of the House who stayed for long hours, deliberating on the package we are discussing now and which is going to become law. It is important that we thank these people, because they have created history in this country. For 34 years, apart from the change that took place when the great people who went to negotiate during the Lancaster House Constitution came here, this is the biggest change constitutionally, that has taken place in this country.

I think it is important also to say that, although our friends did not participate in the IPPG package, they should now come on board to support every aspect of the package, as we are discussing it here in Parliament. They might criticise or make amendments, which I think is right, especially here in Parliament. But I think it would be wrong for these people to say that they reject the whole package as it is, because that would be unrealistic, undemocratic and out of the spirit of this Parliament.

Mr. Temporary Deputy Speaker, Sir, I think these reforms have absolutely maximized the liberty of the people of this country. It might not be complete, or total liberty as we think, but definitely, it has maximized the freedoms and the rights of the people in this country. Definitely, when we have crossed the river and gone into discussing the long-term changes in the Constitution, we will definitely make a better package for the people of this country. The most important thing is to strengthen democracy in this country and I think, these reforms go a long way towards achieving that goal. If I can repeat, this package may not be complete but it is definitely the best way of trying to enhance and strengthen this country because, democracy is the only way through which all of us will have the freedom, the rights of the people, the freedom of speech and liberty as it were.

When we talk about the legal and administration reforms, we find them very important indeed. It is surprising that for 34 years, we have been ruled through laws that are colonial and we have not seen reason to amend them. As hon. Nyachae said, why did we not complain and put up a struggle. Why did we not refuse to be ruled by laws that are absolutely colonial?

Mr. Temporary Deputy Speaker, Sir, I actually never realised that the law governing detention without trial was still in operation. I never realised this until the need for reforms came up. I never realised that it was still on, that you could be picked up by the police, taken behind bars and nobody will know where you are and no court will hear your problem. It is very interesting indeed. But now I know very well that a law like that, if it really stayed, and I still support hon. Nyachae on this fact--- I think we should all have come up and refused to be ruled through such laws.

Mr. Temporary Deputy Speaker, Sir, this is because in Tanzania, that law was repealed long time ago. That is the same case in Zimbabwe, Malawi and all those other countries. You wonder why---

Mr. Mak'Onyango: On a point of order, Mr. Temporary Deputy Speaker, Sir. I take no joy in interfering with my friend, but is he not misleading the House by saying that he did not know that the law of detention still existed when this very House has had occasion to debate a Motion that sought to have the repeal of the Preservation of Public Security Order Act and, I think, as a Member of this House, he ought to have known that? So, is he not misleading the House when he said that he did not know that the law still existed?

The Minister for Home Affairs and National Heritage (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I am not misleading the House. I was not here when somebody brought that Motion into this House, because probably, I was out of this country or something like that. But it is surprising that an advanced and democratic country like Kenya still has that kind of law where somebody would be detained without trial. I thank those who prepared the IPPG package for that because they came up with good proposals especially for bringing amendments to this particular Act.

Mr. Temporary Deputy Speaker, Sir, it must be realised that the freedom of people must be guaranteed by the Government and the people themselves, so that people are not detained without trial anymore. People should be taken to court and given a chance to defend themselves with their lawyers and everybody. This is because this kind of situation is enslaving the people of this country.

Mr. Temporary Deputy Speaker, Sir, when we talk of democracy, we should realise that most countries or all the democracies in this world have a system of democracy called the separation of powers. These separation of powers is the basis for democracy, freedom and liberty of the individuals and the society as a whole. The Executive has its own role in this democracy. Parliament is a supreme legislative body in the country. The Judiciary must also be given the right without interference at all. But we have seen the Executive definitely interfering with other institutions like Parliament or the Judiciary. We have seen some of these things happening for the last 34 years. When you do not have proper separation of powers and when the institution is not given the right to do its own affairs without interference, then you have what we call excesses of power. Excesses of power really becomes misuse of power and when you have got excessive power and you misuse it, then you are in a total misrule and we must avoid this thing for the future and for the people of this country. Excessive power given either to the Executive or even to any individual definitely goes to make up misrule of the society. When we talk about the Public Order Act, during our first Plenary Session of the Inter-Parties Parliament Group (IPPG), I said that I was personally a victim of the Public Order Act: When the local administrative officer, whom I am going to talk about now, barred my people from coming to have a small party at home with me. I felt really bad. I still feel bad and I have a hang-over.

I think the Public Order Act is what prompted our friends in the Opposition, and our friends on this side of the House, to come together and try to repeal or amend this Act seriously. This is because the administration had gone too far. The Chiefs, District Officers (DOs), District Commissioners (DCs) and Provincial Commissioners (PCs) have really become dictators. They have become dictators, agents of repression, oppression and they used to muscle democracy, wherever it was being practised. If these reforms have any meaning at all, some of these people must be sacked. This is because they cannot change. They are addicted to this kind of stupid power and they cannot change.

Mr. Temporary Deputy Speaker, Sir, hon. Members must have read in the papers about me complaining about a small man, who is the DC for Narok, a Mr. Nandasaba, who has been kept there by some Government officials to "sit" on me, oppress me and make the playing field in Narok very hilly, dirty and full of potholes.

Mr. Obwocha: On a point of information, Mr. Temporary Deputy Speaker, Sir. I wish to inform the "Maasai Elder" that this DC, Mr. Nandasaba, was a nuisance in Nyamira. We had to transfer him and demand his removal from Nyamira. Now, you have the mess in Narok.

The Temporary Deputy Speaker (Mr. Ndotto): Order! I do not want to bring the debate to that level. I do not want the names of the people who are not here in the House to be brought to this important debate. I hope you can bring in the issues and not the individuals.

The Minister for Home Affairs and National Heritage (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, we are discussing the Public Order Act. I have been a victim of the Public Order Act through this man called, Mr. Nandasaba. I have the right to speak about this and mention his name here, because I was a victim and he was---

Dr. Otieno-Kopiyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister prepared to reveal a little more, particularly about the time he was administering that kind of justice on the people in Narok, Enosupukia and other places? Was he using the same Act?

The Temporary Deputy Speaker (Mr. Ndotto): Order! Hon. Minister, I think you better deal with the issues rather than the individuals. This is because you are going to invite unnecessary points of order, and it is going

to become chaotic.

The Minister for Home Affairs and National Heritage (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I think Dr. Otieno-Kopiyo is trying to become naughty. As a matter of fact, he has definitely nothing to do with the Public Order Act. But I want you to allow me to talk a little more on this subject. I think we better all think together. I want to say very clearly that, this is one Act that has really infuriated every politician in this country.

Mr. Temporary Deputy Speaker, Sir, this is one Act that really infuriated every politician in this country. The removal and repeal of this Act is being accepted by everybody, even in KANU here, because most of them have faced the music. When the chief goes to take away a microphone from the mouth of a Minister, and it has happened in many places in this country--- When a DC takes away a microphone from a Cabinet Minister, then it is a disaster.

All I am saying is that we must give the public justice. Freedom of speech must be seen to be practised through the laws of this country. If you muzzle the voice of the people, then you have problems of building up pressure from the people which, in most cases, even the Government cannot bear.

Mr. Temporary Deputy Speaker, Sir, I was so happy. I was unable to wait until it becomes law, but I am sure now it is going to become law.

Mr. Temporary Deputy Speaker, Sir, this very man I am mentioning, takes long hours seating with my opponents. He does not do any job these days, because there are no jobs. Since this Bill came up, he knows he has no job any more to muzzle anybody. So, he sits with my opponents and plans strategies to try and muzzle me down. Even the other day when we had a problem in Narok, he was in the queue with those very people who are causing problems in my area. I have been told by other Members, but I am not going to mention their names about what hon. Obwocha is saying and I have also been told by people in Laikipia that this is a man who cannot be made a DC anywhere. I have also been told by people in Kisumu that this man cannot become a DC anywhere in the country. He is arrogant, malicious and devilish---

Mr. Busolo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The DC for Narok is a very distinguished son of Bungoma and I am very shocked to hear what hon. Ntimama is saying about that particular DC. He has a very distinguished career within the public administration. I think to the contrary, it might be hon. Ntimama himself who is stubborn in that area and not the DC. Is he in order to disparage the name of this very good servant public from Bungoma.

The Minister for (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I have a lot of respect to---

Dr. Kituyi: On a point of information, Mr. Temporary Deputy Speaker, Sir. I have been around this world slightly longer than the hon. Busolo and I come from Bungoma. Indeed, that DC is from Bungoma and there is enduring evidence that every basket has its rotten potatoes. That is one of the rotten ones from my district.

(Applause)

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Hon. Ntimama, as a Government Minister, I think you are completely out of order now. I gave you permission to contribute on the Bill which we are debating, but now you are concentrating on attacking an individual who is not here. I am not going to allow it any more. You must go back to the Bill or I will discontinue your contribution.

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. As much as I may not agree with that individual, hon. Ntimama used a word which, I think, cannot be allowed to remain in the records of this House. He called the DC "devilish".

The Temporary Deputy Speaker (Mr. Ndotto): Mr. Ntimama, that word is unparliamentary. Can you withdraw it and then continue with your contribution?

The Minister for Home Affairs and National Heritage (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I do not know whether the word "devilish" is unparliamentary, I withdraw it.

Mr. Mulusya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it not opportune for the Chair, in the spirit of reforms, to allow hon. Members to call a spade a spade? If this man is that bad, why can the Chair not allow hon. Ntimama to say the truth about him?

The Temporary Deputy Speaker (Mr. Ndotto): Order, Mr. Mulusya! Your statement is tantamount to challenging the ruling of the Chair, and it is not acceptable.

The Minister for Home Affairs and National Heritage (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I am very surprised because most of the people who have spoken here have been saying that tribalism is a vice, but I can see a very definite tribal trend from hon. Busolo and other hon. Members. This man is not a Bukusu: He is a public servant. I want to make sure that what I say has nothing to do with a tribe, but with an individual who is a servant of this country.

Mr. Munyasia: On a point of information, Mr. Temporary Deputy Speaker, Sir. Mr. John Nandasaba is a young man from my constituency and I represent him. He is a younger brother to the former Assistant Minister for Foreign Affairs and International Co-operation, Mr. Joseph Muliro, whom I succeeded. I wish to inform hon. Ntimama that whatever this man does is not done on behalf of the people of Bungoma District, because he does not represent them. He does it as an individual and should "carry his own cross".

The Minister for Home Affairs and National Heritage (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I thank hon. Munyasia very much, indeed. But I want to stress that I think it is most important for the Government to know some of the things happening in some parts of this country. If a civil servant is not really acceptable to the majority of the people in a particular area and he is not doing the right thing, he should be removed from such an area. In my case, top civil servants have decided to keep Mr. Nandasaba in my area for him "to make the political playing field uneven" and also oppress and suppress me and my supporters. I think it is unfair for something like this to continue happening. I have protested against this in public barazas and elsewhere. It is unfortunate that a man like this one can be kept in an area just to continue perpetuating malice against a group of people.

Mr. Speaker, Sir, I want to talk about the Local Government Act, which is also referred to here. It is very important to realise that democracy must be established at the grassroots level. If democracy is to have any meaning at all, it must be established and strengthened at the grassroots level. People at the grassroots level must be allowed to make decisions on matters that affect them directly. The local people, including councillors, must be allowed to make decisions on matters that affect them directly without any interference.

We used to have the Local Government Service Commission. This Commission used to effect transfers of senior local government officials, such as the clerks, treasurers, engineers and their deputies. This commission included chairmen of county councils, urban and town councils and mayors of municipalities. It used to be chaired by the Minister for Local Government.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ndotto): Order! Hon. Members, it is now time for the interruption of business. The House is, therefore adjourned until Tuesday, 7th October, 1997 at 2.30 p.m.

The House rose at 6.30 p.m.