

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 18th October, 2001

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of the Local Authorities Provident Fund for the year ended 30th June, 1999, and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of the Local Authorities Provident Fund for the year ended 30th June, 2000, and the Certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Local Government
(Mr. Sirma) on behalf of the Minister
for Local Government)*

Annual Report and Accounts of the Kenya Railways Corporation for the year ended 30th June, 1999, and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of the Kenya Ports Authority for the year ended 30th June, 1999, and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of the Communications Commission of Kenya for the year ended 30th June, 2000, and the Certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Local Government
(Mr. Sirma) on behalf of the Minister for
Transport and Communications)*

Annual Report and Accounts of the Kenya Broadcasting Corporation for the year ended 30th June, 1999, and the Certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Local Government
(Mr. Sirma) on behalf of the Minister for
Tourism and Information)*

Annual Report and Accounts of the Kenya National Trading Corporation for the year ended 30th June, 1998, and the Certificate thereon by the Auditor-General (Corporations).

Annual Report and Accounts of the Kenya National Trading Corporation for the year ended 30th June, 1999, and the Certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Local Government
(Mr. Sirma) on behalf of the Minister for
Trade and Industry)*

Annual Report and Accounts of the National Housing Corporation for the year ended 30th June, 1999, and the Certificate thereon by the Auditor-General (Corporations).

*(By the Assistant Minister for Local Government
(Mr. Sirma) on behalf of the Minister for
Roads and Public Works)*

ORAL ANSWERS TO QUESTIONS

Question No.515

DESTRUCTION OF MALAVA FOREST

Mr. Shitanda asked the Minister for Natural Resources:-

- (a) whether he is aware that there is massive destruction of Malava Forest going on;
- (b) whether he is further aware that the destruction is being carried out by his officers in collusion with saw millers; and,
- (c) what action he is taking to stop the wanton destruction of this forest.

Mr. Speaker: Where is the Minister?

An hon. Member: He is destroying forests!

Mr. Speaker: Mr. W.C. Morogo, where are your colleagues? I can only see you.

The Minister for Roads and Public Works (Mr. W.C. Morogo): Mr. Speaker, Sir, I believe they are coming to the House very fast.

Mr. Speaker: Very well! Let us see how fast they will come here.

Next Question, Mr. Katuku!

Question No.273

CONSTRUCTION OF DUAL CARRIAGEWAY
ON NAIROBI-MOMBASA HIGHWAY

Mr. Katuku asked the Minister for Roads and Public Works:-

- (a) whether he is aware that many Kenyans have lost their lives through road accidents between Nairobi and Machakos-Mombasa Junction as the road is too narrow to cope with the high number of motorists using the road; and,
- (b) whether he could, as a matter of urgency, consider constructing a dual carriage to lower the rate of accidents and delays on the said road.

The Minister for Roads and Public Works (Mr. W.C. Morogo): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that in some sections of Nairobi-Machakos-Mombasa Junction, some Kenyans have lost their lives through road accidents.

(b) The Government is in the process of seeking some donors to fund the dualling of this road, and as soon as one is available, the exercise will start.

Mr. Katuku: Mr. Speaker, Sir, in part "a", the Minister has confirmed my position, that many lives have been lost. But in part "b", he has said that they are looking for funds. I think this is a very shallow answer. Could he give us more details on this? Where are they seeking these funds from and when did they start? People have been dying on this road since Independence.

Mr. W.C. Morogo: Mr. Speaker, Sir, we have had consultations with Badea, the World Bank and the European Union, and we strongly believe that one of them will be sponsoring this road.

Mr. Munyao: Mr. Speaker, Sir, I am surprised that the Minister has confirmed that some people have lost lives on this road. Could he tell us how many people have died there in the last ten years? Also, there was a Motion which was brought in this House by Mr. Kikuyu, and the then Minister for Roads and Public Works promised that the Kenya Government would fund a dual carriage road. When the then Government, the KANU Government, accepted that they would fund the dual carriage road, where did they think the money would come from, instead of telling us now that they are looking for money?

Mr. W.C. Morogo: Mr. Speaker, Sir, the Government is not happy that its citizens are perishing on the road. The fact that the then Minister said that he was going to look for funds to do the road acknowledges the concern that the Government has on this issue. If the Government had the funds, the road would have been done. It is a very important road not only to Machakos, but towards Mombasa, which is the gateway into the country through our port.

This is why we are very busy with consultations and we believe that we shall soon find some money for the road.

Mr. Mwalulu: Mr. Speaker, Sir, the Minister says that the Government is concerned about loss of lives on that road. One wonders for how long this Government will continue to get concerned about the loss of lives along that road?

Mr. W.C. Morogo: Mr. Speaker, Sir, I did not follow the hon. Member's question.

Mr. Mwalulu: Mr. Speaker, Sir, the Minister says that the Government is concerned about loss of lives along that particular road. People are losing their lives day in, day out. Is the Government's role to get concerned or to provide services? Could he give us a specific date when construction of the dual carriage road will commence?

Mr. W.C. Morogo: Mr. Speaker, Sir, I am aware that people die through various avenues; some get sick and, unfortunately, they die. Other lose their lives through road accidents. The Government cannot be happy with any loss of life. It does not matter the cause of the death. The Government is doing everything possible to see to it that its citizens are healthy and alive.

Mr. Katuku: Mr. Speaker, Sir, I travel along that road almost on daily basis. At least, you will find an accident along that road. So, the matter is serious and the Minister admits so. Why can the Minister not set aside money from our taxes to construct a dual carriage road? Why is he talking about donor money? Why can he not set aside money from our own taxes?

Mr. W.C. Morogo: Mr. Speaker, Sir, I am talking of the donor money because we do not have enough from our resources. If the House can accept to tax Kenyans more to enable me do the road, I will be more than happy to do it.

Mr. Munyao: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead this House and yet, we know from the HANSARD, he said that the Kenya Government will fund the construction of the dual carriage road? There was no question of consulting with donors, or donor funding for the road. Who is telling the House the truth; this Minister or the then Minister?

Mr. Speaker: Order! Mr. Munyao, I think you should be patient and let the Minister finish. That is your view!

Mr. Munyao: The Minister said he is consulting!

Mr. Speaker: Order, Mr. Munyao!

Mr. W.C. Morogo: Mr. Speaker, Sir, whether we get this money from our taxes or from donors, at the end of the day, it is the Government of Kenya which will see to it that the road is done. I think it is in that light that the then Minister said that the Government was going to construct that road. We are still determined to see that this road is done to good standards.

Question No.421

TARMACKING OF MASII-TAWA ROAD

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

Question No.597

LICENSING OF PRIVATE GARBAGE COLLECTORS

Mr. Muya asked the Minister for Local Government:-

(a) what the total monthly billing of Nairobi City Council is in respect to dustbin and refuse collection; and,

(b) who licenses private garbage collectors in Nairobi, and which areas are not covered by such collectors.

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

(a) The Nairobi City Council revenue from dustbin and refuse collection amounts to Kshs5,651,910 raised from 260,000 consumers at Kshs20 per consumer. The Council also collects Kshs58,330 from licensing private refuse collectors, and Kshs285,580 from disposal charges. All these amount to Kshs5,651,910 per annum.

(b) Nairobi City Council has only contracted M/s Kenya Refuse Handlers of P.O. Box 33042, Nairobi, to deal with the following activities in Nairobi Central Business District and its environs:

(1) Sweeping roads, car parks, walkways and footpaths.

- (2) Litter collection on roads, road reserves, open spaces and flowerbeds.
- (3) Refuse collection.
- (4) Dumping.
- (5) Clearing and carting away litter in open drains, cleaning and clearing gulley pots and gully collections from time to time.

Nairobi City Council, through its licensing section and in accordance with the Single Business Permit Policy, licenses all private garbage collectors operating in the City. Their areas of operation are not controlled by the City Council, as the Council does not contract them. They enter into private arrangements with interested residents, while others give voluntary service to the community. According to a survey conducted in 1998, 71 private garbage collectors were identified. The list of their names is available.

Mr. Muya: Mr. Speaker, Sir, the Minister has listed 71 garbage collectors licensed by Nairobi City Council. For many years, the Council used to give us service in terms of garbage collection. They also used to provide us with dustbins. But for more than ten years, we have not seen their trucks moving around, yet the City Council continues to collect charges for provision of dustbins and refuse collection. For what reason is that money being collected?

Mr. Sirma: Mr. Speaker, Sir, this money is collected as service charge for services provided by Nairobi City Council. As the hon. Member said, Nairobi City Council used to provide dustbins, and their trucks collected garbage. However, right now, we do not have adequate trucks to move around the City to collect garbage. Most of them are grounded.

Mr. Angwenyi: Mr. Speaker, Sir, the Minister has just said that Nairobi City Council collects these funds although they do not have an adequate number of vehicles to collect the refuse. He also said that Kenya Refuse Handlers have been contracted by Nairobi City Council to collect all the garbage and clean streets of Nairobi. Which streets do they collect the said garbage? Litter is all over this City. It has never been collected or streets swept.

Mr. Sirma: Mr. Speaker, Sir, I have a list of areas where Kenya Refuse Handlers operates. I wish to lay it on the Table of the House.

(Mr. Sirma laid the document on the Table)

Mr. Speaker: Very well!

Mr. Muchiri: Mr. Speaker, Sir, I am a victim of the charges collected by Nairobi City Council. I have never been provided with a dustbin for the last ten years. Refuse collection has never been done on my several premises in Nairobi. My question is, like any other resident of Nairobi: On what grounds does Nairobi City Council charge Nairobi residents for the service of dustbins and refuse collection monthly for services they do not [Mr. Muchiri] provide? The Assistant Minister is talking about the past when this Council used to provide services to its residents. We want to know what they are doing to collect garbage, and their future plans to provide service to residents of Nairobi.

Mr. Sirma: Mr. Speaker, Sir, if hon. Muchiri does not have a dustbin, then he is using one of the pavements or the road that is swept by Nairobi City Council employees. The service of collecting refuse has been contracted to Kenya Refuse Handlers.

Mr. Keriri: On a point of order, Mr. Speaker, Sir. Are you satisfied the Assistant Minister has answered the question by Mr. Muchiri? He has avoided the question. Is it fair for him to say something else which he was not asked?

Mr. Speaker: Order, Mr. Sirma! The Question is not only in the interest of Nairobi residents, but all Service Charge payers countrywide. The question is: "Since residents pay a certain amount of money per month for provision of bins and a certain amount for refuse collection, which are not provided, what are you as a Ministry doing to ensure that the public gets value for their money?"

Mr. Sirma: Mr. Speaker, Sir, with regard to the provision of dustbins, we shall ask the Nairobi City Council and the Kenya Refuse Handlers to take the necessary steps and provide them, if they are not available in various areas.

Mr. Gatabaki: Mr. Speaker, Sir, is the Assistant Minister aware that because of the filth in our capital City; non-collection of garbage; Nairobi City has been downgraded by the United Nations agencies to the level of cities like Mogadishu and Kinshasa, and we are likely to lose the United Nations Headquarters because of the filth in this City? If he is aware, what action is he going to take?

Mr. Sirma: Mr. Speaker, Sir, we are aware, but there are several factors which have led to that. We are doing the best we can, including contracting people who are going to collect refuse in this City.

Mr. Muya: Mr. Speaker, Sir, from the information I have been provided with here, Kshs5.6 million is collected annually. Taking into account that for more than 10 years we have not seen the City Council collecting refuse

from estates, it means a total of Kshs5.6 billion has been collected from residents of Nairobi. Could the Minister undertake to order that the money be refunded? Recently, City residents were ordered to pay water bills inclusive of those charges. They were threatened with disconnection and yet they paid money to the 71 licensed refuse collectors.

Mr. Sirma: Mr. Speaker, Sir, I did not get the question well.

Mr. Achola: On a point of order, Mr. Speaker, Sir. I am very disappointed with the answer that is coming from this Assistant Minister. We are asking very important questions and the Assistant Minister is not able to answer. Just now, you rightly said that Nairobi residents are paying for services that are not being provided by the Nairobi City Council. What are we supposed to do when this Assistant Minister is not telling us what the Ministry is going to do to stop the City Council charging residents for services they do not deliver?

Mr. Sirma: Mr. Speaker, Sir, I said that we shall ensure that the dustbins are provided. With regard to the question by Mr. Muya on what will be done with the money which has been collected, we shall consult with the residents so that we can be able to get an answer.

Mr. Speaker: Mr. Shitanda's Question for the second time!

Question No.515

DESTRUCTION OF MALAVA FOREST

Mr. Shitanda asked the Minister for Natural Resources:-

- (a) whether he is aware that there is massive destruction of Malava forest going on;
- (b) whether he is further aware that the destruction is being carried out by his officers in collusion with saw millers; and,
- (c) what action he is taking to stop the wanton destruction of this forest.

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

The Minister for Water Resources (Mr. Ng'eny): Mr. Speaker, Sir, the Minister for Natural Resources is out of the country.

Mr. Shitanda: On a point of order, Mr. Speaker, Sir. I asked this Question two weeks ago and there was nobody to answer it from the Ministry. So, I really do not understand when we are told that the Minister is out of the country. Does that Ministry not have Assistant Ministers?

Mr. Speaker: Mr. Ng'eny, what is your response to that?

The Minister for Water Resources (Mr. Ng'eny): Mr. Speaker, Sir, I request that the Question be answered next week.

Mr. Speaker: Mr. Shitanda, shall I put it on Tuesday next week?

Mr. Shitanda: Yes, Mr. Speaker, Sir.

(Question deferred)

Mr. Speaker: Very well! Sorry I have forgotten Mr. Wamae's Question, but I will come to it. Mr. Kalulu's Question for the second time!

Question No.421

TARMACKING OF MASII-TAWA ROAD

Mr. Speaker: Mr. Kalulu is not in? The Question is dropped!

(Question dropped)

Mr. Speaker: Mr. Wamae's Question!

Question No.502

REHABILITATION OF KARATINA COURT BUILDINGS

Mr. Wamae asked the Attorney-General:-

- (a) whether he is aware that Karatina Law Courts building requires urgent rehabilitation;
- (b) when this building will be rehabilitated; and,
- (c) whether he could consider upgrading the law court in view of the large volume of both civil and criminal cases in the area.

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

- (a) The Attorney-General is aware that Karatina Court is in a poor condition.
- (b) Due to the concern on the condition of the court, an amount of Kshs1.25 million was sought and obtained for the purposes of rehabilitation. The works will be carried out during the current financial year.
- (c) The Karatina Law Courts were recently elevated to the level of Senior Resident Magistrate.

Mr. Wamae: Mr. Speaker, Sir, first of all, I would like to thank the Attorney-General for being very frank, straightforward and giving some preliminary support to the Karatina Law Courts. But Kshs1.25 is very little money to rehabilitate these Law Courts. It is only sufficient for rebuilding the Registry. When is he going to provide sufficient money to put this court to the required level?

Mr. Wako: Mr. Speaker, Sir, there are many courts in the country, more or less in a similar condition, but they have not yet been allocated any funds due to financial constraints. So, the Judicial Service Commission believes that with Kshs1.25 million we shall be able not only to renovate, but to create an additional office which can house another magistrate. It was elevated to the level of Senior Resident Magistrate, but it is the intention of the Judicial Service Commission that as soon as these works are complete, we shall be in a position to appoint a magistrate at the level of Resident Magistrate.

Mr. Twaha: Mr. Speaker, Sir, given the declining value of the Kenya Shilling and the increasing backlog of cases in the High Court of Kenya, would the Attorney-General agree with me that time has come for us to set the ball rolling towards either raising the jurisdiction of the magistrate or appointing more High Court Judges; at least one High Court Judge for every district in the Republic?

Mr. Wako: Mr. Speaker, Sir, on the issue of the increase of Judges, this House will recall that two years ago, we increased the establishment of High Court Judges from 20 to 30, and we are in the process of appointing additional Judges. In fact, five of them were appointed only recently. So, it is a progressive step that we are taking in that regard.

Mr. Ndicho: Mr. Speaker, Sir, the Attorney-General has admitted that it is not only Karatina Law Courts which have problems. He admits that the problem is all over the country. He also admits that there are no funds to do the rehabilitation. Could the Attorney-General tell us where all the money that people are being fined in those courts goes to? For example, Thika Law Courts, which are completely dilapidated, collect about Kshs300,000 every day. This is about Kshs9 million per month. Could the Attorney-General confirm to this House or tell us what he is going to do about all the money that is collected in all the courts? I guess that money goes to assist other departments, other than being ploughed back to rehabilitate courts and make them better places. All the courts are very dirty and stinking. The toilets are never washed. All courts in this country are smelling very badly, yet a lot of money is collected there on a daily basis. Could he make sure that, that money is ploughed back to make the courts better places for human beings to conduct their business?

Mr. Wako: Mr. Speaker, Sir, the hon. Member has raised a very important question, but it is a constitutional review issue. I hope that under the current constitutional review process that is going on, that will be an issue that will be touched on because as of now, all the fines that are paid go to the Consolidated Fund, which then come out of there in the normal budgetary process.

Mr. Ndicho: Mr. Speaker, Sir, is it in order for the Attorney-General to tell us that there is a constitutional review process going on when we know that there is nothing like that going on?

Mr. Speaker: Maybe, that is your view that, nothing is going on. His view is that something is going on. How do I come in?

(Laughter)

Mr. Wako: Mr. Speaker, Sir, it is not open to the hon. Member to say nothing is going on when he knows very well that this House passed the Constitution of Kenya (Review) Commission Act. It passed an amendment to that Act in order to provide for additional Commissioners; that, the additional Commissioners were then appointed and they have taken office. They have gone round all the provinces, and plans are going on.

Mr. Muchiri: Mr. Speaker, Sir, from Thika to Gatundu, then to Kikuyu and Nairobi, therein in the middle, there is no court. There is only one court in Kiambu. When will the Attorney-General establish a court - even a "moving court" - to cater for the residents of Kasarani, Gatundu and Dagoretti?

Mr. Angwenyi: There is nothing like "a moving court." There is a mobile court!

Mr. Wako: Mr. Speaker, Sir, I believe that, that is a different Question. When it is specifically asked, I will answer it.

Mr. Wamae: Mr. Speaker, Sir, could the Attorney-General confirm that in this rehabilitation, toilet facilities will be provided and that suspects will have a proper room where they will be held, instead of being kept outside? Could he also confirm that as soon as that extension is completed, an additional Resident Magistrate will be posted immediately?

Mr. Wako: Mr. Speaker, Sir, I confirm that as soon as the renovation is completed, an additional Magistrate will be posted to Karatina. As of now, I do not have the detailed plans for the renovation. But I am assured that when they are complete, there will be room enough for an additional Magistrate and they will be in a state of human habitation, if I may say so.

QUESTIONS BY PRIVATE NOTICE

APPOINTMENT OF ECK MEMBERS

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

- (a) Is the Minister aware that members of the Electoral Commission of Kenya are due for re-appointment?
- (b) Is he aware that the National Development Party (NDP) was unjustifiably denied a chance to nominate a Commissioner in 1998?
- (c) Could he ensure that NDP gets its slot?

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

(a) Yes, I am aware that the term of office for 8 (Eight) Commissioners who were appointed on 26th September, 1996, ended on 25th September, 2001.

(b) No, I am not aware that the National Development Party was unjustifiably denied a chance to nominate a Commissioner, not in 1998, but in 1997.

(c) Members of the Electoral Commission are appointed according to the provisions of section 4(i) of the Constitution which *inter alia* states that: There shall be an Electoral Commission, which shall consist of a Chairman and not less than four and not more than 21 members appointed by the President."

As soon as the term of the additional Commissioners, meaning those appointed in 1997, expires, the National Development Party will, therefore, take its place.

Dr. Ochuodho: Mr. Speaker, Sir, there is a very dangerous situation that we will find ourselves in, whereby ECK Commissioners who were nominated by the Opposition side could be easily kicked out as per the answer of the Minister, and replaced by KANU people. Could he tell us who are those eight ECK Commissioners whose term expired on 25th September? I want to believe that they were re-appointed, and if not, if they are serving illegally, could he also explain to this House if they have been re-appointed or they are serving illegally and who they are?

Mr. Sunkuli: Mr. Speaker, Sir, the eight are Mr. Isiah Cheluget, Mr. Francis Nganatha, Mr. Bashir Sheikh Ali, Mr. Cyrus Buko Tunu, Mr. Elipheth Njiru Ntothambu, Edward Chemoiywa Cheron, Henry Jura and Mr. Nicholas Ng'ang'a.

Mr. Muite: Mr. Speaker, Sir, this is a matter of extreme importance because the President, of course, is a person who is interested in elections. Regarding the ten Commissioners whose names were given by the Opposition, and they were appointed in 1997, their term of office expires in October, next year. As of now, there is nothing legally that entitles the Opposition to re-nominate members when the term of the ten expires. When is he going to bring an amendment of the law to this House, so as to confer on the Opposition, the legal right to nominate members of the ECK when the term of those appointed expires?

Mr. Sunkuli: Mr. Speaker, Sir, the hon. Member does understand that following the IPPG talks, an additional ten members of the ECK were to be appointed. It took into account the fact that the original 11 were supposed to be from the Government side and, therefore, the ten would come from the Opposition. That is what happened. I believe that if, indeed, their terms need to be put as a legislation, it is up to this House to say so, but up to now, the law has worked very well to ensure that the Opposition is duly represented. In fact, it is over-represented.

Mr. Anyona: Mr. Speaker, Sir, this Question is at cross-purposes. We are not talking about the Commissioners whose names the Minister read out. He was misled by the way the Question was framed. The Minister did make a reference to NDP having missed out, saying that when the term of office expires of those ten

Commissioners, they will take their places. Could he explain how, and why NDP missed out? Could he explain what he means by saying that they will take their rightful places? What are their rightful places, when we know that their rightful places are in the Government? What other rightful places do they have?

(Laughter)

Mr. Sunkuli: Mr. Speaker, Sir, I am sure that our veteran colleague does understand that during the IPPG talks, the NDP did not accept to take its place. I am sure that they are willing to do so now, but when those positions were being allocated, some of the parties were then majority parties. They were, in fact, majority Opposition parties. Subsequently, they have diminished to the level of having only one representative in this House. I am sure that this House will want to equitably distribute this thing.

Dr. Ochuodho: Mr. Speaker, Sir, is the Minister in order to mislead the House that NDP refused to take its position while no position was offered to them? They were rejected because they did not participate in the IPPG.

Mr. Sunkuli: Mr. Speaker, Sir, I think that question is now unnecessary because when the time comes, NDP will get its share.

DISRUPTION OF KAPCHEPKORO SCHOOL HARAMBEE

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

(a) Why was the Harambee for Kapchepkoro Primary School in Sotik Constituency, by Councillor Maritim of Kapchepkoro Ward, disrupted by police on 15th June, 2001?

(b) Could the Minister consider compensating Kapchepkoro Primary School with an amount of Kshs300,000 which was expected to be raised by the guests of honour that day?

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

(a) The Harambee was stopped for security reasons because there were two rival groups and they could not agree on whether the Harambee should take place or not. So, it was decided that the meeting should be cancelled so that the groups could get together and agree on a convenient date to the two rival groups.

(b) In light of the answer to (a) above, part (b) does not arise.

Mr. Kimeto: Mr. Speaker, Sir, the Minister has said that there were two rival groups. But I know that the Harambee was supposed to be conducted by Councillor Maritim. Would he tell this House which other rival group was there and the person who led it?

Maj. Madoka: Mr. Speaker, Sir, I must confess that I do not know the leader of the other rival group.

Mr. Speaker: Order, Maj. Madoka! Are you serious?

Maj. Madoka: I am serious, Mr. Speaker, Sir.

Mr. Speaker: Order, Maj. Madoka! I think we require some seriousness here. You have just told the House that there were two opposing groups, one led by Councillor Maritim and it follows naturally that you should know who led the other group. If they have not told you, then I do not think they are doing justice to you as a Minister! Could you like to find that out from your officers?

Maj. Madoka: Mr. Speaker, Sir, I apologise because that is the information I got from the District Officer. It is true that the name of the leader of the other group was not given, but I am willing to come back to the House and give an appropriate reply.

Mr. Speaker: Very well, I will give you time up to Tuesday next week.

Mr. Kimeto, I will defer the Question to Tuesday next week, for him to get the correct answer.

(Question deferred)

ATTACHMENT OF THIKA HIGH SCHOOL PROPERTY

Mr. Ndicho: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware of the serious crisis facing Thika High School, with auctioneers threatening to attach school property, among them the school bus and other movable assets, over a Kshs7.1 debt to suppliers?

(b) Could he explain the nature of the debt and a breakdown of the various creditors?

(c) What urgent measures does the Minister intend to take to ensure that school property is not attached so as

to avert possible unrest by students?

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Speaker, Sir, I beg to reply.

(a) I am aware of the crisis facing Thika High School, with auctioneers threatening to attach school property over a debt of Kshs7.1 million.

(b) The nature of the debt of Kshs7.1 million is of goods and services provided by various suppliers.

(c) The Ministry has taken urgent measures to pay the debt by granting authority to the District Education Board, Thika, for the school to charge an extra Kshs2,000 over and above the present school fees guidelines to the students.

Mr. Ndicho: Mr. Speaker, Sir, the Ministry has said it has granted authority so that parents can pay an extra Kshs2,000 per student in order to offset the debt of Kshs7.1 million. I went to see the principal of that school yesterday, and he informed me that he has got 680 students. If every student pays Kshs2,000, that will amount to Kshs1.36 million. He revealed to me that all the students will not be able to pay that levy because some are already in fees arrears. That exercise will only realise Kshs1 million, but the debt is Kshs7.1 million. Is the Ministry satisfied that by granting authority to the school to levy an extra Kshs2,000 per student, the problem will be solved? Will it stop the creditors who have already gone to court to attach this school's property?

Mr. Karauri: Mr. Speaker, Sir, it is true that Kshs1.3 million will not cover the Kshs7.1 million debt. But the students are also paying school fees. We cannot overcharge the students. The school had requested the Ministry to be allowed to levy Kshs5,000 per student, but we thought that was punitive, and we allowed them to charge only Kshs2,000 per student.

Mr. Wamae: Mr. Speaker, Sir, this is a very serious matter. There is no way a school can have a debt of Kshs7.1 million when students have been paying fees all along. The budget which was prepared must have indicated that the fees were adequate to cover the school's expenses. Has the Assistant Minister carried out an audit to establish whether there was any fraud?

Mr. Karauri: Mr. Speaker, Sir, this is also surprising to us because it appears that over a long time, debts were not being paid, although fees were being collected. We are now sending auditors to the school and if it is discovered that somebody embezzled the money, appropriate action will be taken.

Mr. Angwenyi: Mr. Speaker, Sir, we allocate funds to the Ministry of Education, Science and Technology to assist schools. But more often than not, the Ministry contributes so much money to Harambees. Could the Assistant Minister consider using those funds to clear this debt and relieve the poor parents from paying an additional Kshs2,000?

Mr. Karauri: Mr. Speaker, Sir, I do not know what funds the hon. Member is talking about because schools are run using school fees. If he is talking about the money which Parliament votes for bursary, that cannot be used for the other purpose.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir, I said there are funds being contributed in Harambee for secondary schools. Where does that money come from? The Ministry contributes money every time there is a Harambee. The other day, it contributed a lot of money during a Harambee in Njoro! This money should be used to pay that debt!

Mr. Karauri: Mr. Speaker, Sir, occasionally, and I want to be very honest here, where bursaries have not been remitted to a school and there is a harambee in that school, that money is given to the school, but for bursary purposes.

Mr. Ndicho: Mr. Speaker, Sir, what the Assistant Minister is saying is true when it comes to school fees, which amounts to Kshs10 million. In 1997, the President was invited to conduct a Harambee in this school, which I attended and contributed Kshs50,000. That Harambee raised Kshs6,494,289. The purpose of that was to clear this debt. Could he tell us where the President's money and the school fees for that year went to? Could he consider sending not only auditors from his Ministry, but also Criminal Investigation Department officers from the Anti-fraud Unit to investigate this matter? This is a clear embezzlement of public money! Where did all that money go to, including my Kshs50,000 and the President's contribution of Kshs1 million?

Mr. Karauri: Mr. Speaker, Sir, I have already said we are sending auditors to the school because I would not know off-head, whether this money was embezzled or not. At the same time, I want to encourage Members of Parliament to be attending boards of governors meetings. If hon. Ndicho had attended the board of governors meetings, he would have questioned these things early enough!

Mr. Ndicho: Mr. Speaker, Sir, I would like to warn the Assistant Minister not to allow Members of Parliament to attend these board meetings. When they attend, they are compromised to the level that they cannot ask questions! Is he in order to say I did not attend this particular Board's meetings? In fact, this issue came up after I had

attended all the other board meetings. In fact, hon. Murathe attended this particular one! How come he does not have the minutes of the meetings I attended?

Mr. Karauri: Mr. Speaker, Sir, I thought that was more of a question than a point of order. I have got minutes here of the two board of governors meetings that deliberated on this issue. None of those Members of Parliament was present!

REGISTRATION OF KCSE CANDIDATES IN KISII

Mr. Anyona: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that the following schools in Kisii District did not register some students for the 2001 Kenya Certificate of Secondary Education (KCSE) in spite of paying registration fees: Itierio Mixed Secondary School (12 students); Isamwera Secondary School (10 students); Kioge Girls Secondary School (eight students), and Otamba Secondary School (three students)?

(b) Which other schools in Kisii, Nyamira, Gucha and other districts in the country failed to register students?

(c) Could the Minister ensure that those students are registered for the KCSE or GCE and take disciplinary and/or legal measures against the head teachers concerned?

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that students from the following schools in Kisii District did not register for the KCSE: Itierio Mixed Secondary School (12 students); Isamwera Secondary School (10 students); Kioge Girls Secondary School (eight students), and Otamba Secondary School (three students).

(b) There are no other schools in Kisii, Nyamira, Gucha or other parts of the country which have failed to register students for this year's KCSE.

(c) Since that gross negligence was discovered during the on-going KCSE examinations, it has been agreed that they be registered for KCSE next year and be in school free of charge, while the four head teachers have been interdicted for gross negligence of duty.

Mr. Anyona: Mr. Speaker, Sir, in order to improve the performance of Parliament, I think the Chair and the House generally will have to do something about the kind of answers that we get. The information given to the Assistant Minister by the subordinates in the Ministry is obviously not correct, like we saw from the Minister of State, Office of the President.

Mr. Speaker, Sir, in his reply to part (b) of the answer, he has said that there are no other schools in Kisii, Nyamira, Gucha and the whole country that have not registered students. Now, is he aware that, at least, there are three schools in Gucha District? One is Kiagware Mixed Secondary School, where 24 students were not registered. The second one is Kenyeny Mixed Secondary School, which is also in Gucha District, where 13 students were not registered. The third one is Nyabioto Mixed Secondary School where three students were not registered. He has said that there are no other schools! Is he aware of those three schools? I have the names of the schools and the students here, and I wish to lay them on the Table. Why is he not aware of those schools?

(Mr. Anyona laid the list on the Table)

Mr. Karauri: Mr. Speaker, Sir, I have enumerated the schools and the students. The hon. Member may be talking about students who did not pay examination fees. The examination is registered up to 31st March. After that, there is late registration which goes up to the end of May. The omission in the schools that I have mentioned concern students who registered late, but their names were not sent to the Kenya National Examinations Council (KNEC). If there are other students who may not have paid their examination fees and, therefore, were not registered, I do not know them!

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I have produced names of three extra schools and names of students, but the Assistant Minister keeps on talking about "if". I am asking him whether he is aware. If he is not aware, why does he not go and investigate? That is what I am asking him. He has not answered the question! In some of the names in the first school in the list, some students were given index numbers! The index numbers are there!

Mr. Karauri: Mr. Speaker, Sir, I can investigate that, but to the best of my knowledge, this matter was

discovered when many students appeared in the examination room and the invigilators could not understand what was happening. So, they had to look at the register of students and the index numbers. So, the students who were not registered were told to go out of the examination room. The examination practicals started on the 20th September, and the matter was discovered during those examinations.

Mr. Speaker: Order! I think what we will do, because lives of young people are at stake, and you have just got this information from Mr. Anyona who--- If anybody expected you to know whether it is right or wrong immediately on receipt, I think that is expecting too much! So, maybe, the best thing to do, or the most practical thing to do is for me to give you time, so that you can verify what he says to be the position, and then come and tell us next week. What day would suit you?

Mr. Karauri: Mr. Speaker, Sir, I will check. But on quickly checking the paper that he has given me, I mentioned Iterio Mixed Secondary School with 12 students, who had actually paid, but the headmaster did not submit their names for registration to the KNEC. He has just given the names of the rest of the schools and not the index numbers. So, I will check the names.

Mr. Speaker: What day will suit you?

Mr. Karauri: Mr. Speaker, Sir, Thursday, next week!

Mr. Speaker: I want to give you enough time.

Mr. Karauri: Thank you, Mr. Speaker, Sir, but you must also note that I said the headmasters have been interdicted, and the students who paid for the examinations and were not registered will stay in those schools free of charge. The money they paid this year will be used next year for the examinations.

(Question deferred)

Mr. Speaker: Very well! Let us move on to the next Question!

REMOVAL OF CONTAMINATED MAIZE FROM MARKETS

Mr. Imanyara: Mr. Speaker, Sir, I demand an answer to Question No.5 by Private Notice!

An hon. Member: You demand?

(Laughter)

The Assistant Minister for Agriculture and Rural Development (Col. Kiluta): You do not demand, but you will be given!

Mr. Imanyara: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) What urgent measures is the Ministry taking to remove the aflatoxin contaminated maize from the markets in Meru North District?

(b) Given that the cause of the contamination is the lack of storage facilities in the district, what is the Ministry doing to address that problem?

(c) Could the Minister provide the farmers with compensation for the destroyed maize?

The Assistant Minister for Agriculture and Rural Development (Col. Kiluta): Mr. Speaker, Sir, I beg to give the following answer without being demanded to do so!

(a) I would like to assure the hon. Member for Central Imenti that currently, there are no incidences of aflatoxin contaminated maize in the households or in the markets in Meru North District. Immediately the problem of aflatoxin contaminated maize was detected, a joint district-wide campaign by this Ministry and the Ministry of Health was mounted to sensitise the public on identification of aflatoxin contaminated cereals and to institute proper storage and safe use of chemicals. The campaigns were conducted in schools, households and other Government institutions such as the prisons.

(b) Farmers have been trained on how to estimate the appropriate moisture content for maize storage, and on how to safely store their grains away from harmful chemicals. My Ministry will also continue to propagate proper storage methods in its extension activities.

(c) Farmers had information on proper grain storage but were forced by circumstances to store wet grains. To save the situation, the Government was compelled to destroy the aflatoxin contaminated maize for the welfare of farmers. Therefore, the issue of compensation does not arise.

Mr. Imanyara: Mr. Speaker, Sir, as I stand here today, at least, four people are confirmed dead from eating

that contaminated maize. The Question that was asked has got an answer that is totally worthless from the Ministry of Rural Development. If that is the kind of answers that we will be getting from the Ministry, then it makes sense to have that Ministry completely abolished and have the Ministry of Agriculture only! We have not been told when the Ministry claims to have detected the outbreak, what were the symptoms that were given to farmers for detecting the aflatoxin, and why they have not been compensated, if the Government recognises, through the destruction of maize, that the deaths were caused by the negligence of the Ministry officials, who have no extension services in place! When were the incidences detected? What were the symptoms? What plans are there to compensate the farmers who have lost lives and property as a result of negligence of your offices?

Col. Kiluta: Mr. Speaker, Sir, as the hon. Member is aware, the grain sector was liberalised in 1992/93. As a result of that, farmers were allowed to store and market their grains at will. As a result of that, after the *El Nino* rains, farmers were caught unawares and could not harvest their maize on time. A large amount of maize was harvested wet. That is what caused that problem. Farmers had a choice to store their maize in the three depots that are there, but they did not do that. They decided to store their wet maize in their own stores. That is what caused the problem.

Mr. Sambu: Mr. Speaker, Sir, one of the reasons why farmers sell their produce late and particularly this year, is because the National Cereals and Produce Board (NCPB) has not come into the market. Could the Assistant Minister assure the House and the nation that the NCPB will open its stores and start buying produce? Could he also tell us at what prices they will pay for a 90-kilogramme bag and what date they will open their stores to start buying the produce?

Col. Kiluta: Mr. Speaker, Sir, the NCPB has got a storage capacity of 420,000 bags and these were available. The NCPB depots are now beginning to purchase maize at competitive prices which are the market price. The Government cannot direct the NCPB depots to buy maize at a price that will occasion them losses.

Mr. Sambu: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House by saying that the NCPB are buying maize at competitive prices when we are demanding specific prices? I have demanded him to name the specific prices and not competitive prices. Is Kshs300 a competitive price?

Mr. Speaker: That is a definition; it is really not a point of order.

Mr. Kombo: Mr. Speaker, Sir, the answer we are getting is appalling. Farmers in this country are the most mistreated group of people and yet we are often told that farming is an important part of our economy. In Europe, the United Kingdom and the United States of America, if a farmer has a problem with a crop he is compensated so that he can actually do business thereafter. The Assistant Minister is now saying that the issue of compensation does not arise. How serious is the Ministry in ensuring that our farming community is on its feet?

Col. Kiluta: Mr. Speaker, Sir, the Ministry is very serious on this issue. The reason why we are unable to compensate the farmers is because, at the moment, everybody is buying maize at the market prices and, therefore, the NCPB is not exceptional to this.

Dr. Kulundu: Mr. Speaker, Sir, aflatoxin poison is a very serious public health problem. It accounts for the very high prevalence of cancer of the liver and oesophagus that we see in Central Kenya. In his answer to part "b" of the Question, he talked about farmers being trained on how to estimate the moisture content of their grain. Could the Assistant Minister---

(A mobile telephone rang in the Chamber)

Mr. Speaker: Order! Whose mobile telephone is this disrupting the business of the House?

Hon. Members: It is from KANU!

Mr. Speaker: Order! I do not see KANU here; I see hon. Members. Which hon. Member has a mobile telephone ringing here? Switch it off, please!

(Laughter)

Order! I know that mobile telephones are very useful, but they do not even respect the Chair. Whose telephone is it? I know that a mobile telephone is an important instrument of communication, but it should never be allowed to disrupt the business of this House. The Chair will be very firm on this---

(The mobile telephone rang again)

Whose is it? Is it for someone in the Gallery?

Hon. Members: No! It is KANU!

Mr. Speaker: Order! Will any hon. Member who has that gadget put it off? Next time, the Chair will be very firm on this matter. The House will take very drastic action against this. We should not waste our time on these things. From now onwards, every hon. Member who has that gadget must leave it outside the Chamber, otherwise we shall consider it a contempt of Parliament.

Dr. Kulundu: Mr. Speaker, Sir, I said that aflatoxin poison causes cancer of the liver and oesophagus which are very big problems in Central Kenya. When answering part "b" of the Question, the Assistant Minister did not tell us how these farmers were trained to assess the moisture content of their grain. Has the Ministry provided farmers with some tools to measure the moisture content of maize and beans? How do these farmers measure the moisture content because that is very crucial?

Col. Kiluta: Thank you, very much for that piece of education. Bearing in mind that we are not all doctors, the hon. Member should be willing to accept the answer that I gave him. If he has got more information than I have, then he can volunteer it and we will take it. In this particular case, the cause was detected as being wet storage of the grain with moisture content of about 13 per cent. We educated the farmers and informed them about what instruments they should use to measure the moisture content. If you really want me to bring the instruments to the House - because I was not aware - then I can do that.

Dr. Kulundu: On a point of order, Mr. Speaker, Sir. The Assistant Minister is evading answering a very legitimate question. Has the Ministry recommended instruments for use by farmers in estimating moisture content of their grain? This is a countrywide problem. What is the name of this instrument?

Col. Kiluta: Mr. Speaker, Sir, I did not go into details about the equipment, but I was told that there is equipment for measuring the moisture content.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. You heard the Assistant Minister say that he is not prepared to supply the House with details. Are you satisfied that he has given an answer to a legitimate question raised? The people of Meru North are hearing you and they are represented by three Ministers.

Col. Kiluta: Mr. Speaker, Sir, he asked me to provide the equipment that is used for measuring the moisture content and I said that I did not have it, but I can provide it later.

Mr. Speaker: That is the end of Question Time.
Next Order!

MINISTERIAL STATEMENTS

TERRORIST ATTACKS IN AMERICA

The Minister for Foreign Affairs and International Co-operation (Mr. Obure): Thank you, Mr. Speaker, Sir, for giving me the opportunity to respond to issues raised by Dr. Kituyi, the Member for Kimilili, on 3rd October, 2001, regarding a Ministerial Statement I had made in this House on 2nd October, 2001, on the recent terrorist attacks in the United States of America.

The hon. Member had raised three questions. The first one relates to unilateralism as America's foreign policy and whether this ought to be a role model. The second question relates to what action the Kenya, Government is taking to reduce the harassment of innocent Muslim citizens, in arresting and interrogating suspects in Kenya following the terrorist attacks in the United States of America.

Mr. Speaker, Sir, the third question was: "Why did the President lead a street demonstration against terrorism in Nairobi in reaction to the 11th September attacks in the USA, while he did not do so in response to the 7th August, 1998 terrorist attacks in Nairobi?"

Mr. Speaker, Sir, on the first question, I wish to inform the hon. Member that it is the sovereign prerogative of each state to define its foreign policy. The USA is at liberty to formulate and, indeed, define and articulate its own policy. Whether that policy is perceived by others to be unilateral is a matter of interpretation. We cannot dictate our views or policies on other sovereign states and governments. The question of a role model, therefore, does not arise. I am convinced that states are joining in the current efforts aimed at fighting international terrorism not at the prompting of the Government of the USA, but in the conviction that the scourge of terrorism transcends national, religious and cultural differences. It is for this reason that the United Nations Security Council has adopted a resolution on this subject. It is also for the same reason that the United Nations General Assembly is due to consider debating this subject early next month.

Mr. Speaker, Sir, on the second question raised, I am not aware that the Government is harassing innocent Muslim citizens or any other citizens or individuals. I am also not aware that any other body is harassing innocent citizens in this country. However, if the hon. Member has any information to that effect, I believe he should draw it to

the attention of the relevant arms of Government for investigation and action.

Mr. Speaker, Sir, on the third question, on 29th September this year, His Excellency the President led a street demonstration in Nairobi against terrorism. This demonstration is an expression of the Government's commitment in the fight against terrorism. It also underlines Kenya's solidarity with the victims of terrorist attacks. Although the President did not lead a similar demonstration in 1998, there is no inconsistency whatsoever on the Government's position on terrorism. In 1998, Kenya was a subject of a terrorist attack. As such, the President had to do far more than lead a street demonstration. The circumstances called for more involving action on his part and he lived to the expectations of Kenyans in this respect. He brought the nation together by mobilising Kenyans from all walks of life, including the Opposition. He took charge of the nation's reaction to the attacks and he mobilised the international community to provide humanitarian assistance.

Thank you, Mr. Speaker, Sir.

(Several Members stood up in their places)

Mr. Speaker: Well, it is not Question Time. It is time to seek clarification and I mean exactly that. You seek clarification from his comments.

Dr. Kituyi: Mr. Speaker, Sir, may I start by declaring personal interest in this matter. The fear of blindly lining up behind America carries with it the risk of attracting aggression against Kenya, which we need not be directly in line for. Yesterday, a parcel which has turned out to have been anthrax, which was identified at the United Nations headquarters, was sent to be shown to a doctor at the United Nations headquarters who happened to be my wife. So, as a family, I have been exposed to anthrax and we cannot separate the anthrax offensive on Kenya from the possibility of outrage that we are blindly standing behind America.

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

Mr. Speaker: He is on a point of order!

Mr. Kajwang: Is it in order for---

Mr. Speaker: Order! Order, all of you! There are two things I have said earlier. Ministerial Statements is not Question Time and neither is it an excuse for debate. It is to seek clarification. So, Dr. Kituyi, do not debate; seek clarification on what he has said. It is not to give you an opportunity to state your own policy. So, it is a Ministerial Statement and seek clarification on it.

Dr. Kituyi: Mr. Speaker, Sir, I do not have any personal policy to declare. I support the Kenya Government's position that terrorism must be condemned and be fought by all humanity.

My question to the Minister was: When George W. Bush is so insular and unilateral in his conduct of foreign policy; he has excluded justice in the Middle East from the equation of fighting terrorism; why was it necessary for the Kenya Government, instead of saying we condemn terrorism and also fight terrorism, but we also think that it can be fought only successfully by seeking justice in the Middle East, to say we support America in its war. That was one question. I have not questioned the right of America to have its policy. I have questioned the right of the Kenya Government to 100 per cent lie behind America.

Mr. Speaker, Sir, the second question I was asking about was that I support demonstrations and I have participated in very many, but this Government has usually had a jerk-kneed reaction to demonstrations. When women, including nuns, demonstrated against World Bank and IMF debts against Kenya and wanted debt relief, they were arrested and slept in police custody. What has happened, all of a sudden, that we are trying to outdo Pervez Musharraf in trying to prove we are good to America, that even our President is now demonstrating?

Mr. Speaker: Order!

Dr. Kituyi: I have finished!

(Laughter)

Mr. Speaker: Order! You do not have to repeat what you said last time.

Mr. Kajwang: On a point of order, Mr. Speaker, Sir. Is it in order for hon. Kituyi to threaten us that he has already contracted anthrax from his wife and then he comes to this House and talks loudly so that we also catch it?

(Laughter)

Mr. Speaker: Order! Order, all of you! I think the problem of making even the most grievous situation look funny in this House is really bad and it may be the undoing of us as leaders. These are grave matters! A matter of

terrorism is grave! The fact that anthrax has been sent to Kenya is grave! So, all of us must treat these matters in a grave fashion. Let us not joke about them!

Mr. Muite: Mr. Speaker, Sir, may I, through you, seek a clarification from the Minister for Foreign Affairs and International Co-operation. When the Kenya Government is adopting a major policy position likely to involve or expose Kenyans to some sort of danger, why does the Ministry or the Kenya Government not find it necessary to involve Parliament? Why do you not do a paper and present it to Parliament for debate so that we can all have an input and support that position? Why do you do it unilaterally?

(Applause)

Mr. Speaker: Mr. Minister, I will take one more from Mr. Imanyara and then you respond to all of them.

Mr. Imanyara: Mr. Speaker Sir, arising out of the unfortunate incident which Dr. Kituyi has talked about, and I know, at least, of two others, could we be assured that the Government has taken precautions with regard to supply of antibiotics in the event that this turns out to be widespread and there are more cases being detected in this country? What measures has the Government put in place to supply antibiotics and protect Kenyans against this potential epidemic in this country?

The Minister for Foreign Affairs and International Co-operation (Mr. Obure): Mr. Speaker, Sir, I will start with the first question by hon. Dr. Kituyi again. I would like to say that when this terrorist attack took place in the USA on September 11th, Kenya was, indeed, one of the very first nations to condemn the act and to state our policy in that respect. We made it very clear at the time that we will join in condemning terrorist attacks. We were not supporting America as such. We said that we will join the rest of the international community in fighting terrorism. We also did it on the first day. In fact, we were one of the first nations to state our position publicly.

Therefore, I want to state that we have not done that because we had to do what the USA was telling us. We did it out of a conviction because we believe that terrorism is a danger to humanity. Terrorism is driven by evils of destruction. It kills human beings, in fact, innocent civilians. Therefore, we should not be intimidated by the reprisals that arise out of the position that we have taken. We will stand very firm in condemning it and continue to fight it alongside other nations. I also want to state very categorically that we have not done this to please anybody. We have done it out of conviction.

Mr. Deputy Speaker, Sir, regarding the issue of formulating a Government policy on terrorism, this House has the Committee on Defence and Foreign Relations. We continuously meet in this Committee and we must say that we are very grateful for the vision it gives us in formulating our foreign policy. We will continue to liaise with the Committee. To a large extent, our foreign policy is influenced by Parliament through that Committee.

On the question of anthrax attack, I am aware that the Minister for Public Health, this morning, issued a very comprehensive statement assuring Kenyans that the Government is in full control. We are aware of three cases of anthrax which have been reported in this country, one of which has tested positive. I am aware that the Minister has given various assurances and explained the various measures that have been taken. He has, in fact, cautioned Kenyans on what steps they should take in the event of suspicion.

On the issue of terrorism, therefore, we will need the support of this House. I did, in fact, request and got the support of this House to proceed with various measures we intend to take in respect of this deadly threat of terrorism.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Mr. Minister, I suppose it would be very nice if, from time to time, you kept on briefing this House on the development in this respect. I do share the sentiments of Mr. Imanyara. I think I have made my sentiments clear from the Chair, that Ministers must come and announce to Parliament major issues affecting Kenyans. It is not good enough for Prof. Ongeru to call a Press conference, either in his office or in a hotel, to talk about a great issue like anthrax war on Kenya. He must come and announce such news in Parliament.

Hon. Members: Precisely!

Mr. Speaker: I hope that hon. Members will make it possible for Ministers to come to this House and issue Ministerial Statements on such matters. Maybe, you are too harsh on them.

Hon. Members: We are not!

Mr. Speaker: So, make the environment conducive for Ministers to come here and issue Ministerial Statements. I wish to assure Mr. Mudavadi, the Deputy Leader of Government Business, that if your colleagues wish to use the Floor of this House to inform Kenyans on matters of great importance, the Chair is willing to, at all times, facilitate that. Could you, please, pass the message that we are ready to facilitate their announcement of Government policy from the Floor of this House?

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Speaker, Sir, thank you for your

very important communication. I have heard what you said. In the process, may I also seek your indulgence to issue a Ministerial Statement. In fact, I have two Ministerial Statements to issue. The first one is procedural.

APPOINTMENT OF HON. E.T. MOROGO
AS A COMMISSIONER TO THE PSC

Pursuant to Section 45(B)(1)(e) of the Constitution of Kenya, I wish to inform the House that the hon. Eric Toroitich Morogo, MP, has been appointed a Commissioner to serve in the Parliamentary Service Commission (PSC) with effect from Wednesday, 17th October, 2001. He replaces the hon. Samuel L. Poghisiso, MP, who was appointed Assistant Minister for Education, Science and Technology.

(Applause)

FRANCHISE BETWEEN REGIONAL
AIR AND KENYA AIRWAYS

The second Ministerial Statement arose from an issue raised by Dr. Ochuodho regarding the franchise between Regional Air and British Airways some time last week. I promised to issue the Ministerial Statement today.

Mr. Speaker, Sir, I would like to, first of all, address the subject of franchise within the broader context of strategic alliances or airline co-operative ventures in which many airlines are involved in an effort to enlarge the scope and networks and, therefore, enhance market access and cost efficiency. These co-operative ventures are motivated by the need for business survival in a rapidly transforming industry and fiercely competitive global market. The airline industry has, therefore, developed and refined the concept and practice of strategic alliances to include many aspects such as code sharing. There is an airline's co-operative venture in which one carrier permits a second carrier to use its airline designation code on a flight over which two carriers share the same airline code on a flight.

Two, there is the franchise, and this is the rights or licence granted by a company to an individual or group to market its products or services in a specific territory. Three, there is the block space in airline co-operation in which one airline reserves the specific number of revenue seats on its aircraft for sale by a second airline. Some of these aspects may especially, if combined, have greater commercial impact. In Kenya, we already have five years' experience of a strategic alliance between Kenya Airways and KLM, involving equity participation and code sharing, among others, and the results have been satisfactory to all parties.

Locally, Kenya Airways has been known to do business with Aircraft Leasing Services. These are normal developments. Recently, Air Kenya, trading as Regional Air, and British Airways, signed a franchise agreement in which the former assumed operations under the brand name of the latter. This was done in the context of strategic alliances to achieve commercial objectives. My Ministry is aware that franchise in air transport, unlike in some other fields, is a relatively recent phenomenon whose implications will need to be understood more fully before a more elaborate policy and regulatory mechanisms are formulated. In this regard, we are also keen to know more about franchises. We are seeking the experience of other countries in which it has been introduced. Meanwhile, my Ministry would like to handle this matter carefully and, therefore, we are maintaining the *status quo*.

Mr. Speaker, Sir, I wish to assure this House that my Ministry will continue to study, in collaboration with key stakeholders, the implications of franchises in relation to the aspects which include, but not limited to, civil aviation licences but also cabotage and other traffic rights. The objective of the study is to establish a balanced policy and regulatory approach, which would recognise commercial interests, safeguard state interests, which include traffic rights, and facilitate delivery of significant benefits to the national economy.

Mr. Speaker: Dr. Ochuodho, could you seek clarification?

Dr. Ochuodho: Mr. Speaker, Sir, it is very unfortunate that as our companies are strangled through counterfeit products, we are also "killing" local companies such as Kenya Airways by allowing British Airways to almost take over the entire domestic market. My understanding of the agreement between Kenya Airways and KLM is reciprocal. I would want to believe that Kenya Airways does the same in Holland. Would Regional Air be allowed to do the same in the United Kingdom (UK), and does it have the capacity to do so? Why has British Airways entered into this franchise with Regional Air instead of Kenya Airways?

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Speaker, Sir, first of all, I want to make it very clear that Regional Air, in its franchise arrangement, is not killing Kenya Airways at all. In fact, it is not even threatening the business of the Kenya Airways.

As I said, this is a commercial arrangement, just as much as KLM entered into an agreement with the Kenya Airways. There is no harm whether it is Air Kenya or Regional Air negotiating and entering into an arrangement with

another airline, whether it is the British Airways or not. For your information, during the very early days, there was an attempt by Kenya Airways to enter into some arrangement with the British Airways, but it did not work. It worked for the Regional Air.

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

Mr. Speaker: This is not time for points of order.

Ms. Karua: On a point of order, Mr. Speaker, Sir. I am seeking a clarification from the Minister. The arrangement between KLM and Kenya Airways does not involve KLM taking over local routes. Local routes are entirely for Kenya Airways. In Holland, Kenya Airways does not take local routes that belong to KLM. It appears as if the British Airways/Regional Air agreement is lop-sided and does not protect the national carrier, which recently needed bailing out from the Government in paying insurances. Is it our understanding that this kind of bending the rules has been made because there are powerful people behind Regional Air sitting next to the Minister?

(Applause)

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Speaker, Sir, one thing that I would like to state here is that on the issue of insurances, we need to get it very clear that the Government of Kenya did not bail out Kenya Airways. It was a very short undertaking while Kenya Airways was looking for its alternative insurance arrangements, bearing in mind the recent events in New York and Washington. I am happy to announce that Kenya Airways has, indeed, settled the issue of insurance. So the question of the Government getting involved now does not arise.

I would also like to reiterate that the franchise arrangement between Regional Air and the British Airways is a marketing strategy and not a question of the British Airways *per se*, coming to take over local routes. Regional Air still remains a totally Kenyan shareholders' company.

UNREST IN LOCAL AUTHORITIES

The Assistant Minister for Local Government (Mr. Kiangoi): Thank you, Mr. Speaker, Sir. Last Thursday, 11th October, 2001, I gave an undertaking to issue a Ministerial Statement on an issue earlier raised by hon. Anyona on the unrest in local authorities. I wish to give the following Statement.

My Ministry is aware of isolated cases of unrest in some local authorities. Their causes differ from one case to another, but in general terms, the isolated cases are triggered by either weak financial and administrative capacity and political in-fighting between opposing political camps within the affected local authorities.

Hon. Members will agree with me that many local authorities lack adequate management capacity. My Ministry has, therefore, addressed itself to this issue in order to ensure that this management gap is filled. Therefore, in liaison with the Public Service Commission, my Ministry will recruit qualified managerial personnel from the local government sector and elsewhere and post them to the affected local authorities. Local authorities, however, suffer from weak resource bases, making it difficult for them to generate adequate resources to finance their expenditure.

In addition to giving local authorities access to monies from the Consolidated Fund through the Local Government Transfer Fund (LATF), my Ministry has instructed each local authority to develop its own revenue enactment plan. This will help not only to close the gap between the revenue and expenditure, but also generate more funds to enhance delivery of services to the residents.

The Ministry has adopted the hands-on approach to conflict resolution where and when disagreements occur. Numerous seminars and workshops have been mounted throughout the country, to educate the membership of local authorities on the role of the councillors. Combined seminars, with participation of chief officers and councillors, have also been mounted to sensitise both parties on their respective roles as laid down in the Local Government Act, Cap.265, Laws of Kenya.

I want to assure the House that we have made a lot of headway in this regard. It is however, difficult to predict as to when differences of opinion can occur, particularly with regard to opposing political parties within a local authority. But my officers and myself have addressed ourselves to the conflicts as and when they occur, with the view of resolving them.

Mr. Anyona: Mr. Speaker, Sir, unfortunately, you were not here when I requested for this Ministerial Statement. I raised very specific issues about very specific local authorities. The Assistant Minister has just given us a very nice general statement.

I asked the Assistant Minister to explain the cause of the conflict between hawkers and shopkeepers in Nairobi City Council. What is he doing about that? In Mombasa, the council has closed down. I asked the Assistant Minister to explain what is behind that. If it is politics, he should tell us what kind of politics there are and what he is

doing about it. I also asked him to explain about the conflicts within Kisumu and Thika municipal councils and Keroka County Council.

In the case of Keroka County Council and the Thika Municipal Council, I want to agree with the Assistant Minister that the conflicts there are based on political differences. Could the Assistant Minister explain and tell us what he will do about the political differences between who and who? What will he do to make sure that offices in Keroka County Council are running? I wanted specific answers to those specific questions, mayors and not a general statement.

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, I have addressed myself to the situation that is appertaining to many local authorities because these differences are occurring now and again in any local authority. But in the case of Keroka County Council, we are educating councillors that they should not form themselves into political camps for the purpose of in-fighting. In fact, we are addressing that specifically and we hope it will succeed.

Mr. Ndicho: Mr. Speaker, Sir, the Assistant Minister has admitted that one of the problems that we have in local authorities in this country is caused by political differences. I am delighted to hear that the Assistant Minister has admitted that. The problem within the Thika Municipal Council is exactly that one; that because of political differences, the Assistant Minister for Local Government has taken sides with a section of the councillors, who happen to be the majority and in the mayor's camp, to sack employees who have been seeking their salary increment that was given in 1992 and given okay by the then Minister for Local Government, Mr. Ntimama. Because of asking for that salary increment, 50 employees of Thika Municipal Council have been sacked.

Could the Assistant Minister address himself to that? Could he tell us whether these people will be reinstated, and why, in the first instance, they were relieved off their duties?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, the Assistant Minister for Local Government never at all takes sides with parties that have disagreed in any council, including the Thika Municipal Council.

However, differences in opinions are bound to occur between different political parties. So, we as a Ministry have no way of knowing in advance that there will occur such differences so that we can resolve them in advance or calm them down. What we have done is that whenever differences occur, we are there and always ready to assist the councillors to resolve them.

COMMUNICATION FROM THE CHAIR

PROCEDURE ON DEBATE OF EA ASSEMBLY ELECTION DRAFT RULES

Mr. Speaker: Order! Order, hon. Members! That marks the end of Question Time! I just wish to explain a little bit on what procedure we shall use later on when we go into Committee on the formulation of Rules for the election of Members to the East African Assembly. As you all know, this is something that comes once after a very long time. Therefore, it is not generally covered by the Rules of the House. You will find very little help from precedents because these are new issues. So, if the procedure adopted is a correct one, we will, at the end of the day, pass the Motion that: "Mr. Speaker Do Now Leave the Chair" and then we will go into Committee to consider in detail the proposed Rules. Then hon. Members will be at liberty to amend them in the way they deem fit. So, that gives hon. Members the opportunity to go through every Rule in detail and propose amendments, as we normally do in debate about Bills. There is no other way known to the Chair that we could have done this, apart from this procedure.

I have also received an intended proposed amendment from Mr. Anyona, the effect of which is meant to replace the tabled rules with a new set of rules which are attached to the Order Paper, by way of notice, as is normally done in Bills. This can only be done at a Committee Stage. It cannot be done in plenary because the Motion before the House is that "Mr. Speaker Do Now Leave the Chair". You cannot amend that; you have to dispose of it. Therefore, at the time we get into the Committee, the best thing to do is that the Chairman should dispose of that Motion at once. That is the Motion by Mr. Anyona, if he chooses to move it at that time. The Chairman should dispose of that Motion at once so that the House does know, at the very beginning of its Committee sitting, what rules it is going to deal with. So, that is how we propose to continue with this matter and that is my only guideline to the House. As you know, I will not be sitting in the Committee and that is my direction to the House.

Mr. Anyona: Mr. Speaker, Sir, I think it is good that you have raised this matter at this point so that when we come to business, we do not get held up.

Mr. Speaker, Sir, I want to seek further guidance from the Chair in respect of this. I wanted us to get guidance, which may possibly require a considered ruling from the Chair. As you have said, this is a matter that does not very often come up before the House. I think when we will start doing it, we should do it as well as we possibly

can. I want to seek the Chair's guidance on the question of the rules that are before the House visa-vis the provisions of Article 50 of the Treaty. In my understanding, Rules 2, 4(1) and 4(2); Rules 5(4), 6 and Rule 7 of the rules that were tabled before this House are in violation and in conflict with Article 50 of the Treaty. Under the provision of Section 31(B) of the Interpretation and General Provisions Act, Cap.2, it says the following: "No subsidiary legislation shall be inconsistent with the provisions of an Act." Many of us have that feeling, that this is in conflict with that Act and, therefore, it violates Section 31(B) of that Act. We wanted the Chair's guidance on this before we actually started debate.

Mr. Speaker, Sir, this is a large matter, that I was going to invite you to consider, using provision of Standing Order 31(2) to be able to deal with this issue. This is because, really, I do not think you can deal with this matter right on your feet. You can, but I think it is such a weighty matter that you may wish to use the provisions of Standing Order 31(2).

Finally, I want to say this: I think it is very important that this Parliament should be insulated against political forces outside this House. At the moment, there is a feeling that, the way we heard about the councils; that various political parties and individuals have taken political positions---

Mr. Speaker: Mr. Anyona, you are now contributing! I think you are now on contributing on debate and you are not allowed to debate nothing!

My response is as follows: Mr. Anyona, you have already given notice of an amendment duly approved by me. The intention of the amendment is to replace the rules tabled with another set of rules which you think are better. I have already allowed you to do that. All those arguments you are giving here should be given at Committee Stage, to convince your colleagues that, indeed, that is the correct way to go about it. It is not for the Chair to decide what Parliament should do. In fact, the Chair is a servant of the House. The Chair will accept the will of the House. So, you have an opportunity availed to you by the Chair at an earliest opportunity, to convince your colleagues assembled here, later at Committee Stage, that you are right; that Article is wrong and, therefore, they should agree with you. If you are so lucky to convince them, fine, it will be so. But if you are so unlucky, then, as you remember, I always take the oath that the majority will have its way. This is because the Chair will obey the voice of the majority. So, wait patiently until it comes.

Next Order!

MOTION

APPROVAL OF EA ASSEMBLY ELECTION DRAFT RULES

That, pursuant to the provisions of Article 50(1) of the Treaty for the Establishment of the East African Community, this House approves the East African Community (Election of Members of the Assembly) Draft Rules laid on the Table of the House on Wednesday, 3rd October, 2001.

(The Minister for Trade and Industry on 11.10.2001)

(Resumption of Debate interrupted on 11.10.2001)

Mr. Speaker: Who was on the Floor?

An hon. Member: Mr. Muite!

Mr. Speaker: Mr. Muite, the Floor is yours!

Mr. Muite: Mr. Speaker, Sir, may, I first of all, echo what the Speaker has just said, that the majority will have their way, and the minority will be heard. But one thing that the majority cannot do is to violate the law. If the majority wishes to have their way on an issue which is forbidden by the law, the way for the majority to have their way is to amend the law so that they can have their way. I hope that the House will bear in mind that when it comes to the express provisions of the Treaty, might is not right! The majority is always bound to the law and must submit to the law. Nothing could be clearer than Article 50 of the Treaty.

What we are saying is that this House must not be turned into a rubber stamp, because Article 50 says that: "The National Assembly will elect the nine Members of the East African Legislative Assembly." "To elect" means to make a choice! If the Speaker of the National Assembly of the Republic of Kenya is subject to an election, who are these Members of the East African Assembly, who do not wish to be subjected to elections by the National Assembly? We are saying that the first requirement should be that, whatever formula you decide to use in distributing the nine positions, for each slot, the particular party allocated that slot should bring three names of Members here so that this

House, in discharging the responsibility imposed on by Article 50 of the Treaty, can elect one Member out of the three. This is because I can see that it is being suggested that KANU should have five Members out of nine Members. We are saying that if this House is to elect, KANU should bring 15 names so that this House can elect five Members to the East African Legislative Assembly. If DP is allocated two slots, they should bring six names to this House so that we can elect two Members to the East African Legislative Assembly. That is what the word "elections" means.

Article 50 does not just talk about parliamentary parties, but there are others. So, these rules do not accommodate or factor in the issue of gender, which is supposed to be one of the matters to be factored in when we elect the nine Members to the East African Legislative Assembly. So, one would have expected the Rules to provide for, at least, two women Members to be elected out of the nine Members who will go to the East African Legislative Assembly. One woman Member should come from that side of the House and another one from this side of the House. I would like to point out that gender is one of the issues that should be taken into account in Article 50. But if you look at the rules which are being tabled here, you will find that they do not provide for gender. This is an issue that is left in a vague manner to the good sense of the respective parties. We have seen in the past that when political parties are left to attend to this matter, they obviously do not do so. That is why we continue to commit a constitutional illegality with regard to the 12 Nominated Members. This is because the law requires that one-third of the nominated Members be women, but because it did not specify how the one-third of women would be achieved; because that matter was left to the respective parties, they ignored that provision of the law. We do not want this to happen.

The issue of women to be elected to the East African Legislative Assembly is not one that can be left to the political parties; to the good sense or absence of good sense of the parties. This is a requirement in the Treaty. So, if the rules do not actually factor in the issue of gender, then they violate Article 50. What we are saying is that the rules should specifically request, require and provide that, at least, a minimum of two out of nine Members will be women; one to be elected from the nominees by that side of the House, and another one to be elected from the nominees by this side of the House.

Mr. Speaker, Sir, the other aspect is on the disabled people. This is an important constituency in this country. Because all these are matters that require to be taken into account by Article 50, one would have expected to see the rules specifically saying that, at least, one out of the nine Members to be elected to the East African Legislative Assembly will be a disabled person. That is what the rules should provide for so that, that side of the House and this side of the House or political parties can bring a number of disabled people and we elect one.

Dr. Anangwe: Thank you, Mr. Speaker, Sir, for giving me this opportunity to make my contribution to this Motion. Let me state at the outset that I support the Motion the way it is, and I hope that it will be passed without amendments.

I have read the Treaty thoroughly. I also listened very carefully to the presentation by the Minister. I have heard arguments from the Floor of this House, criticising the procedures and the processes as set out, in these rules. I am convinced that any disagreement that may arise in respect of these rules is because we have some unclarified assumptions about some notions, as provided for in this particular Treaty.

Article 50 just talks about election by the National Assembly, but it is not very explicit as to the election procedures. This is understandable because, although we are democracies within East Africa - Tanzania, Uganda and ourselves - there are, of course, various democratic political processes within these three countries. I know that in respect of us, we are saying that the National Assembly should elect Members. But my understanding is that, that is a process which must take cognisance of the set-up we have. The Committees are an integral part of our processes here, to the extent that the House Business Committee has been given some mandate. This should not be seen to be a contravention or negating the process itself to be elective. This is just the integral part of the process because the understanding is that at some stage, the matter will be brought here, and we have the final say as a National Assembly.

It would have been very difficult for Article 50 to be explicit about the election procedures. For instance, here we are talking about political parties and party strength. One hon. Member has argued on the Floor of the House that if this House was going to adopt party strength as a parameter, it should have been made explicit within Article 50. But we should also bear in mind that Uganda does not have political parties; it is a partyless state. So, in order to qualify, accept provision for a party or a role for parties in the processes, where would Uganda stand in respect of this particular matter? So, my understanding is that it is upon this House to come up with election procedures in respect of these Members. If we agree and go through the processes within the set-up of this House, including a role for our Committees, I think we shall have satisfied that particular requirement as provided for under Article 50.

Listening to the arguments - for or against these rules, and proposals for alternative procedures, as has been articulated ably by Members, particularly from the Opposition side, one gets a feeling that there is an assumption that an election is not one when it is of one type; that is free or popular election, the way we do it in our constituencies. I know that in this House, we have been electing Committees. We have been going through processes that we can call elections, and so far, no one has ever questioned that particular procedure and process until now, when the election of

representatives to the East African Legislative Assembly has come up.

Mr. Muite: On a point of order, Mr. Speaker, Sir. Is it in order for Dr. Anangwe to say that no one has ever questioned the methods in which Members are elected to various Committees, when I believe that he was in the House when I pointed out that if the House Business Committee has got 20 Members and the Electoral Commission of Kenya has seen it fit, using their arithmetic formula, to allocate SAFINA one slot out of the 12 nominated Members--- The manner in which the 20 positions of the House Business Committee have been distributed, leaving out SAFINA, is grossly inequitable and unfair. Is it in order for him to say that no one has questioned this when, at least, SAFINA has done that?

Mr. Speaker: Order! Order, Dr. Anangwe! When you want to put up a counter-argument, ask the Member on the Floor to give way. If he is so generous to give way, ask him to do so. There was a procedure that was used in this House for a long time but it has been discarded. So, could we revive it? Will the hon. Member on the Floor give way?

Proceed!

Dr. Anangwe: Thank you, Mr. Speaker, Sir. I was simply saying that, generally, this House has a procedure of electing people to various committees of this Parliament, including Select Committees. Even for the Parliamentary Select Committee---, we went through the same process. I know you have said that there is no precedent in respect of the election of members to the East African Legislative Assembly.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I think it is important not to confuse this issue. Did you not yourself say that other matters are provided for under our Standing Orders, like how we constitute our committees, and you said this is a new matter? Is he in order to use procedures that apply to our committees under our Standing Orders under a totally new subject, which we are trying to grapple with?

Mr. Speaker: Let him convince you he is right. When you stand up, convince him you are right and, somehow in the middle, we shall find a way.

Dr. Anangwe: Mr. Speaker, Sir, let me come specifically to the role of the House Business Committee. I know it is a matter that is raising a lot of contention. But I am also aware that Standing Order No.145(2) does provide that the House Business Committee can perform functions as stipulated under the Standing Orders. But the same clause does provide that the House can bestow, from time to time, a responsibility on this particular House Business Committee to perform such a mandate to the extent that these particular Rules do bestow a responsibility on the House Business Committee. In the process of nomination and electing members to the East African Legislative Assembly, I think there is nothing out of context. It is still relevant.

I know where the issue is and, probably, this is a matter which is not being articulated very explicitly. Many of the arguments against what is in place arise from those parliamentary parties that have not been given an opportunity to nominate. That is the way I see it. We, in KANU, so far, do not see any contention in respect of what has been provided. I believe the same applies to NDP and FORD-(K). I may not speak for the Democratic Party of Kenya (DP), but it is up to them to say what they think. But the vocal voices are coming out of those parties that did not get a chance to nominate. It is understandable because, in the process of sharing, they were left out. But, if we are going to emphasize party strength, KANU has 50 per cent, and the remaining cannot be shared out. We cannot get a quarter-representative. It is not possible. So, it must be one party, whichever it is.

Mr. Muite: On a point of order, Mr. Speaker, Sir. Are you satisfied that Dr. Anangwe is not imputing improper motives on other Members by suggesting that we are making contributions because we did not get a chance to nominate our people?

An hon. Member: That is a popular view!

Dr. Anangwe: Mr. Speaker, Sir, where I come from sometime you do not have to be explicit as to what your motivations are. People can always deduce from what you are saying and read your body language, and they know exactly what the problem is.

Mr. Speaker: Are you a body-reader?

(Laughter)

Dr. Anangwe: Mr. Speaker, Sir, body reading is innate. You can always know exactly what somebody is up to. But let me come back to the issue. KANU is entitled to 50 per cent of the seats because of its party strength. The remaining four cannot be shared out with the remaining parties without splitting hairs.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. Mr. Muite raised the question of improper motive and the hon. Member has responded by saying that he was reading Mr. Muite's body language. This means he is confirming that he is imputing improper motive on the parties. Are you satisfied?

Mr. Speaker: Order! Order, Members! I was considering, in my own mind, whether furthering the interest of your political party is an ill-motive. In my view, I think that is the only reason why political parties exist; to further their own interests. Therefore, if anybody said that Mr. Muite is furthering the interests of SAFINA, there is nothing ill-motive about that. That is the only reason why he is there. So, I do not see anything wrong with it

(Applause)

Dr. Anangwe: Thank you for that particular clarification, Mr. Speaker, Sir. Mr. Muite in his earlier contribution, at some stage, was very explicit about this particular issue and concern, that some parties were left out. It is there in the HANSARD, if it is checked.

Mr. Speaker: Do not frog a dead horse. I have already finished that. Mr. Muite, you are neither a horse nor a frog!

(Laughter)

Dr. Anangwe: Mr. Speaker, Sir, I know that some Members would like us to adopt a process that may be lengthy so that it can satisfy the competing interests. But, as much as we should look at the politics of a process, we should also look at the economics of it to the extent that we can take a short cut and resolve this particular issue. If there is an understanding by the majority, we should adopt that particular procedure. Electing 200 Members of Parliament is different from electing nine representatives to the regional body. I am sure it would not make much sense for us to spend a lot of energy going through a process no more different from that of electing 200 MPs in Kenya, just because we want to elect nine representatives. I am not underrating the importance of the nine representatives to the regional assembly. I am only trying to say that we should take a route that is economical and that we all have agreed upon, and a route that will help us to resolve this particular issue as speedily as we can. If the smaller parties have lost out on this score, they have had one other occasion. They have had, at least, the opportunity. But these particular Rules should provide a lesson that there is a disadvantage of being in a smaller party. You may be a senior politician but you have to calculate carefully. If you want to influence processes here, and opportunities are scarce, you will always lose out in the sense that you will be regarded as a mono. You are there to be seen and not to be heard in this particular place.

Thank you, Mr. Speaker, Sir.

Mr. Murungi: Thank you, Mr. Speaker, Sir. I rise to support this Motion. I would like to deal with only one issue, as to whether this Motion is inconsistent with Article 50 of the Treaty for East African Co-operation. Even in the plain reading of the Rules as presented to this House, they do not show any repugnancy or inconsistency with Article 50. Article 50 provides as follows:-

"The National Assembly of each partner state shall elect, not from among its members, nine Members of the Assembly who shall represent as much as it is feasible various political parties represented in the National Assembly, shades of opinion, gender and other special interest groups in that partner state in accordance with such procedure as the National Assembly of each partner state may determine."

I think the emphasis that we should be laying is: "...in accordance with such procedure as the National Assembly of each partner state shall determine." So, even the word "election" should be in accordance with such procedure as the National Assembly of each partner state may determine. The Rules that we are setting are leaving out this procedure. The Rules that are before the House are determining the procedure under which the elections should be conducted and which should comply with Article 50.

Mr. Speaker, Sir, nobody has said that the Rules violate Article 50(2) of the Treaty, which deals with the qualifications of the Members of the Assembly. This is because Rule 3 is quite clear. It says:-

"No person shall be qualified to be a candidate for election to the East African Legislative Assembly unless he or she is qualified to be so elected in accordance with Article 50(2) of the Treaty."

Mr. Speaker, Sir, the Rules take care of compliance with Article 50(2) of the Treaty. So, the question then that we are dealing with is whether the Rules violate Article 51 of the Treaty or whether the procedures for election are prescribed by the Rules under Articles 4, 5, 6 and 7 constitute a violation of Article 51. In other words, does the procedures prescribed by these Rules constitute an election?

Mr. Speaker, Sir, for those who have read the Rules, it is quite clear, under Rule 4, that the Rules themselves talk about an election. Rule 4(1) says:-

"The National Assembly shall elect nine members to the East African Legislative required to be elected under Article 50 according to the proportion of every party in the National Assembly."

So, we are electing. So any person saying that this National Assembly will not elect the nine members, is misleading the House.

Mr. Speaker, Sir, hon. Muite says that we have not taken gender into account. Article 50(3) says the National Assembly shall take into account political parties represented in the National Assembly, shades of opinion, gender, *et cetera*. So long as we say we will elect in accordance with Article 50(3) of the Treaty, then we have automatically taken gender into account. This is because Article 50 itself requires gender to be taken into account. Since Rule 4 says that we shall elect nine members, required to be elected under Article 50(3), then the mere reference to Article 50(3) automatically includes gender.

Mr. Speaker, Sir, what the Rules provide for is for nomination of the persons to be elected by this House. So, the House Business Committee, under Rules 5 and 6, vets those nominations. Rule 6 says:-

"The House Business Committee shall consider the nominees of the parties delivered to it under Sub-rule (4) and 5 and shall ensure that the requirements of Article 50 of the Treaty are fulfilled and that at least one-third of the nominees of the parties are women."

So, the House Business Committee is to ensure compliance with Article 50 of the Treaty before the nominees are brought before this House. If the House Business Committee is to ensure that compliance, who can come and say we have not complied with Article 50?

Then there will be an election. After the names have been nominated and vetted, to ensure that Article 50 is complied with, those names are then to be brought to this House. Rule 7 says:-

"Upon being satisfied that the requirements of Rule 6 have been complied with, the House Business Committee shall cause the names of the nine nominees to be tabled before the National Assembly and such nominees shall be deemed to have been elected members of the East Africa Legislative Assembly in accordance with Article 50 of the Treaty."

Mr. Speaker, Sir, those nine names will be brought before this House. We shall vote for those names according to the traditions of this House. There will be those who will say "Ayes" and "Noes". That is how we do our business here; that is how we conduct elections. Those who are not satisfied can call for Division and we shall count each and every one of us. So, that is the procedure of elections which rest out as determined. I do not see any inconsistency, of that procedure which is in accordance with the traditions and procedures of this House, with Article 50 of the Treaty.

Mr. Speaker, Sir, let us look at the other alternative. Let us say everybody applies and this House votes. You know who the majority in this House are. We could have nine members voted for by KANU and NDP. The DP will not have one representative in East Africa Legislative Assembly. Even my friends, Messrs. Anyona and Muite, will have no say. We know who will go to the East Africa Legislative Assembly if we vote by a majority vote.

Mr. Speaker, Sir, we think that this procedure is fair and just because it takes into account the interests of various political parties represented in this House and it is in compliance with Article 50 of the Treaty.

Mr. Speaker, Sir, with those few remarks, I beg to support this Motion.

Mr. Kajwang: Mr. Speaker, Sir, first, I want to remind everybody in this House that the Constitution of this country says that we are a democracy, but a multiparty democracy. When we talk of a multiparty democracy, we give emphasis to the party or the multiplicity of parties. When we talk of multiparty democracy we are saying that some parties are stronger than others in this House. If it comes to vote, some may lose out. That is also obvious.

Mr. Speaker, Sir, I understand the fear of some of my colleagues is that they are likely to lose out, especially in the manner in which these Rules have been made. This is because they have no chance to nominate one or two candidates who are likely to be elected. So, they want to stick on one word. I want to say that Article 50 talks of election. People must apply to this National Assembly from all over the country, including some people who may be living in London and America so long as they are Kenya citizens. That they will apply to the Returning Officer who happens to be the Clerk of the National Assembly. There will be no short-listing. Each party in this House will then nominate three candidates; one of them will be a woman, and another one who will be a disabled person.

Mr. Speaker, Sir, this idea that a disabled person is a more superior person than an abled person or vice-versa is dangerous. And it should not be put into Acts of Parliament. This idea that a woman has a special interest somewhere which a man does not have, and it is either superior to or weaker than a man, is dangerous. I do not know who were participating in the drafting of this Treaty, but because we have now passed it, it is now a Treaty. But I want to say that it is dangerous that every day we are talking of gender, shades of opinion, *et cetera*. The only thing we know in this House is multiparty democracy. Parties have a right to nominate whom they want so long as they qualify under the Rules.

Mr. Speaker, Sir, on election, hon. Kituyi was passionate the other day. He said that we cannot rubber-stamp; we must elect. But how do we elect members to various Committees in this House? Are hon. Members of the

Committees of this House not elected? I am the Chairman of a Departmental Committee of this House. I was supposedly also elected by this House, but nobody voted for me. My name was tabled here and anybody who wanted to reject it could as well have said that, "Mr. Kajwang should not be in that Committee" and I would have been voted out. That is an election. If names are laid on the Table of the House and the House approves them, that is an election. If we reject them, that is also an election. There is no word called "election" which means that hon. Members of Parliament must carry their hands up, and that we must be counted in the boxes here; that we must go to a Division, then somehow that will be called an election. This House does elections everyday in Committees and there are rules under which we do those elections, and they are still considered elections. So, the word "elections" is not a miraculous word or a very difficult word. It could also mean foot-thumping. If we all put thumbs up in agreement, that is also an election.

Mr. Speaker, Sir, I would like to support Mr. Murungi on Article 50 which says very clearly that the various political parties will participate in this election. Dr. Anangwe looked at it very well. It says, that the House Business Committee shall perform powers which are conferred upon it by the Standing Orders. But it can also perform other functions as the House may give it. These rules now want to give the House Business Committee one job additional to all the other jobs which it does. One of those jobs is to go and nominate for us the hon. Members who we are going to elect. When the names are laid before the House we shall vote and those will be the elected hon. Members to the East African Legislative Assembly.

Mr. Speaker, Sir, we must accept that we are a multiparty democracy, and we want to strengthen our parties. If you go to every other country which is practising our system, they want to strengthen their parties. Now that I am on the Floor, and I am happy that the Speaker himself is here, I would like to say that parties are not getting due recognition in this House. Parties have nowhere even to meet as parties. Parties have no organizational structure which is supported by this House. In fact, as an official of my party, if I want to issue a statement to the Press, I cannot pass it to the Press through the Clerk's office because it is "political". It is political because my job is political. Everyday, from morning to evening and even when I am sleeping, I do political duties. So, the office of the Clerk must recognise that this House is a political House and that he is serving political parties and political leaders of those parties. He cannot tell us that if we want to issue statements in this House, then we should go our political party offices. What of if I do not have it? Do we have any allocation of funds from this House to rent offices for parties? This House must support political parties, then we shall know the meaning of organizations or political parties. I think this is a new development because it is only in 1992 when we reintroduced it. But still, 1992 is a long time. We should now wake up and support structures of political parties in this House. There is something called "Parliamentary Groups". I do not even know whether "Parliamentary Groups" are defined in our Standing Orders. If it is defined, I do not know whether it is given a proper meaning and proper support which it should be given. Parliamentary Groups are the organs through which parties can participate effectively in this House. If you want to meet, you can as well meet under a tree, since the House does not care; because political party groups are not institutions known by this House.

Mr. Speaker, Sir, if you want to strengthen the multiparty democracy in this House, strengthen political parties and structures of political parties in this House. We want to have offices for political party groups. We want to have meeting places and secretariats for political party groups. We want to have qualified people to support us, so that when, for example, I stand here as an hon. Member of the National Development Party I speak with the authority and learning of the Secretariat of the political party which is supported by the money donated by this House.

Mr. Speaker, Sir, I do not want to go into the proposed amendments because we will deal with them at the Committee Stage. But I think these rules are in order. They provide for an election and when the names are laid on the Table of the House, this House will elect the hon. Members who will have been nominated by the House Business Committee, and it is proper and in order.

I beg to support.

Mrs. Sinyo: Mr. Speaker, Sir, I rise to not to support this Motion. It is very sad that in a country which from its inception of Independence was a multiparty, then through some mystery changed into one-party, and then back into multiparty. It is so sad that in such a country where we are emphasising that we are democratic, hon. Members of Parliament can stand in this House and say that they do not understand these issues we are introducing in Section 50 of the East Africa Legislative Assembly about the specifications with regard to gender, disadvantaged groups and parties.

Mr. Speaker, Sir, if I may respond to the hon. Member who spoke before me, the emphasis of multiparty is really going out of the way for the electorate, by the fact that we are losing the human face of what the East African Community stands for. For these people - they are people or wisdom - to have included in Section 50 those considerations that: Other than the parties, there has to be that human face of gender and special groups consideration in the election. In that broad wisdom, it is sad that an hon. Member of Parliament would say that we have no choice, we just have to own it because we have signed it. Yet we had been given a chance to discuss it in this House but we are time barred, we did not even discuss the Treaty. We just rubber-stamped it. I stand to say that the East African Treaty

has given us a chance for nine representatives to be our parliamentarians there, to represent the people of Kenya and not the parties of Kenya. The people of Kenya include gender considerations which is both men and women, and the disadvantaged groups among the people of Kenya. That Section is very articulate because it gave the leeway that each country should design its own way of election, because election is mandatory. But we should design the way we are going to do our elections so that at the end of the day, we get the nine people. We could even opt to say that we choose the nine people from every province. It is according to each country's discretion to come up with the nine people. The emphasis that the nine hon. Members must be from parties is trying to lose a human face and this is sad. Could the House take note of this point even as we go to the Committee stage. Even if it is election through parties, there is no way we are going to condone the submission of an hon. Member of Parliament on this Floor, not understanding the issue of others being weaker or superior, as positive discrimination on gender and the disadvantaged. It is sad the same remark can be repeated in this House while it has been repeated elsewhere; of how blind people cannot be leaders in this country. There is nothing degrading as an hon. Member not appreciating the electorate who have brought him or her into this House. We have to have a human face because these are issues of human rights.

Mr. Speaker, Sir, I want to report to this House that I was in Uganda last week, and I saw a completely different picture, and you and us have access to that information. We can confirm it. The same issues exist on the Ugandan side. But why should we feel that we have to put animosity into those issues? Why should we not consider the representation of all cadres of people into the membership or representation and emphasise on parties? In Uganda, they have one slot for a person with disability, two for gender, and six are for anybody else. Even if there is any amendment to the Motion, even if it is the House Business Committee that is going to nominate the people--- There are the undersigned provisions of Section 50 after election, and there are parties to nominate. There are conditions for parties to follow when nominating Members.

So, I want to respond to a fact that was raised by Mr. Murungi; that, the issue of parties is fine, and it is provided in Section 50, but it is not superior to gender and special interest groups. The party is not superior. So, the emphasis on party must go side by side with the emphasis on representation of gender and special interest groups.

This House, as it stands, comprises of hon. Members and it is an honourable House and we shall be deviating from the word honourable if we will be looking at the parties to be the ones to be forming the nation because, at the end of the day, if I may even wonder with the constitutional review process, who knows what might come out? We were multiparty as I said in the beginning, and we had KANU and KADU. What happened? Who knows? There was a constitutional review process and we became one-party. Again, another constitutional review process is in the offing. Who knows what will come up after the constitutional review process? We should be honourable at each given time and have a human face on issues.

For the Motion, I beg to oppose. We have to have a human face and every Kenyan depending on representation provided by Section 50 should have their names--- When the names are brought by that Committee, there should be representation of the provisions of Section 50 of the East African Treaty.

(A number of hon. Members stood up in their places)

Mr. Speaker: Well, I might recognise the hon. Members, but maybe, I have no power to move a closure at this stage, but we still have Mr. Anyona's proposed amendment to deal with and I think at an appropriate time, we should go to it.

Yes, Mr. Affey!

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): Thank you, Mr. Speaker, Sir. I intend to take just five minutes. A lot has been said about this particular Motion. I stand to support the Motion. First of all, hon. Members who have spoken here have made it very clear that the Motion is not in conflict with the spirit of Section 50 of the Charter. Therefore, I do not intend to waste my time there, but I just want to appeal to the nominating political parties, that if and when they get an opportunity to do so, to do it for Kenya. This is because the hon. Members who will be nominated to go to the East African Legislative Assembly will represent this country. They are not going there to represent KANU, DP, or NDP or any other political party for that matter. Therefore, if they are going to represent Kenya, I want to appeal to party leaders to nominate the best that they have in their political parties. Due consideration should be given to move Kenya to the East African Legislative Assembly, meaning that all provinces in this country must have representatives so that we show the diversity of this country in East Africa.

We say that Kenya has got 43 ethnic groups and we want to show the East African Community that ethnicity does not mean enmity. There are countries in this region which have got specifically two ethnic communities and they continue to fight. There are countries in this region, like Somalia, with only one ethnic group and they have continued to fight for ten years and they cannot get peace. We want to show the pride in our history; that we can be able to live together, and that regions in this country can co-exist; that, ethnic groups in this country can co-exist. The only way we

can get that is for the political parties to consider, when they are nominating, that they are nominating for Kenya. Apart from what is given in the Charter, we have these salient features in this country and we are very proud of it. I also want to say that we should nominate good Ambassadors for this country; people who go there must be people of high integrity and with good credentials and background.

With those few remarks, I beg to support.

Mr. Mwenje: Mr. Speaker, Sir, I want to be very short on this one. One big mistake that was made was that these rules were never referred to the Committee on Defence and Foreign Relations where we would have considered them individually. That was the big mistake that happened because, if they were referred there originally, this problem would have been eliminated. They were never referred to the Committee as usual and that is why they were never debated.

I want to support these rules. They are quite good and they are in accordance with what we would want and with Article 50. I am in that Committee on Defence and Foreign Relations and I know that we also considered the issue on the same line, although they had never been brought and they were never tabled. But I think that there is nothing fairer than the rules that were tabled here and we should follow them strictly.

Regarding the question of nomination, even when we nominate Members of Parliament here, each party nominates Members in accordance with the number of MPs that were elected in that party. So, I see no reason why we should not follow the same formula to nominate Members of the East African Legislative Assembly and, if that is followed, it would look quite fair.

At the same time, if anybody feels that these rules do not augur well, there is still a chance. If we nominate a person whom one does not like--- Somebody still has a chance to bring it up when we come to do the actual elections of the Members.

Mr. Keriri: On a point of order, Mr. Speaker, Sir. I think we have discussed this Motion adequately and I beg to move that the Mover be now called upon to reply.

Mr. Mwenje: Just because I debated from another seat?

Mr. Speaker: Order, Mr. Mwenje!

(Question, that the Mover be now called upon to reply, put and agreed to)

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, I beg to acknowledge the overwhelming support which this Motion has received from both sides of the House. I am pleased to note that even hon. Members from the Opposition are supporting this Motion.

Mr. Speaker, Sir, it was of great interest to note that even Mr. Murungi, for the first time, was among those who supported this Motion. This shows clearly that I have either done a very good job by consulting hon. Members from both sides of the House, or I have hit a gold mine where those in the Opposition are going to have a big share of the fruits that are going to accrue.

Mr. Speaker, Sir, mention has been made of the need to refer these rules to the relevant Departmental Committee. It is normal for me to refer everything I bring before this House to the relevant Departmental Committee. But there was no time to refer these rules to the relevant Departmental Committee because the House went into recess. When I tabled them at that time, there was no objection from the House. Therefore, it is not quite right to say that no attempt was made to bring these rules to the House. I have a lot of sympathy for the hon. Members who intend to move amendments. They too have---

Mr. Speaker: Order, Mr. Biwott! You do not anticipate what is going to come before the House for debate! It is against the rules of this House. When it comes to crossing that bridge we will do so.

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, in the process of consultation, I met some hon. Members who wanted to introduce some amendments. Assuming that they will introduce those amendments, I will then say more about them. Furthermore, I have made extensive consultations among the political parties in this House and, therefore, I am confident that the rules before us have undergone ample scrutiny by the hon. Members I referred to.

Mr. Speaker, Sir, I would have expected the media to publicise widely the vacancies that exist in the East African Legislative Assembly, in order to educate wananchi. This would have necessitated feedback from them. We would have heard from them on the criteria they would have preferred in the nomination of Members to the East African Legislative Assembly. That would have enlightened us on what to do. Unfortunately, they did not. Instead, one newspaper decided to write about Nicholas Biwott and created enemies for me who never exist. They named three people who they claim are my enemies. I have never had an enemy because I do not quarrel with anyone! I always feel free to consult anybody, no matter the subject. To claim that hon. Kones, hon. Nyachae, and somebody else whom I do

not remember, are my enemies amounts to going to the lowest ebb of bankruptcy. Newspapers should not be creating things that do not exist. But I would really like the newspapers to support us in this endeavour, because the Press is very important in disseminating information about the East African Community. It is the only institution where we are sending Kenyans to represent our country without the partisan interests of political parties. I believe that when we come to the Committee Stage, we will be able to express our patriotism by passing these rules unanimously.

Mr. Speaker, Sir, having listened to all the contributors, it is only those Members of Parliament who are lawyers who would like to split hairs. They have put an undue interpretation on the word "elect" which appears in the first sentence. They have ignored the rider which says "each National Assembly may decide on the procedures and rules." There are many ways of electing Members to the East African Legislative Assembly. There is no unanimous definition of what an election constitutes. Election is just a practice like democracy. There are so many sets of democracies in the world and people are free to choose their own style of democracy. We have an election where people are given ballot papers to say yes or no, and that constitutes an election! So, if we decide as a National Assembly that these are the rules we want, then nobody is going to question. Usually lawyers talk of what the founding fathers had in mind. Let me be one of those founding fathers because I took part in the preparation of these rules. What we wanted was to give every country the absolute authority to decide on how they will choose those nine Members to the East African Legislative Assembly assuming of course, that they are wise enough to bring the best.

Mr. Speaker, Sir, political parties are the "mother" of everything. They produce disabled persons, women, men and anything that you may want to include in these rules. What is there to stop political parties from nominating disabled persons? We have got a Member of Parliament in this House who was nominated by a political party! For the sake of creating space, we have also decided to conform with the realities of the day and took care of gender interests. There is also another way of electing people through an acclaim. You just shout, "yes" and that is it! By so doing, you will not have cast any ballot. I think we should not complicate this [**The Minister for Trade and Industry**] process in any way. In any case, whatever happens, the result will be the same. It will be influenced by the political parties that exist here. At the end of the day, we will produce the same people whom the political parties want.

Mr. Speaker, Sir, I would like to appeal to the House to pass these rules the way they are. I believe that they have had time to look at them. We should proceed expeditiously so that we can elect, by whichever method, Members to the East African Legislative Assembly. I think the method I am proposing is the best and is agreeable to everybody.

With these few remarks, I beg to move.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

MOTION

THAT MR. SPEAKER DO NOW LEAVE THE CHAIR

Approval of EAC Assembly Election Draft Rules

The Minister for Trade and Industry (Mr.

Biwott): Mr. Temporary Deputy Chairman, Sir, I beg to move that pursuant to the provisions of Article 50(1) of the Schedule to the Treaty for the establishment of the East African Community Act, 2000, the Committee approves the East African Community Election of Members of the Assembly Draft Rules, laid on the Table of the House on Wednesday, 3rd October, 2001.

(Question proposed)

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I intend to move an amendment to this Motion. But before I do so, I would like to make a few general remarks. Every time this august House assembles, the first item of our business is the prayer by the Speaker. That has been the case ever since the inception of not only this Independent Parliament since 1963, but, in fact---

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Anyona, you have not proposed your amendment!

Mr. Anyona: I can do it either way! Normally, I can start by proposing or I can do it afterwards. But if you want me to start by proposing, I will do that. It is alright.

Mr. Temporary Deputy Chairman, Sir, I beg to move the following Motion:-

THAT, the Treaty for the establishment of the East African Community election of Members of the Assembly Draft Rules, 2001, laid on the Table of the House on Wednesday, 3rd October, 2001, be replaced with the following rules which are attached to today's Order Paper.

[**Mr. Anyona**]

IN EXERCISE of the powers conferred by Article 50(1) of the Treaty for the Establishment of the East African Community Act, the National Assembly makes the following Rules:-

Citation 1. These Rules may be cited as the Treaty for the Establishment of the East African Community (Election of Members of the Assembly) Rules, 2001.

Interpretation 2. In these Rules, all the parliamentary words and expressions used shall have the same meaning which is assigned to them in the Standing Orders of the National Assembly, and unless the context otherwise requires:-

"candidate" means a person who is nominated to stand for election to the East African Legislative Assembly;

"counting agent" means a counting agent appointed under Rule 10(1) of these Rules;

"election" means an election to the East African Legislative Assembly;

"nomination" means nomination as a candidate to stand for election to the East African Legislative Assembly.

"party" means a parliamentary political party represented in the National Assembly;

"returning officer" means the Clerk of the National Assembly;

"voter" means a Member of Parliament present and voting during an election.

PART I: QUALIFICATION OF CANDIDATES

Qualification 3(1) The National Assembly shall elect nine members of the East African Legislative Assembly required to be elected under Article 50(1) of the Treaty from candidates nominated by a party or parties.

(2) For the avoidance of doubt, the number of candidates a party or parties shall be entitled to nominate for election under (1) shall be arrived at by multiplying the number of elected members of the National Assembly of the party or parties by six and dividing the result by the total number of elected members of the National Assembly -

Provided that all parliamentary parties whose individual members do not individually qualify them to nominate candidates shall have their members added up and collectively allocated a slot or slots, as the case may be under this formula.

(3) No person shall be qualified to be a candidate for election to the East African Legislative Assembly unless he is qualified to be so elected in accordance with Article 50(2) of the Treaty.

PART II: NOMINATION OF CANDIDATES

Nomination 4(1) For the purpose of election of Members of the East African

Legislative Assembly, the Returning Officer shall by notice in the Gazette, notify the general public that the election is to be held and invite all interested and qualified persons to apply, within a period of not more than seven days, for nomination.

(2) The Returning Officer shall, by notice in the Gazette, appoint a Nomination Day at Parliament Buildings, which shall not be more than fourteen days from the expiry of the period prescribed under (1).

5(1) In order to be validly nominated as a candidate for an election, a person shall be nominated by a political party or parties under the Treaty, to represent various parliamentary political parties, shades of opinion, gender and other special interest groups.

(2) A party which is entitled to nominate candidates shall submit to the Returning Officer the names of three candidates, at least one of whom shall be a woman and a person with disability, in respect of each seat allocated to that party or parties.

(3) The nomination shall be in the prescribed *Nomination Form*, signed by the candidate and the Secretary General of the party or parties nominating him.

(4) Every Nomination Form shall be accompanied and contain the following particulars:-

(a) name, address, educational and professional qualifications and occupation of the candidate;

(b) certificate by the candidate confirming his qualification and willingness to stand for the election;

(c) proof of citizenship of the Republic of Kenya;

(d) curriculum vitae, signed by the candidate, relating to the candidate's experience in public affairs and interest in promoting the aims and objectives of the East African Community in accordance with Article 50(2)(e) of the Treaty.

6(1) A candidate or an official of the nominating party or parties shall deliver the *Nomination Form* of the candidate to the Returning Officer at Parliament Buildings not later than four o'clock in the afternoon of the Nomination Day.

(2) Every party or parties nominating a candidate or candidates shall submit to the Returning Officer the names of three candidates, at least one of whom shall be a woman and one a person with disability, in respect of each of the nine seats.

(3) A candidate or an official of the nominating party or parties shall, at the time of delivering the *Nomination Form*, pay a non-refundable deposit of Five Thousand Kenya Shillings.

7(1) The Returning Officer, if it is apparent to him from the contents of the *Nomination Form* that the candidate is not qualified to stand for election, shall forthwith reject the *Nomination Form* of the candidate.

(2) The names of the candidates validly nominated shall be published in the Gazette.

PART III: ELECTION PROCEDURE AND VOTING

8(1) The Returning Officer shall, by notice published in the Gazette, appoint an Election Day, which shall not be more than seven days and not less than three days after Nomination Day.

Withdrawal of

candidate

- (2) A candidate may, not later than four o'clock in the afternoon of the day following the Nomination Day, withdraw his candidature by notice in writing signed and delivered by him to the Returning Officer with a copy to the nominating party or parties.
- (3) No withdrawal of a candidate shall be accepted after the expiry of the period prescribed under (2).
- (4) Where any candidate dies after four o'clock in the afternoon of the Nomination Day, and before the Election Day, the election shall continue and shall not be affected by such death.
- (5) A candidate may introduce himself to the voters individually or in groups and seek their support before the Nomination Day, and may continue to do so after the Nomination Day.
- (6) Before Election Day, each candidate shall appear before the Members of the National Assembly assembled in an extra-ordinary meeting convened by the Speaker in the Old Chamber and address the Members in English or Kiswahili for such length of time and answer such questions as the Speaker may determine.
- (7) For the purpose of the election campaign, the provisions of the Cap 66 Election Offences Act, Chapter 66 of the Laws of Kenya, shall, **mutatis mutandis**, apply to the election of members to the East African Legislative Assembly.

9(1) The voting shall be conducted by the Returning Officer, under the general supervision of the Speaker, in the Old Chamber of the Assembly.

- (2) The Returning Officer shall issue only one Ballot Paper to each voter.
- (3) The Ballot Paper shall contain all the names of the candidates, arranged in alphabetical order as follows:-

Group A: candidates representing various parliamentary political parties and shades of opinion;

Group B: candidates representing gender;

Group C: candidates representing special interest groups.

- (4) A voter shall be required to cast a specified number of votes to be determined by the Speaker, in each of the specified groups.
- (5) Each voter shall mark and cast his vote in secret against the names of the nine candidates of his choice.
- (6) A voter, who has accidentally spoiled his Ballot Paper while the voting is still in progress, may surrender the spoiled Ballot to the Returning Officer and obtain a replacement thereof.

10(1) Immediately after the Ballot Papers have been collected, the Speaker shall appoint two Counting Agents, one from each side of the House, to act as Counting Agents for all the candidates.

- (2) When all the voters have cast their votes, the Returning Officer shall, with the assistance of the Clerk Assistants, count the votes cast.

11. Declaration of results. When the votes have been counted and the results of the election have been ascertained, the Returning Officer shall:-

- (a) report to the National Assembly the results of the election together with the total number of votes cast for each candidate in each group and the spoiled Ballot Papers.
- (b) announce to the National Assembly the names of the nine persons with the majority number of votes and

declare those persons elected as Members of the East African Legislative Assembly.

12(1) The Returning Officer shall ensure the safe custody of all the documentsBallot Papers and other documents relating and pertaining to the conduct of the election.

(2) The Returning Officer shall cause all documents to which this rule applies to be destroyed after the expiration of six months from the Election Day.

PART IV: PETITION AND VOIDANCE OF ELECTION

13(1) Pursuant to the provisions of Article 50 of the Treaty, the voidance of election of a Member of the East African Legislative Assembly may Electionbe declared void only upon an Election Petition.

(2) The procedure, jurisdiction and grounds for declaring void the election of a Member of the East African Legislative Assembly shall be the same as those provided under the National Assembly and Cap 7Presidential Elections Act, Chapter 7 of the Laws of Kenya, for election petitions in respect of Members of the National Assembly.

PART V: MISCELLANEOUS PROVISIONS

14. If any matter arises which is not specifically provided for in these Matters not provided for Rules, the Speaker in consultation with the Departmental Committee on Defence and Foreign Relations shall make a ruling directing what is to be done, and in making such a ruling, the Speaker shall be guided by the practice and procedures normally followed in similar jurisdictions with regard to parliamentary elections.

15. These Rules shall supersede the Draft Rules laid on the Table of the House on 17th July, 2001, and Amendment may be amended from time to time by resolution of the National Assembly.

Dated, 2001

Samuel W. Ndindiri
Clerk of the National Assembly

SCHEDULE

rule 5(3))

NOMINATION FORM FOR ELECTION OF A MEMBER OF THE EAST AFRICAN LEGISLATIVE ASSEMBLY

Election of a member of the East African Legislative Assembly to be held on the day of 2001 in the Chamber of the National Assembly.

I, the undersigned, being a candidate or an official of a nominating party or parties shown below, hereby verify and submit my nomination or the nomination of the person undermentioned as a candidate for election to the East African Legislative Assembly.

Full names of candidate	Occupation or Description	Party or Parties
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Full names of candidate

Address

Signature

Full names of official of nominating party or parties

Address

Signat

Mr. Temporary Deputy Chairman, Sir, I was making some preliminary comments. Indeed, if you look right back to the beginning of the establishment of parliamentary system in Kenya, you will find out that the prayer that we say here every day, is exactly the same word for word, as the prayer that was said at the beginning of the creation of the parliamentary system in Kenya. In other words, it was there before Independence; that is during the colonial regime and now. The prayer is exactly the same!

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Chairman, Sir. I have looked at the notice which is attached to the Order Paper, and it indicates that Mr. Anyona gave a notice of his intention to move the following amendments during the Committee Stage of the foregoing draft rules. But in his opening address, I have heard him say that he wishes to replace the rules which are now before the House, with the rules which are attached. Now, I want to know what he is really moving! Is he moving amendments as indicated in the notice, or is he replacing the rules? If he is replacing the rules, then I am sure the Temporary Deputy Chairman will direct us as to which rules apply. What I have in my hands here are amendments!

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Anyona, I also heard you read and what I have from you is that the Treaty for the establishment of the East African Community election of Members of the Assembly Draft Rules, 2001, laid on the Table of the House on Wednesday, 3rd October, 2001, be amended by replacing them with the draft rules contained in today's legal notice! Now, what you read is something different!

Mr. Kajwang: Mr. Temporary Deputy Chairman, Sir, what do we have on the Order Paper?

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Kajwang, the Order Paper simply gives you the particulars. He has given the notice to the Clerk. That is what I was pointing out to him; that it is slightly different from what he has read.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I would be happy to have a look at what you have. What has happened is this: In trying to find out the right way to deal with this problem, because of its complexity, I did submit a notice of Motion to the Clerk and the Speaker, giving them my intention to amend or replace the rules, whichever method was considered the best. Now, the Speaker considered that and we consulted today. There was an agreement that this is the right way to do it.

The Temporary Deputy Chairman (Mr. Imanyara): I have been given the right one!

The Minister for Tourism and Information (Mr. Musyoka): On a point of order, Mr. Temporary Deputy Chairman, Sir. I really wish to seek guidance from the Chair because the Mover, having been called upon to reply, he did the same and the House properly went into Committee. My understanding of proceedings in the Committee of the House is amendments. But I do have some difficulties where we are dealing with a replacement; because that is what Mr. Anyona, for whom I have a lot of respect for, is trying to do! I remember I worked on these rules with Ms. Karua and we came up with a beautiful document, which we recommended to the House.

The Temporary Deputy Chairman (Mr. Imanyara): Order, Mr. Musyoka! Let me just point out this: This is something that the Speaker considered. It was a subject of a considered ruling by the Speaker, when he gave the guidelines. So, let us allow Mr. Anyona to move and you will have the opportunity to vote.

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Speaker, Sir. We have just taken a vote on these rules; they are our rules, only that we are going into Committee to suggest certain amendments if there are any. If, now, somebody seeks to replace them, we are negating what we have just done! So, we cannot have an amendment by way of replacement!

The Temporary Deputy Chairman (Mr. Imanyara): Order, Mr. Kajwang! What you are trying to do is to go behind the Speaker's ruling. There is a ruling on the issue and following that ruling, guidelines were given. We are following those guidelines, and you will have an opportunity to vote on Mr. Anyona's amendments!

Mr. Maundu: On a point of order, Mr. Temporary Deputy Chairman, Sir. I think there is a very important point here! I do not know the manner in which the Speaker's guidelines were communicated! But, at this stage, we are considering pure amendments. I think any other procedure, whichever way, is not right, and it is not before the House! So, Mr. Anyona should proceed on the basis of introducing amendments by what he calls replacements. But we cannot have a different procedure!

The Temporary Deputy Chairman (Mr. Imanyara): Order, Mr. Maundu! If you look at the Order Paper, it has the details of the amendments Mr. Anyona proposes to introduce. If you look at the Order Paper, it has complete sets of the rules that Mr. Anyona wishes to convince and persuade you to replace Mr. Biwott's rules with. Now, we will give Mr. Anyona an opportunity to present the case for those rules, and then you will have an opportunity to vote.

Mr. Wamae: On a point of order, Mr. Temporary Deputy Chairman, Sir. If we are replacing the rules, we are not amending the rules! Under what Standing Order do we replace the rules, instead of amending them?

The Temporary Deputy Chairman (Mr. Imanyara): Order! If you were there when the Speaker gave his

ruling, he did say the effects of the proposals by Mr. Anyona were to replace the rules. If you had points of order to raise on that issue, you should have raised them at that point! Now, what you are doing is going back on a ruling that has been made by the Speaker! The Chair orders that we do allow Mr. Anyona to continue!

Ms. Karua: On a point of order, Mr. Temporary Deputy Chairman, Sir. When the Deputy Speaker made a ruling, it was not on the amendment. The Deputy Speaker gave a Communication from the Chair on the procedure to be followed during this Committee Stage. He said that the procedure should be the same as when we are going through the Bills. It is now incumbent upon you to make a ruling on the amendment and we are saying before you that there is no amendment. If the procedure is the same as during the passing of Bills, you cannot replace the entire Bill with an amendment. You can only amend it and not replace it. Therefore, it does appear that the hon. Member who has raised the issue that there is no amendment before us, has a point. We are calling upon the Chair to make a ruling.

Mr. Muite: On a point of order, Mr. Temporary Deputy Chairman, Sir. We need your guidance here by way of clarification. When the Motion was being debated, I attempted to introduce amendments because I anticipated this sort of problem. I also wanted to replace these rules, but the Deputy Speaker who was in the Chair then said this Motion that was being debated was for the Speaker to leave the chair. Since it is a novel way of the House formulating the rules, there is no precedence just as the Deputy Speaker said here. It was ruled that any form of amendment, however drastic, should come during the Committee Stage. I believe that, that is the context in which the substantive Speaker allowed Mr. Anyona to bring these rules to the House because that is the only way they can be brought during the Committee Stage. That is the subject of the ruling by the substantive Speaker and I agree with the Chair that Mr. Anyona should be given the opportunity to argue his case.

The Minister for Tourism and Information (Mr. Musyoka): On a point of order, Mr. Temporary Deputy Chairman, Sir. We are all trying to be helpful to this House. The Motion which has brought the House to the Committee Stage is very clearly spelt out:

"That, pursuant to the provisions of Article 50(1) of the Schedule to the Treaty for the Establishment of the East African Community Act, 2000, the Committee approves the East African Community Elections."

What we are saying is very simple, that we can only amend this Motion. What is before this House is really not an amendment to the Motion and we have already passed the Motion. Will you have this House really debate something very strange and then create a very strange precedent? I am happy that Ms. Karua has clarified the ruling by the Chair. I am sure Mr. Anyona would want to be intellectually honest.

The Temporary Deputy Chairman (Mr. Imanyara): Order! Let me say this: The procedure for Motions before they come to the House is that they go to Mr. Speaker where they are approved or rejected. If they are approved, they are placed on the Order Paper. The Speaker has gone through the process and he recognised the novelty of this new procedure because it has not been brought to the House before. He made a ruling and provided guidelines. What is before the House now is for you to reject or approve. That is the Chair's ruling and we will not go back on that. Mr. Anyona will now be given an opportunity to move his amendments. You will have ample opportunity to vote for or against it.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I had good reason for referring to the prayers that we say in this House. I believe that the name of the Almighty God must never be taken in vain. When we pray in this House, it is clearly understood that we are asking for the blessing of the Almighty to do our things as honestly as we can.

I would like to refresh the memories of the hon. Members by reading the second stanza of our prayer. It says this:

"Let thy blessing descend upon us here assembled, and grant that we may treat and consider all matters that shall come under our deliberation---"

(Loud consultations)

The Temporary Deputy Chairman (Mr. Imanyara): Order, Mr. ole Ntimama! Please give Mr. Anyona an opportunity to present his case!

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I was reading the prayer that we normally say here. I would expect, at the very least, particularly senior Members of the Government, to listen. The prayer does say that:- "The deliberations come in so just and faithful manner as to promote Thy Honour and Glory and to advance the peace, prosperity and welfare of this---"

Dr. Anangwe: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Imanyara): Order, Mr. Anyona! What is your point of order, Dr.

Anangwe?

Dr. Anangwe: Mr. Temporary Deputy Chairman, Sir, this is a House of hon. Members and it looks as if Mr. Anyona is taking the part of a priest. He is beginning to interpret what prayers mean. We literally take the prayers the way they are. He should go on to substantive issues in respect of his Motion.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I do not think that the prayer was put there just as a matter of course. I thought it was put there to remind us each time we come to this House, that we must deliberate on matters of this nation "in so faithful and just a manner." That is the only way in which God can bless what we do and give us peace and prosperity. I am saying that because the manner in which this business has been handled leaves a lot to be desired. You will remember that, on the 17th of July, the Minister laid rules before this House. Those rules were drawn up by the competent authority of the National Assembly. The Minister gave Notice for the debate of these rules. While that was awaiting, time was running out under Section 34, Cap.2 of the laws of Kenya. After 20 days, those rules became law.

Subsequently, there was a move from somewhere to come with rules that are now before the House. I want to say that if this National Assembly will act accordingly and command the respect of our people, and particularly in this matter of our neighbours, then we must be seen to do these things in so just and faithful a manner. I am saying this because it is the National Assembly in its collective wisdom, on behalf of the people, that should decide the best procedure. The National Assembly means all of us. When you take the matter outside the National Assembly for political parties, individuals and leaders, to draw up the rules without any authority or mandate from anybody and then come and impose them on the National Assembly, that would be bad enough. It is even worse when you take away the mandate of Parliament and, therefore, that of the people to elect those who shall represent this country in the Community. This is serious political interference and influence from outside, succeeding Parliament. If the custodian of this National Assembly is not careful, then the authority of this Parliament is going to be---

Mr. Ochilo-Ayacko: On a point of order, Mr. Temporary Deputy Chairman, Sir. I wanted to make an inquiry. Are we guided by time in this kind of a situation because hon. Anyona seems to be going on endlessly?

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Anyona, maybe you can just go on.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I thought that we are guided exactly by the same provisions on time. Yes, we are dealing with this as a Bill. So, I was saying that the custodian of this Parliament, on behalf of Kenyans, must guard against political interests and influence of parties and individuals outside this House because that is how these rules I have got here state.

Mr. Temporary Deputy Chairman, Sir, I want to make a second observation which is this: If we are not careful in this Parliament, we are going to end up in exactly the same way we ended up with the KACA Bills. We are going to end up with a situation where we will pass rules that are in conflict with the law and Treaty and people are going to go to court to challenge the rules, nomination and the so-called election. Then this country, before the eyes of our own people, the Community and the world will look very bad indeed.

Mr. Temporary Deputy Chairman, Sir, this Parliament must protect its authority, mandate and integrity because everytime matters go to court and the courts rule against decisions we have made here, then it clearly means that the authority of this Parliament is being undermined and that happens simply because we did not take enough interest and care.

Now, let me come back to the amendments. Article 50 provides two crucial things. It provides for an election of nine Members. It also provides nine Members or the candidates from which the nine Members who will be elected, will come from the political parties represented in Parliament. That is one category. There are ten political parties leave alone the semantics about small, big and what-not. There are ten political parties represented in this House. So, the Treaty then says, as much as feasible, distribute the seats among the political parties. Now, in this particular category of political parties, you have a situation where a strange concept has been brought into the Treaty of proportional representation and there is nothing like that in the Treaty. Secondly, it is for this Parliament, in the first place, to decide the mode of nomination. Now, this has been done by the parties on their own. They have even nominated Members. So, even among the political parties that is already a breach---

Mr. Ochilo-Ayacko: On a point of order, Mr. Temporary Deputy Chairman, Sir. I hate to interrupt my colleague, hon. Anyona. However, at this stage, I believe if we are moving an amendment or a replacement as it were, we ought to be guided [**Mr. Ochilo-Ayacko**]

by time. When I sought your ruling, you never gave a ruling. Could we have a ruling?

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Ochilo-Ayacko, but you know the rules! There is no limitation of time at all!

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, well they would want to change the rules even in the middle of this process to fit convenience just like you are trying to do with PIC. You cannot do it! You cannot have it

both ways! Either you are in Government or you are in the Opposition!

Mr. Temporary Deputy Chairman, Sir, I was explaining that one category in the Treaty of political parties must---

Mr. Maundu: On a point of order, Mr. Temporary Deputy Chairman, Sir. We must confess that seriously we are lost. We do not know what we are talking about. Are we moving amendments or a replacement? We want to be guided on that. Is there a limitation of time because we may talk about these things until Christmas?

The Temporary Deputy Chairman (Mr. Imanyara): We are moving an amendment and there is no limitation of time.

Mr. Maundu: Mr. Temporary Deputy Chairman, Sir, exert your foot at least to give guidance on time!

The Temporary Deputy Chairman (Mr. Imanyara): Unless it becomes tedious and repetitive, the Chair will allow him the time that is provided for in the Standing Orders and there is no limitation on time.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I do not know why Members are afraid of the truth. You are afraid of the truth! You even want to say that you know. You know there is no limitation unless you want to confess that you do not know the rules.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Chairman, Sir. Since we know where we are heading to, and exactly what we really want, could I move that we have now considered this matter enough and we should now call upon the Mover to reply?

(Laughter)

The Temporary Deputy Chairman (Mr. Imanyara): Order! Mr. Mwenje, you know very well you are out of order. Continue Mr. Anyona.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I am glad that the House is enjoying itself. However, these are very serious matters. So, I would like to---

Mr. Muite: On a point of information, Mr. Temporary Deputy Chairman, Sir. I do want to inform hon. Anyona that back in 1981, the mood in the House was that people should not talk and contribute at all. So, as soon as the then Attorney-General moved his Bill that the country should be turned into a one-party state and my friend, hon. Kibaki seconded, nobody else was allowed to speak. Let us get away from that culture. Let us be tolerant. Let us be given time for two days to speak. We are now in a multiparty situation.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I am really very grateful for that information because I do know that is the move that sends some of us to political limbo. The words that were used were: "This is a simple matter. We are all in agreement", and within 45 minutes, the Constitution of Kenya had been changed to great disadvantage. We must not repeat that in this multiparty Parliament. If democracy is going to grow, then there will have to be tolerance from those who are the majority and there will have to be respect from those who are in the minority. If you do not have either of those, we will not get anywhere.

Mr. Temporary Deputy Chairman, Sir, I was explaining that the parties are merely one component and it is ten political parties. Now, we have a formula in these rules where SDP, SAFINA, FORD (P), FORD (A), Shirikisho and Kenya Social Congress have been left OUT. Now, the Treaty talks about shades of opinion and the political parties.

Ms. Karua: Those are small parties!

Mr. Anyona: Hon. Ms. Karua says those are small parties. Hon. Ms. Karua, by normal standards, you are a person of fairly small stature but I know you as a formidable person. That does not make you anymore formidable because your stature is small!

(Laughter)

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, Mr. Maundu and Ms. Karua!

Ms. Karua: On a point of order, Mr. Temporary Deputy Chairman, Sir. Hon. Anyona seems to have run out of debate. He is now debating on the stature of people. We could say a thing or two about him and his shades of opinion. However, if the numbers do matter and even in this debate, the numbers will matter. Is he in order to get outside the debate and hold the House at ransom when it is quite clear that he has nothing to offer?

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Anyona, you really must be relevant. You must do that!

(Applause)

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, maybe you did not hear this. Hon. Ms. Karua interjected and said these are small parties and I was told to illustrate that the parties may be small just like she is fairly small in stature and yet she is a formidable person. That is all I was trying to say. I am making a case that, as long as you live, if you put the membership of these parties which have been left out, they are more than FORD(K) and NDP and yet they have no representation! It was argued here that there were vested interests. Okay, let us come out with it. So, what do you say about that, where this section of society has been left out by draft rules which are supposed to be considered democratic? What answer do you have to that? I want to put together political parties and shades of opinion because that is where they belong. Maybe, the small parties constitute shades of opinion. Of course, the Social Democratic Party (SDP) is a very big party. I do not know why it was left out.

Let me now come to the second category, namely, gender. If you look at the draft rules before the House, gender, as we understand it, and as provided for in the Treaty, has not been taken care of. In fact, I was made to understand that this is what happened in the National Assembly of Uganda. Because they did not have sufficient machinery, the outcome of the election was that all the nine representatives to the Legislative Assembly were males. Consequently, there was an uproar in that country. The National Assembly of Ugandan had, therefore, to conduct fresh elections following which two women and one person with disability were elected. That is what is bound to happen if we are to proceed this way.

So, we are trying to find a way in which we can ensure, as Parliament, that women are also represented. We are proposing a formula which will ensure that two women, one from the Government side and one from the Opposition side are elected. If political parties wish to nominate more women the better. Under this formula, also, one person with disability will be elected. For this particular one, it does not matter which part of the House he should come from. In fact, I would have thought that the ruling party would have done its calculations properly. It has the numbers and can capture the disabled person. Some of us can even support the party that votes for such a person so long as it nominates a good person. So, as the party with the majority seats in this House, KANU will have the share it deserves. In fact, it might end up having more Members in the Legislative Assembly than it is getting under the originally proposed formula. But that would be a fair system.

We also want to ensure that the Opposition gets its fair share of representation. It was suggested here that if we do it this way, KANU will take all the nine seats. So, we are proposing a formula which will ensure that if KANU has, say, three slots or four slots or five slots, it will be required to nominate three candidates for each slot, who will include at least one woman and one person with disability. The Opposition shall do likewise. We will then come to vote. This way, the KANU majority will not dissolve the Opposition. The arrangement is that the House will vote for the KANU candidates separately to get the best out of that. It will also vote for the Opposition candidates separately to get the best out of the Opposition. So, overall, the House will come up with the best persons the country has to offer.

The procedure to be followed should be consistent with that of an election. Under Rule 2, there is a definition of a candidate. This implies that there is a process of election or selection. There is provision for election. Whichever way one may want to interpret that, he cannot do so in departure from what is known. This Parliament itself is enacted through an election process. You know what an election is. Regarding the question of the Committee that was argued here, I would like to clarify that even the Committees that nominate Members have been given that mandate by this House. They sit and nominate some persons who are brought here, and we endorse them. However, because of the manner in which the nomination process has been abused, in future, every Committee that is nominated by the House Business Committee must be approved by a positive resolution of this House.

So, my argument against the draft rules is this: If you look at Rule 2, and we are talking about an election---

The Temporary Deputy Chairman (Mr. Imanyara): Order! Order! Mr. Anyona, before you go into the draft rules, you must complete moving your Motion. You cannot go into the draft rules before you do so. I have not proposed the Question. We can go into the draft rules only after I have proposed the Question.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I thought we agreed that I give a highlight of the draft rules then the vote is taken.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Anyona, before we go into the draft rules, we must dispose of your Motion first.

Mr. Anyona: That is fine, Mr. Temporary Deputy Chairman, Sir. But I must show---

The Temporary Deputy Chairman (Mr. Imanyara): But if you take this opportunity to go through the draft rules before the Question of your Motion is proposed, are you not defeating the purpose of your Motion?

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I only want to give a highlight of the draft rules. I was saying that Rule 2---

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, in view of the fact that Mr. Anyona might take longer than the normal sitting time this afternoon, I beg to move:-

THAT, this House sits beyond the normal sitting hours until we dispose of this subject.

Hon. Members: No! No!

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, it is up to you to decide whether to sit beyond the normal sitting hours or not.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, the correct procedure is for the Committee to report progress to the House.

The Temporary Deputy Chairman (Mr. Imanyara): Very well, let us continue up to 6.30 p.m. We will determine this issue then.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, there is no objection to Part I of the draft rules. However, there is a small objection to Rule 2; you cannot have candidates and an election without voters. You must provide for the voters. So, the definition of "voters" should be included in that Rule. Otherwise, I have no other quarrel with this Rule. But if you look at Rule 4(1&2)---

(Loud consultations)

The Temporary Deputy Chairman (Mr. Imanyara): Order! Order, hon. Members. Mr. Anyona, I must make a ruling on this matter. I cannot allow you to go through the rules before I propose the Question. So, please, move your Motion, if you wish.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I was simply going to say that Rules 4(1&2), 5(4), 6 and 7 are in violation of the Treaty; they are also in violation of Section 31(B) of the Interpretation and General Provisions Act, Cap.2. That is my biggest objection to the draft rules. The rest of the rules are simply a matter of logistics. But the rules I have stated here are my biggest object. It is for that reason that I want to propose that these draft rules be replaced with the draft rules published on the Order Paper.

Mr. Temporary Deputy Chairman, Sir, I beg to move. Mr. Muite will second the Motion.

The Temporary Deputy Chairman (Mr. Imanyara): There is no requirement for seconding this debate. So, I will propose the Question straightaway.

(Question proposed)

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, I rise to oppose the proposed amendment. In doing so, I would like to---

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Biwott, I would like us to dispose of this Question soonest possible. I will give you and another hon. Member opportunity to contribute to it and then I will dispose of it straightaway.

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, in fact, I wanted to make a proposal in line with what you have said. The question of the rules, which have now been said to be *ultra vires*, has been argued by lawyers who are interested in this matter. It has been clearly clarified that in this particular case, it is this House which has the absolute right to decide on the procedure. These draft rules, which form the procedure, have been looked at in the light of Mr. Anyona's arguments. In fact, I have a lot of sympathy for Mr. Anyona, Mr. Muite and Mrs. Mugo. But having wisely consulted the learned, because some people consider themselves more learned than others, I have been convinced that there is no merit whatsoever, in these amendments.

Mr. Temporary Deputy Chairman, Sir, I had tabled another set of rules, which was similar to Mr. Anyona's proposed amendments, but I had to withdraw them. After thorough consultations, and on the basis of that majority view that I have received from a wider consultation, I would like to appeal to hon. Members to reject these amendments and support the set of rules which I have tabled. I will not repeat myself because I have already spoken at length about the reasons why I think the rules as tabled are okay.

Therefore, these amendments must be rejected and accordingly, I beg to oppose them.

Mr. Kihoro: Mr. Temporary Deputy Chairman, Sir, I stand to support the amendments which have been made by Mr. Anyona. These amendments have proposed to fulfil Article 50 of the East African Treaty of co-operation.

It is very important that, as we move into this period where we will have an East African Legislative Assembly, we should make sure that we implement to the fullest, Article 50. This Article is very important in terms of pushing the Community forward. It is very clear that all political parties must be brought into this aspect of deciding who will sit in the East African Legislative Assembly. Also, the Treaty is very clear about representation of all shades of opinion, representing all the gender aspects of the three East African states and also the special interest groups.

The rules that have been proposed by the Minister very much ignore the three aspects of the shades of

political opinion. These shades of political opinion are not reflected only in four political parties that will nominate Members to the Assembly. About 50 or 60 per cent of the shades of opinion are represented by the four political parties. But there are up to 40 per cent, who would want to express an opinion by nominating who will actually sit in the East African Legislative Assembly.

Mr. Temporary Deputy Chairman, Sir, the procedure that will be followed by this Parliament must also comply with Article 50 of the Treaty. It is very important that we comply with the Treaty to the fullest, because if we start on the wrong footing and with a violation of the terms of the Treaty, I do not think we will get anywhere.

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

(Debate on the original Motion resumed)

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Members, we will now go to the Treaty for the establishment of the East African Community, election of Members of the Assembly rules, 2001. The rules have been circulated for those of you who do not have them.

(Rules 1, 2 and 3 agreed to)

Rule 4

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, could I ask the Minister to enlighten the House on where he got the word "proportion"? Rule 4 talks about "according to the proportion of every party in the National Assembly". Where does the Minister get the basis of introducing a rule that now says that the political parties will elect hon. Members according to their proportion? Article 50 of the Treaty states:

"The National Assembly of each particular state shall elect, not from amongst its Members, nine Members of the National Assembly, who shall represent as much as it is feasible, the various political parties represented in the National Assembly".

The word "proportion" is not there in Article 50. Where does the Minister get the word "proportion" from? Secondly, where does he say that the interest of the marginal parties is represented? As Mr. Anyona has said, the combined number of the Social Democratic Party, SAFINA, Shirikisho, the Kenya National Social Congress and FORD-(P) is more than the National Development Party of Kenya (NDP). Since Article 50 requires all the shades of opinion to be represented, why has the Minister left out the representation of those parties?

The Minister of Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, it is very clear from Article 50(1), that the accent is on the procedures which each National Assembly shall determine. So, what other procedure could we have used, other than the one we have used in this House, to bring about the nominated Members who are already in this House? That is where the word "proportion" has come in.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, we are not dealing with the rules in respect of the Treaty; the Article that provides for the making of these rules. Mr. Muite has asked: "Where does the word "proportion" appear in the Article? How has it come in here? What does it mean?" That is a legitimate question which the Minister should answer.

The Temporary Deputy Chairman (Mr. Imanyara): The answer is simple. The Treaty states that we shall make rules. We are now in the process of making rules.

The Minister of Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, it is the process of making those rules as the National Assembly of each partner state may determine. It is now that we are trying to determine those rules and the best way to determine them is to follow precedence. We already have a precedence of bringing about the 12 nominated Members.

When it comes to distribution between the parties, gender and interest groups, the Treaty also states that it shall be done as much as possible. So, we have actually approximated. We have distributed the nine Members to cover all those shades as much as possible. The parties that will share will, by and large, represent the largest proportion of those shades.

Mr. Temporary Deputy Chairman, Sir, indeed, there will be room to include special interest groups among the Members nominated or elected by those parties. For example, it will include gender---

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Biwott, you were just asked a question which you have answered. You are now debating.

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, I just wanted to

give an explanation to that question the hon. Member asked about "how do you cover---"?

I am saying that any political party is large enough to accommodate all those shades of opinion, including special interest groups.

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

[Mr. Anyona]

Temporary Deputy Chairman, Sir. On part one of the rule, the Minister has not answered the question which Mr. Muite asked about the other 36 parties, which have been probably left out by the rules. In the spirit of the Treaty, what answer is the Minister having for that question?

Secondly, there is an attempt to prescribe a formula in paragraph two of the rule. Could the Minister explain, first of all, how he came by that formula and secondly, how it will work in reality? What will be the meaning of that formula in paragraph two?

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, I think I have already explained that.

(Rule 4 agreed to)

Rule 5

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, you know the Minister did not give an explanation to my question. But I suppose the law of the jungle applies where might is right.

The Temporary Deputy Chairman (Mr. Imanyara): Order! Order, Mr. Anyona! He did explain and you may, of course, not be satisfied with his explanation. But he did stand up and explained. Honestly, that does not constitute the rule of the jungle.

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I bow to your wisdom. Could the Minister explain, under Rule 5, how the parties that have allocated themselves the right to nominate Members intend to do it? What mechanism are they supposed to use? Is it free-for-all? For instance, what guarantee does he have that, that nomination process will meet the requirements of the Treaty, as to gender, shades of opinion and special interest groups? Could he explain that?

The Temporary Deputy Chairman (Mr. Imanyara): Order! Order! Mr. Anyona, that is contained in Rule 4, which we have already dealt with!

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, Rule 5(1) reads as follows:-

"In order to be validly nominated, as a candidate for an election, a person must be nominated by a political party or parties under the Treaty, to represent various parliamentary political parties, shades of opinion, gender and other special interest groups."

So, I am asking what mechanism is the party going to use? Who is going to provide that mechanism and where is it provided for? That is what I am talking about!

Mr. Maundu: On a point of order, Mr. Temporary Deputy Chairman, Sir. I am getting a little bit disturbed because Mr. Anyona is trying to take, with the left hand, what he lost with the right hand. He made a whole submission on these issues and they have been explained. Why does he want to come back to them again?

The Temporary Deputy Chairman (Mr. Imanyara): No, it is his right to be explained.

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Chairman, Sir. I may question anything in these rules. First, I can question every word, comma and every full stop or the reason why the full stop was put here and not there. But, we must know that what we needed here was an amendment and we have voted on that amendment. So, if somebody is now going to take us to questions as to why was this comma put here, why was this full stop put here, and keep us here for 30 days, it is not right. The Chair must make a ruling on this!

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Kajwang, give the Minister a chance to answer that question.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Chairman, Sir. I know the rules! If I was a stupid person, I could have walked out. That is what stupid people do. I do not walk out, I am participating and I am legitimately asking questions! Does Mr. Kajwang have the right to cast aspersions?

The Temporary Deputy Chairman (Mr. Imanyara): Order! Order, Mr. Anyona! I did ask Mr. Biwott to respond to your question.

Mr. Biwott, the Floor is yours!

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, I think the hon. Member knows that those who will be nominating--- He has also suggested that those parties which are nominating

Members, shall nominate X, Y, Z. Those parties, according to these proportions, will nominate the Members. They have enough common sense to consider that nomination in relation to the Treaty's Articles 50 and 52.

(Rule 5 agreed to)

Rule 6

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, could the Minister enlighten this House as to how Rule 6 will be reconciled with Rule 4(2)? Rule 4(2) is the one that states how many nominees each political party will put forward, and yet Rule 6 talks about the House Business Committee, ensuring that, at least, one-third of the nominees from the parties are women. How does one reconcile those two rules?

Secondly, the requirement of Article 50, in terms of gender, is talking about the women who will eventually go to Arusha, not the women who the political parties are going to forward to the House Business Committee. Where in Rule 6 is the House Business Committee going to ensure that they nominate three women to go to Arusha? Where in Rule 6 do you achieve this issue of gender?

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, I think the two aspects are consistent. One gives you the formula which will arrive at the number of Members each party will nominate. Those will be nominated and handed over to the Clerk of the National Assembly who, upon certifying the names, will send them to the House Business Committee, which will bring them before the House for election or adoption. In fact, we already have a precedent which was cooked at Ufungamano, where it was deemed that we had elected the additional members of the Constitution of Kenya Review Commission. What is the problem in getting those nominated Members by the parties brought before this House for approval?

Mr. Muite: On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for the Mr. Biwott to avoid, or rather fail, to answer a specific question which asks: "Where in Rule 6 has he provided an assurance that three women will go to the East African Legislative Assembly"? Rule 6 is talking about names being forwarded to the House Business Committee. How will he ensure that, at least, three women will go to the East African Legislative Assembly?

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, common sense will prevail and we will deliver these three women during the course of nomination.

Mrs. Mugo: Mr. Temporary Deputy Chairman, Sir, it takes more than common sense because most of the time the Minister has been laughing. If we go by these rules, the only assured woman is one and she will come from KANU, if you go by the requirement that, "for every three Members brought by a political party, one will be a woman." That is why I find it a laughing matter that DP will just do it out of goodwill. But there is nothing real forcing them to nominate one woman. There is no law binding them to do that. Suppose they do not have that goodwill, what will happen? The Kenya African National Union (KANU) has been given five slots. So, going by that, they can bring just one woman and get away with it. There is no law binding them. I know that in KANU, where there is not even one woman in the Cabinet, that is possible. So, I would like to get the assurance from the Minister, rather than just saying that they will use common sense. What assurance is he giving that there shall be three women nominated to the East African Legislative Assembly?

The Minister for Trade and Industry (Mr. Biwott): They will be brought by KANU!

The Temporary Deputy Chairman (Mr. Imanyara): Mrs. Mugo, if the Members are persuaded by you, they will support you when I put the Question. But Mr. Biwott, what have you got to say to what Mrs. Mugo---

Mr. Anyona: Mr. Temporary Deputy Chairman, Sir, I think---

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Anyona, please, do not tell me how to conduct the business of the House! Mr. Biwott, what do you have to say to Mrs. Mugo's statement?

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, I have already explained that common sense will prevail. KANU will have about five Members and there is no reason why they cannot choose two women from this number. There is also no reason why DP, which has got two slots cannot nominate one woman and one man to fill the two positions. If this is done then we will have three women, which is one-third.

(Rule 6 agreed to)

Rule 7

Mr. Kihoro: Thank you, Mr. Temporary Deputy Chairman, Sir. Could the Minister clarify how the nominees will be transformed into elected Members of the East African Legislative Assembly? This is because the rule provides very clearly that "the nominees shall be deemed", which means seen as elected. So, could he explain how this rule will ensure compliance with Article 50 by ensuring that it is only elected Members who will sit in the East African Legislative Assembly?

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, I think that is a perfect election. We have the latest precedent where we deemed a number of Members to have joined the Constitution of Kenya Review Commission. So, we shall "deem" them and they will go there as elected Members of this House.

Mr. Muite: Mr. Temporary Deputy Chairman, Sir, is the Minister aware that the violation of Article 50 by Rule 7, as currently worded, can and is likely to form the basis of a legal challenge regarding all the nominations that will be conducted under this rule?

The Temporary Deputy Chairman (Mr. Imanyara): But you are anticipating that! This is because even under the National Assembly Standing Orders the right to go to court means you are anticipating. That arises under any rule!

Mr. Murathe: Mr. Temporary Deputy Chairman, Sir, I think Rule 7 is one where we can really have the National Assembly playing a role of either accepting or rejecting the nominees that the House Business Committee sends to the House. For example, it should be possible for the Minister to explain the criteria that will be used for the minimum requirement. For example, if somebody like Mr. Kamotho has good experience in trade, probably, that is where KANU should send him because that is where he belongs. This is a very serious matter. We are talking about East Africa; we are talking about Kenyan interest; we are talking about sending experienced people to Arusha.

(Rule 7 agreed to)

(Rule 8 agreed to)

(Schedule agreed to)

(Title agreed to)

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Treaty for the Establishment of the East African Community (Election of Members of the Assembly) Draft Rules, 2001 and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Mr. Musila) in the Chair]*

REPORT AND THIRD READING

APPROVAL OF EA COMMUNITY ASSEMBLY ELECTION DRAFT RULES

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the Whole House has considered the Treaty for the Establishment of the East African Community (Election of Members of the Assembly) Draft Rules, 2001 and approved the same without amendment.

The Minister for Trade and Industry (Mr. Biwott): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Transport and Communications (Mr. Mudavadi) seconded.

(Question proposed)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, of course the majority have had their way, but those of us who are in the minority, and speaking for myself, I am also happy that we have been able to lay on the permanent record of the HANSARD the errors that have been committed by the majority. In the Old Testament, a prophet was not a popular person. This is because the message he gave usually ran to the current of the time. But down the road everything that the prophet said came to be. I know that this House will come to regret the blatant violation and violence it has done to Article 50 of the Treaty.

Thank you.

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I rise to give full credit to the House in the manner in which it has deliberated on these Rules. I do appreciate the positions that have been made by Mr. Anyona and others. But I am sure that this House will not regret. I would like to appeal to the parties to use their common sense and ensure that the intentions and spirit of what we have passed here will be carried through.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, we have fulfilled a democratic mandate by bringing it to the attention of this House that the Treaty is and has been breached. Mr. Muite has talked about the prophets, but it is in the history of this Parliament--- In 1978, when the founding President of this nation died, in accordance with the Constitution, the rules of detention also "died" seven days afterwards. Some of us were in detention and we thought we would be released but we were not. This same Parliament led by Mr. Kibaki, as the Leader of Government Business, went back and brought back the laws of detention that had "died" with the late President. We were to regret the consequences of that provision. In 1982, the Constitution was amended to suit convenience against the larger interest of the nation. Ten years down the line---

(Mr. Mwenje stood up in his place)

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Mwenje! You just do not walk around and then raise a point of order.

Order, Mr. Mwenje! Sit down!

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I was saying that in 1982, we made the same mistake again led by my hon. friend here, the then Vice-President.

The Temporary Deputy Speaker (Mr. Musila): Mr. Anyona, try to save time.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, recently, we passed the Kenya Anti-Corruption Authority Act and we regretted. This time round, we are going to regret for passing these Rules---

An hon. Member: Time up! Sit down!

The Temporary Deputy Speaker (Mr. Musila): Order!

Mr. Murungi: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard Mr. Anyona mention Mr. Kibaki three times in his contribution and imputing improper motives to him. What we have passed here is a decision of the House. It is not Mr. Kibaki's decision. Could Mr. Anyona concentrate on the issues rather than on personalities?

The Temporary Deputy Speaker (Mr. Musila):

Order! Mr. Murungi! I do not think Mr. Anyona's contribution in any way cast any aspersions against the Leader of the Official Opposition.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 23rd October, 2001, at 2.30 p.m.

The House rose at 6.35 p.m.