

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 22nd November, 2001

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table.

Report of the Departmental Committee on Administration, National Security and Local Authorities on Security in Tana River District, Coast Province, and Famine Relief for the Nation and Disaster Management.

(By Mr. Kimetto)

NOTICE OF MOTION

AMENDMENT TO E.A. COMMUNITY
ASSEMBLY ELECTION RULES

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House orders that the Rules made under the Treaty for the establishment of the East African Community Act, Act No.2 of 2000, on 18th October, 2001, be amended in Rule 66 by deleting all the words immediately after the word "fulfil" to the end thereof.

ORAL ANSWERS TO QUESTIONS

Question No.492

COUNTRIES IN DEFENCE PACT WITH KENYA

Mr. Leshore asked the Minister of State, Office of the President, how many countries Kenya has signed up or entered into defence pacts or treaties with since 1964.

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

The Government of Kenya has not signed any defence pact or treaty with other country. What we have had was a co-operation and mutual defence assistance memorandum of understanding with the Imperial Ethiopian Government from 1963 to 1978. In addition, there has been defence training memoranda of understanding with countries such as the United Kingdom, Tanzania, the United States of America (USA) and Rwanda.

Mr. Leshore: Mr. Deputy Speaker, Sir, the people of Samburu and Laikipia have suffered a lot because of the so-called memorandum of understanding between this country's soldiers and those from other countries training in Kenya. Since the Minister has some legal background, I would like him to tell the House whether, in the so-called memoranda of understanding, there are clauses to protect Kenyans from any harm that may arise from foreign soldiers' training in this country.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, most of the protective clauses have to do with the safety of the citizens. Any soldiers who do exercises in Kenya are required to ensure that there are no live ammunition or unexploded ordinances left within the area of exercise. I want to assure the hon. Member, whom I know is particularly interested in the memorandum of understanding between Kenya and the British Government, that we are currently in the process of reviewing the memorandum of understanding between Kenya and the British Government. I am sure

that, in this review, we shall be able to insert clauses that will even be more assertive in terms of protecting the citizens of Kenya.

Mr. Twaha: Mr. Deputy Speaker, Sir, we have, from time to time, been informed of joint military exercises between Kenyan and USA soldiers, which involved USA vessels coming into Kenyan waters. Could we be informed as to whether any of the USA vessels that frequent our waters are nuclear-powered or carry nuclear weapons and whether any study has been carried out to establish the effects nuclear-powered vessels and weapons have on our marine resources and other components of our environment?

Mr. Sunkuli: Mr. Deputy Speaker Sir, our agreement with the USA soldiers who use our waters, or marine facilities, does not cover environmental aspects. To the best of my knowledge, they have always been safe.

Mr. Gitonga: Mr. Deputy Speaker, Sir, you are aware that, in the area where the hon. Questioner comes from, some people have been killed and others maimed by undetonated ordinances left behind by British soldiers after military exercises. What compensation is the Government of Kenya going to get from the British Government for the victims of these ordinances?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, as the honourable former ambassador knows, the matter of compensation for these victims is already before a British court. We hope that it will be dealt with. This Question has been raised many times. The question of compensation will be simplified as soon we establish whose ordinances are to blame for the deaths and injuries.

Mr. Leshore: Mr. Deputy Speaker, Sir, I would like the Minister to tell the House under which law these memoranda of understanding have been entered into.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, the hon. Member should understand that the Government's powers to make treaties with other countries are within the powers of the Executive. So, we have entered into the memoranda of understanding with foreign forces under the powers of the Executive.

Mr. Ndicho: Mr. Deputy Speaker, Sir, the Minister seems not to be aware that the British Government has ordered that this case be removed from the British courts and referred to the Kenyan courts. That is now where the problem is. Is the Government prepared to take over that matter from the British courts so that those people can be compensated through the Kenyan courts? The British Government has already rejected it.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I wish I was the hon. Member's lecturer in his parallel degree. The problem with that particular statement that he has made is that it is legally untenable. The British Government cannot order British courts to send a case to Kenya when there are two parties in it. It has got to be a matter for the court and it has nothing to do with the British Government.

Mr. Kombo: Mr. Deputy Speaker, Sir, since these are Kenyans who have suffered because of these treaties, what is the Government doing to support those who have gone to court, either materially or legally, so that their case can be successful?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, the fact that our citizens have gone to court in Great Britain can only be supported by wishing them the best. But it is very important that, in future, we make it much more profitable for us, as a country, to enter into memoranda of understanding.

Mr. Leshore: Mr. Deputy Speaker, Sir, could the Minister undertake that, once these memoranda of understanding are repealed, he will bring them before the Departmental Committee on Defence and Foreign Relations? We should really provide that Kenyan citizens should be compensated in cases such as the ones which have arisen in my constituency.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I will definitely consult with the Departmental Committee on Defence and Foreign Relations.

Mr. Mwalulu: Mr. Deputy Speaker, Sir, I have not received a written answer to my Question.

Question No.756

CLASSIFICATION OF HARDSHIP AREAS

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

- (a) what criteria the Ministry uses to classify districts as hardship areas; and,
- (b) whether he could consider classifying Taita Taveta as a hardship area due to its poor infrastructure, harsh climate and remoteness.

Mr. Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, this particular Question falls under the docket of Mr. ole Ntimama and I do not see him here.

Mr. Deputy Speaker: We will come back to it!

Question No.746

INTEREST ON N.S.S.F CONTRIBUTIONS

Mr. Gitonga asked the Minister for Labour:-

(a) whether he is aware that the following social security contributors have not earned any interest on their contributions from 1997 to date:

(i) Mr. Paul N. Mbuthi, NSSF No.46555461;

(ii) Mr. Nicholas M. Mutisya, NSSF No.906597617;

(b) whether he could assure the House that this omission will be corrected and the accrued interest paid to their accounts.

The Minister for Labour (Mr. Ngutu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that no interest has been declared on the contributions of Messrs. Paul N. Mbuthi and Nicholas M. Mutisya.

(b) The National Social Security Fund (NSSF) has embarked on the process of calculating and crediting interest accrued on the contributions of Messrs. Paul N. Mbuthi and Nicholas M. Mutisya into their respective accounts. The accrued interest will be reflected in the members' accounts by January, 2002.

Mr. Gitonga: Mr. Deputy Speaker, Sir, you have observed that interest has not been calculated for the last four years. Could the Minister give us the reason why this omission was made?

Mr. Ngutu: Mr. Deputy Speaker, Sir, it is true that interest has not been credited to the accounts of the two members. The reason is that I have not been able to declare interest on members' funds as required under Section 19(2)(3) of the NSSF Act, due to the financial position of the Fund.

Mr. Wamae: Mr. Deputy Speaker, Sir, this is a serious matter. Contributors to NSSF have not had their interest calculated and credited to their accounts because of the fraudulent nature of investments by NSSF. What will the Minister do to ensure that all subscribers have their interest incorporated in their accounts? It appears as if, if these people do not complain, they will not receive any interest.

Mr. Ngutu: Mr. Deputy Speaker, Sir, I agree with the hon. Member that failure to credit interest into the members' accounts creates a lot of problems for them. We have had some problems in the Fund, as we all know, but this has been rectified and the interest will be paid by January, 2002, as I have already said.

Mr. Mwenje: Mr. Deputy Speaker, Sir, those of us who are bankers know that any money deposited in a bank must earn interest. This is not money to be contributed, but money already contributed. Therefore, it is already with the Fund and has earned interest. What business does the Minister have to declare interest? Should the money not earn interest automatically and be credited to the members' accounts?

Mr. Ngutu: Mr. Deputy Speaker, Sir, the law requires that I declare interest at the end of each year.

Mr. Kamolleh: Mr. Deputy Speaker, Sir, I am concerned about the frequency with which NSSF puts people into trouble. There are those whose interest is not credited to their accounts and then there are those who wait for a long time without being paid their dues. Sometimes people even die before they are paid their dues. We have talked here about this issue many times.

What is the Minister doing to ensure that the NSSF has computerised systems? What will the Minister do to enable the NSSF make payments in time and make sure that the interest and all the other due payments are made promptly? What measures is the Minister taking to ensure that people are not frustrated any more by the NSSF?

Mr. Ngutu: Mr. Deputy Speaker, Sir, as I have said, the problem was liquidity, but now it has been solved. We will pay all the interest that has been outstanding by January, 2002.

Mr. Deputy Speaker: But, Mr. Minister, what has liquidity got to do with calculation of interest and crediting it into the relevant accounts? We are not talking about payments. We are just talking about calculation and crediting of interest into relevant accounts.

Mr. Ngutu: Mr. Deputy Speaker, Sir, as I have already said, we have been having problems with liquidity in the Fund.

Mr. Kiminza: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to talk about liquidity here when we are talking about deductions? This is money deducted from people's salaries. The Minister is not in order!

Mr. Deputy Speaker: Order! Mr. Kiminza, you got away with it lightly. You are not standing on a point of order, but on a point of argument.

Hon. Members, let me say this: In the past if an hon. Member stood, presumably, on a point of order, but did

not raise a point of order, he was automatically sent out. I have opted for a softer option. So, if hon. Members persist in standing on points which are not points of order, I am afraid, I will just have to revert to that old system.

Mr. Gitonga: Mr. Deputy Speaker, Sir, while I thank the Minister for his initial answer, I would like him to assure this House that the interest that has accrued for these last four years, and the interest on it, will be paid. This is money which has not been credited to the accounts.

Mr. Ngutu: Mr. Deputy Speaker, Sir, I confirm to the House that this will be done.

Mr. Kitur: Mr. Deputy Speaker, Sir, I have not received a written answer to my Question.

Question No.696

RURAL ELECTRIFICATION PROGRAMME FOR KONOI

Mr. Kitur asked the Minister for Energy when the Ministry will undertake the Rural Electrification Programme in various markets and schools in Kimulot and Mogogosiek Divisions in Konoi Constituency.

Mr. Deputy Speaker: Well, we do not have a Minister to answer this Question either. We will come back to it.

Question No.749

REPAIR OF ROADS IN SOTIK CONSTITUENCY

Mr. Kimeto asked the Minister for Agriculture:-

(a) how much tea cess has been set aside by the Kenya Tea Development Authority (KTDA) factories to repair or maintain access roads in Kapletundo, Kimolwet, Kamungei and Chemagei locations of Sotik Constituency;

(b) which access roads in the said locations have been repaired or maintained using tea cess since 1998; and,

(c) when access roads to Lechwet, Siroin and Chebirbelek tea buying centres will be repaired to allow smooth transportation of tea to Mogogosiek Tea Factory.

The Assistant Minister for Agriculture and Rural Development (Mr. J.D. Lotodo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Kshs410,682 has been set aside by KTDA factories to repair roads in Kapletundo and Kimolwet locations of Sotik Constituency. Kamungei Road is a classified road maintained by the Government through the Roads Department in the Ministry of Roads and Public Works. Kaplong-Kasimoto Road in Chemagei Location has already been done at a cost of Kshs11,235. So far Kshs3,707,318.65 has been used by KTDA factories to repair and maintain access roads in Kapletundo, Kimolwet, Kamungei and Chemagei locations of Sotik Constituency.

(b) The following access roads in the said location have been repaired and maintained using tea cess since 1998:

(1) Kimirai-Kambira, Kshs780,817.30. Kimolwet-Uswet Kshs21,000, Kapletundo-Balek-Kapesombe, Kshs778,230. Chesilyot-Kapkoitim, Kshs1,947,212; Kimilwet-Keroncho, Kshs9,920; Soimet-Kimolwet, Kshs18,000. Cheptangulgei-Suumet, Kshs6,000, Kambira-Soinet, Kshs124,554.35, Kimirai-Cheptangulgei-Kaplong-Kapsimotwo, Kshs12,350. So, the total amount comes to Kshs3,709,318.65.

The work done included murraming, grading and spot-patching. The grading was done by a Government grader fuelled by cess funds.

(c) Lechwet-Chebirbelek-Siroin Road, which is 3.8 kilometres, has been graded and spot-patched at a cost of Kshs757,590, and it is now passable.

Mr. Kimeto: Mr. Deputy Speaker, Sir, though I have not received a written reply from the Assistant Minister, I would like him not to mislead this House because the amount of money that he has specifically mentioned in his reply is so much and could have done a lot of work. Unfortunately, when you go to the ground, the information there is the opposite of what he has said. Could the Assistant Minister liaise with the area Member of Parliament and pay a visit to the area so that he can verify the information that he has just given to the House?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, I do not see the reason why the hon. Member should complain, considering the number of roads which are earmarked for improvement in that area and the amount of money used. However, on the question of the participation of the area Member of Parliament, we have the District Roads

Committees, where every hon. Member in every constituency is a member. Therefore, if need be, when that particular meeting is called, the hon. Member can still go to the District Roads Committee and present that issue so that it can be addressed according to the priorities set by the concerned roads committee.

Mr. Kimeto: Mr. Deputy Speaker, Sir, I categorically told the Assistant Minister that the figures he has given before this House are completely the opposite of the actual facts on the ground. Could the Assistant Minister dispatch one of his officers to accompany me to the site so that he can get the real facts for his future answers?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, what we are saying here is the truth. Some work could have been done to the satisfaction of the hon. Member, but the Ministry has tried its best. As far as the participation of the hon. Member is concerned, I have said that there is the District Roads Committee of which the hon. Member is a member. Therefore, he should just raise that issue there and then it can be addressed accordingly by the concerned Ministry to assist the farmers.

Question No.710

TARMACKING OF ROAD C69 IN KIPPIRI

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

- (a) when the tarmacking of Road C69 will start; and,
- (b) whether he could consider spot-patching the road to make it passable, if tarmacking will not start this year.

The Assistant Minister for Roads and Public Works (Mr. Mokku): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Ministry is planning to undertake a [**The Assistant Minister for Roads and Public Works**] feasibility study to ascertain the viability of programming the road for tarmacking.

(b) The Ministry will spot-patch the road to make it passable during this financial year.

Mr. Githiomi: Mr. Deputy Speaker, Sir, there is ambiguity in the manner my Question has been answered. It is an open fact that there is already an existing agreement between the Kenya Government and the Arab Bank to tarmack this road. The way the Question has been answered is that there will be a feasibility study to ascertain the viability of the road. Now, a year ago, the same Assistant Minister, Mr. Mokku, answered the same Question and said that the road will be tarmacked in one and half years to come, after the feasibility study. Could he now deny or confirm that there is this agreement? Could he also tell us the actual date and month the tarmacking will start? He should also tell us how much they have set aside to spot-patch the road before they start the actual tarmacking.

(Loud consultations)

Mr. Deputy Speaker: Order! Order, hon. Members!

Mr. Mokku: Mr. Deputy Speaker, Sir, first, it is not true that I promised, last year, that the road would be tarmacked. Secondly, there is no misunderstanding between the Arab Bank and my Ministry. The truth of the matter is that the Ministry is undertaking a feasibility study on that road because the financier, who is the Arab Bank, is demanding a detailed report on the same road. Thirdly, for spot-patching purposes, the Ministry has set aside Kshs13.3 million during this financial year.

Mr. Waithaka: Mr. Deputy Speaker, Sir, the Assistant Minister has said that the Ministry has set aside some money for spot-patching this road. My understanding is that they have set money aside to spot-patch this road because it is assumed to have been tarmacked. However, the money earmarked for tarmacking this road, which stretches from Njambini to Ndongoli, was diverted to tarmack a road in Bomet. In 1989, when I was working as a magistrate in Kisii, I used to pass there and I could see the tarmacking of Njambini-Ol Kalou Road. However, the only section of the road which was tarmacked is the one which stretches from Bomet to Kajiado. That is why the Assistant Minister is actually saying that they have money to spot-patch a road which is not tarmacked. Could the Assistant Minister deny or confirm that money earmarked for this Road C69, in 1989, was diverted to tarmack another road in Bomet and that is why they assume it has been tarmacked when it has not? The road can only be gravelled, it cannot be spot-patched because it is not tarmacked!

Mr. Mokku: Mr. Deputy Speaker, Sir, it is not true that the money was diverted to tarmack a road in Bomet, as alleged by the hon. Member. Any road that is actually connecting Bomet and Kajiado is a Kenyan road, but the hon. Member's allegation is not true.

Mr. Deputy Speaker, with regard to part "b" of the Question, this amount of Kshs13.3 million is meant for

spot-patching. This is actually meant to make the road passable for motorists until such a time that the road will be fully tarmacked.

Mr. Deputy Speaker: Mr. Mokku, the point the hon. Member was making was that, you cannot spot-patch a murrum road.

Mr. Mokku: Mr. Deputy Speaker, Sir, I am saying that KShs13.3 million is meant to make the road passable, while waiting for tarmacking to be done, particularly on the hilly side of the road.

Mr. Githiomi: Mr. Deputy Speaker, Sir, before the agreement between the Kenya Government and the Arab Bank was signed, the viability of tarmacking the road must have been pre-determined through a feasibility study. Why does the Assistant Minister think that they need to do another feasibility study to determine the viability of tarmacking that road?

Mr. Mokku: Mr. Deputy Speaker, Sir, I think the hon. Member knows that there is no donor who will agree to fund any project before he has got the correct information on the project he intends to fund.

Question No.761

PAYMENT OF RETIREMENT BENEFITS
TO MR. KITONYI

Mr. Katuku asked the Minister for Local Government when Mr. Samson Mukoli Kitonyi, who retired in April, 1993, while working with Makueni County Council will be paid his retirement/gratuity benefits.

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

Mr. Samson Mukoli Kitonyi never worked with Makueni County Council because the council was established and started functioning in March, 1993. Mr. Kitonyi's personal file and other documents were never transferred to Makueni County Council by Masaku County Council because he retired in April, 1993. His records may still be with Masaku County Council and he is advised to see the officers there.

Mr. Katuku: Mr. Deputy Speaker, Sir, this is a grave matter of an employee who retired 18 years ago and has not been paid his benefits to date. The Assistant Minister, in his answer, has said that the problem lies with the records, but the problem is that Mr. Kitonyi does not know which county council should pay his benefits. The Assistant Minister has advised the concerned person to see the Clerk to Masaku County Council. I have a letter here dated August, 2000, and it was written by the Clerk to Masaku County Council. This letter advises the same person to see the Minister for Local Government. The letter says: "The worker should see the Minister to resolve the matter." This is the case, and yet the Assistant Minister is referring the worker to the Clerk to Masaku County Council. I would like to table these documents to assist the Assistant Minister so that he can answer my Question effectively.

(Mr. Katuku laid the documents on the Table)

Mr. Hashim: Mr. Deputy Speaker, Sir, we will take up the matter, carry out investigations and advise the hon. Member accordingly.

Mr. Kikuyu: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House the county council which is supposed to pay this worker who retired? We are having this problem because of the Ministry's delay to separate Makueni County Council and Machakos Municipality. I would like to say that Mr. Kamotho has been "stepping" on this issue. Could the Assistant Minister divide the assets of these two councils so that the workers can know which council to go to when they need their retirement benefits?

Mr. Hashim: Mr. Deputy Speaker, Sir, Mr. Kitonyi never worked with Makueni County Council. Therefore, Masaku County Council is the one which is supposed to pay him his benefits.

Mr. Katuku: Mr. Deputy Speaker, Sir, the Assistant Minister is misleading this House by saying that Mr. Kitonyi never worked with Makueni County Council. I would like to inform this House that he worked with Makueni County Council before he retired. I would like the Assistant Minister, in view of the documents I have tabled in this House, which indicate how this gentleman has been tossed from one county council to another, to direct now that this worker be paid his benefits by whichever county council, according to his findings.

Mr. Hashim: Mr. Deputy Speaker, Sir, since the hon. Member has tabled the letter which was written by Masaku County Council, we will take up the matter and decide on which council should pay his benefits.

Mr. Muchiri: Thank you, Mr. Deputy Speaker, Sir. This Question has been in the Ministry for more than one month, and the Assistant Minister knew very well that a Kenyan was suffering. Why did he not come here with a

proper answer? This is because he is only saying that he will investigate the case. How long does he want to investigate a simple case of about two documents?

Mr. Hashim: Mr. Deputy Speaker, Sir, I would like to seek the Chair's guidance on this issue. The Questioner wanted to know when Makueni County Council will pay Mr. Kitonyi's benefits, but as far as the records are concerned, this council is not supposed to pay him because he never worked for it. Since Mr. Katuku has tabled a letter from Masaku County Council to the Ministry, we will investigate the matter and act accordingly.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! Do you have to be prompted by an hon. Member in order for you to look after a citizen?

Mr. Hashim: Mr. Deputy Speaker, Sir, the Questioner wanted to know which county council should pay Mr. Kitonyi's benefits. The Makueni County Council, which is supposed to pay him, was constituted in 1993, and he never worked for it.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! The matter has been brought to your attention, and you now know, as you have explained, that Mr. Kitonyi should seek his payment from Masaku County Council. Surely, do you need an hon. Member of Parliament to come and remind you in the House that, that citizen should be given his right?

Mr. Hashim: Mr. Deputy Speaker, Sir, as I said earlier on, we will take up the matter and make sure that Mr. Kitonyi is paid his dues.

Mr. Parpai: Mr. Deputy Speaker, Sir, the answer the Assistant Minister has given to the House shows clearly that he has not done his homework properly. This is because Mr. Kitonyi was an employee of the bigger Masaku County Council. When Makueni County Council was created, this employee was taken over by this council and this is where the problem lies. Could the Assistant Minister tell us whether this employee will be paid all his dues by Masaku County Council, or part of the dues by Makueni County Council? This Question is all about this. Why should the Assistant Minister come here while unprepared?

Mr. Hashim: Mr. Deputy Speaker, Sir, I think the hon. Member did not listen to what I said. He should read the HANSARD because I have said clearly that this gentleman will be paid his benefits by Masaku County Council because he never worked with Makueni County Council.

Mr. Katuku: Mr. Deputy Speaker, Sir, the Assistant Minister has said that he will investigate the matter. Could he undertake to bring a comprehensive answer or statement to this House over the issue because I do not know when he will [Mr. Katuku] complete his investigations? This is a matter which has been pending in his Ministry for the last 18 years. Personally, I have gone to that Ministry but the problem has not been solved. Could the Assistant Minister undertake to bring an answer to this House on when the council will pay Mr. Kitonyi's benefits?

Mr. Hashim: Mr. Deputy Speaker, Sir, while appreciating the suggestion made by the hon. Member, I would like to advise him to come to our office so that we can work together and see how best we can solve this matter.

Question No.764

RETIREMENT BENEFITS FOR MR. NGIABI

Mr. Twaha asked the Minister for Lands and Settlement when Mr. Charles K. Ngiabi, Personal No.84089183, who retired from the Survey Department on 1st June, 1998, will be paid his retirement benefits.

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

Mr. Ngiabi will be paid his retirement benefits once the Ministry receives his file from the DC's office in Lamu. Mr. Ngiabi's file, with all the records, was taken to Lamu in October, 1987 for re-organisation of personnel services under the District Focus for Rural Development Strategy. My Ministry's efforts to get the file from the DC's office since 1999, to facilitate the processing of the retirement benefits, have been fruitless. **Mr. Twaha:** Mr. Deputy Speaker, Sir, the problem seems to be widespread. First, the officers who remain in the service should know that they will also retire one day. So, they should be sensitive to the needs of the retirees. The Assistant Minister says that from 1999 he has been trying to obtain the file from the DC's office in Lamu and his attempts have been fruitless. Why does the Assistant Minister feel ashamed to come to this House and admit that there is so much inefficiency and rot in the Civil Service? What is he doing to make sure that these claims are processed more efficiently; not just in his Ministry, but in the entire Civil Service? The processing of retirees' benefits should be done efficiently. What is the Government doing to facilitate this process?

Mr. Sudi: Mr. Speaker, Sir, it is not my Ministry's business to make sure that the file reaches our office for

action to be taken. It is up to Mr. Ngiabi to make sure that the file is taken from the DC's office. I would like to assure this House that my Ministry will make sure that his benefits are processed as soon as we get the file. I would urge the hon. Member to assist and see to it that the file is taken from the DC's office.

Mr. Deputy Speaker: Mr. Sudi, this person has retired. Are you now saying that he should go back to his office and pick up his file and bring it to you? Surely, that is not the procedure!

Mr. Sudi: Mr. Deputy Speaker, Sir, it is true that Mr. Charles K. Ngiabi was a member of staff in our department in Lamu District and he has since retired. So, he cannot go back and pick up his file.

However, my Ministry is making efforts to make sure that he is paid his dues.

Mr. Deputy Speaker: Mr. Mwalulu's Question for the second time.

Question No.756

CLASSIFICATION OF HARDSHIP AREAS

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

- (a) what criteria the Ministry uses to classify districts as hardship areas; and,
- (b) whether he could consider classifying Taita-Taveta as a hardship area due to its poor infrastructure, harsh climate and remoteness.

The Assistant Minister, Office of the President (Mr. Haji): Mr. Deputy Speaker, Sir, I beg to apologise to the Chair and also the House, for coming late.

However, I beg to reply.

(a) In classifying hardship areas, the Government takes into account the areas which are considered difficult to live in due to environmental or climatic conditions, inaccessibility to basic infrastructure, insecurity; and a combination of these factors.

(b) The Government has acknowledged the need to ensure that all public servants working in similar environments enjoy the same benefits. In order to ensure that this is done in a rational and comprehensive manner, the Government is, at the moment, reviewing the following:-

- (i) Criteria used in declaring certain areas as hardship in view of the development trends in the country.
- (ii) Harmonisation of hardship areas to apply to all organisations in the Public Service. Once this is done, the Government will gazette a comprehensive list of areas designated as hardship.

The above review will determine whether Taita-Taveta and any other areas are to be categorised as hardship areas.

Mr. Mwalulu: Mr. Deputy Speaker, Sir, the conditions the hon. Assistant Minister has listed all obtain in Taita-Taveta District. We have a problem of infrastructure; there are very few passable roads and, in fact, some sections have no roads at all. Erratic rainfall patterns and insecurity obtains in Taita-Taveta District as a whole. Could the Assistant Minister consider Taita-Taveta District as a hardship area?

Mr. Haji: Mr. Deputy Speaker, Sir, as I said earlier on, the Government is reviewing the question of hardship areas throughout the country. If the criteria which I have given will qualify Taita-Taveta District to be considered as a hardship area, it will be done accordingly.

Dr. Kulundu: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for saying the Government is reviewing criteria for declaring certain areas as hardship. Since the conditions he has enumerated obtain in all parts of the country, why can civil servants not be entitled to hardship allowance all over the country? This is because insecurity, inaccessibility and all other factors he has given apply to all parts of the country.

Mr. Haji: Mr. Deputy Speaker, Sir, I totally disagree with the sentiments by the hon. Member. If there was such a problem, he would not have been able to be in the House today.

Mr. Musila: Mr. Deputy Speaker, Sir, my friend, the Assistant Minister, if he remembers, last year a similar Question was asked and the same answer was given. Basically, that the matter was under review. Could the Assistant Minister tell us for how long this review will go on? We know very well that, already, certain Government employees like teachers in certain districts, like Mwingi, are receiving hardship allowance, while civil servants like chiefs do not. Could he tell us when this criteria will be reviewed because this type of an answer has been given before?

Mr. Haji: Mr. Deputy Speaker, Sir, I would like to state that as soon as it is practicable, the question of hardship areas will be reviewed throughout the country.

Capt. Ntwiga: Mr. Deputy Speaker, Sir, these are very contentious issues. I wonder which Ministry really is supposed to classify areas as hardship. I do not know which Ministry is supposed to do so. I remember six months ago, in this House, I asked the Minister for Education about a division in my district that was not getting hardship

allowance. I was told to write a letter to that effect, which I did, but nothing has happened. Which Ministry is supposed to classify areas as hardship? Is it the Office of the President, the Ministry of Education, Science and Technology, or various Ministries?

Mr. Haji: Mr. Deputy Speaker, Sir, the hon. Member should read my lips. This Question is being answered by the Office of the President. Therefore, it is the responsibility of the Office of the President to determine which areas are hardship.

Mr. Mwalulu: Mr. Deputy Speaker, Sir, all the districts that border Taita-Taveta District, for example, Kwale, Kajiado and Makueni enjoy the hardship area status. I do not understand what criteria was used to exclude Taita-Taveta District. Could the Assistant Minister state that criteria?

Mr. Haji: Mr. Deputy Speaker, Sir, I think I have explained the criteria. As I said earlier, Taita-Taveta District will be considered when an exercise to review the whole programme is undertaken.

Mr. Kiminza: Mr. Deputy Speaker, Sir, I think what the House wants to know is the criteria for standardization. If the Ministry of Education has declared certain areas hardship areas, while the Public Service has not? Why should double standards be applied? For example, the Ministry of Education considers Kitui South Constituency a hardship area, but according to the Provincial Administration, it is not a hardship area. What is the correct position?

Mr. Haji: Mr. Deputy Speaker, Sir, the Public Service Commission and the Teachers Service Commission are different entities. So, that explains the difference in labelling.

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

Question No.696

RURAL ELECTRIFICATION PROGRAMME FOR KONOIN

Mr. Kitur asked the Minister for Energy, when the Ministry will undertake Rural Electrification Programme in various markets and schools in Kimulot and Mogogosiek Divisions, in Konoin Constituency.

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, this Question came up last week, and I said that we were not satisfied with the answer we had. We have not received the full information since we are carrying out more investigations. I beg to have this Question deferred to next week when we will be able to answer it.

Mr. Deputy Speaker: On what day next week?

The Minister for Energy (Mr. Raila): Next week on Thursday.

Mr. Kitur: Mr. Deputy Speaker, Sir, this is the second time this Question has come up in this [Mr. Kitur] House. The answer which has been given to me is totally wrong. Could the Minister undertake to answer the Question next week?

Mr. Deputy Speaker: He has just done so! The Question is deferred to Thursday next week!

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

ATTACK ON MR. MAINA MURIOGA

Eng. Toro: Mr. Deputy 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 Mr. Paul Maina Murioga of Kariua Sub-location in Ruchu Location on Kandara Division was attacked and seriously injured on 7th February, 1999, by Mr. Peter Muigai Kairu and the matter reported at Gacharage Police Base?

(b) Is he further aware that, as a result of the attack, Mr. Maina is now disabled as he lost one leg?

(c) Is the Minister further aware that, the victim Mr. Maina was chased away from his *shamba* by the assailant Mr. Muigai and now lives at Kamahuha Sub-location in Maragua Division as a squatter; and,

(d) What action is he taking to resolve the dispute between the two and also have Mr. Kairu charged with assault?

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

(a) I am aware that Mr. Paul Maina Murioga was attacked and injured by his son, Peter Muigai Kairu, after a

land dispute.

(b) Yes, I am aware.

(c) I am aware that Mr. Peter Maina Murioga now resides at Kamahuha, but I do not know the reason why he moved from Kariua.

(d) An assault case has been filed in court against Mr. Paul Muigai Kairu. However, the assailants escaped after the incident, and are still at large. The land dispute is a civil matter, which the concerned disputees should take to court for determination.

Eng. Toro: Mr. Deputy Speaker, Sir, this is the fifth time that this Question is coming up on the Floor of the House. If you look at the last answer by the Minister and the reason why this Question was deferred, it is because he says an assault case has been filed in court against Mr. Paul Muigai Kairu. I asked the Minister to give the case number and clarify whether somebody can be charged in court before he is arrested. He has given the same answer he gave last time, and yet he was supposed to investigate. Could he tell the House the case number and when the man was arrested?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I am sorry, because the number that I have here is the Police Case No. 273/28/99. I wish to beg the indulgence of this House again, to come up with the real case number, since the Minister who was in charge of this docket has been moved to another Ministry. Maj. Madoka was in charge of this docket. Since he has moved, I wish to ask the hon. Member and the House's indulgence to bring the case number later on.

Eng. Toro: Mr. Deputy Speaker, Sir, with due respect to the Minister, does he mean that if Maj. Madoka was here today, he would have answered the Question the way it is? The Ministers' reshuffle was only done yesterday, by which time investigations should have been concluded. This is the reason why this case was deferred by the Speaker so that the Minister could come and give the court case number as stated in his reply. Now the Minister is asking the House to give him more time to go and investigate, and, yet that is the same reason it was deferred. Could we have your guidance?

Mr. Deputy Speaker: Would you want this Question answered properly?

Eng. Toro: Mr. Deputy Speaker, Sir, I want it to be answered properly, and that is why it was deferred by the Speaker. Now it is even not being answered correctly.

Mr. Deputy Speaker: Well, the best I can do is to defer it to Tuesday next week. Otherwise, I will assume that it has been answered, and I will proceed.

Eng. Toro: Mr. Deputy Speaker, Sir, I would like it to be answered correctly.

Mr. Deputy Speaker: The Question is deferred to Tuesday, next week!

Eng. Toro: Mr. Deputy Speaker, Sir, on Tuesday next week I will be in Arusha.

Mr. Deputy Speaker: When will you be back?

Eng. Toro: The following week, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Very well, the Question is deferred to Tuesday that week.

(Question deferred)

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. Since this Question has been on the Order Paper for the last three weeks, do you not consider it a normal Question?

Mr. Deputy Speaker: Order! Mr. Angwenyi, you were not here when I indicated to hon. Members what fate will befall them if they stand on a point of order, and do not either name the Standing Order upon which they have stood, and [Mr. Deputy Speaker]

instead, make a statement or ask a supplementary question. This Question has been deferred until Tuesday the week after next week. So, you should not raise any other issue with regard to that Question. None at all!

Next Question!

PASSPORTS FOR CRUISE SHIPS JOB SEEKERS

Dr. Ochuodho: Mr. Deputy 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 between 10,000 to 50,000 Kenyans are likely to lose their job opportunities recently advertised in cruise ships if their passports are not promptly processed?

(b) What action is he taking to ensure that their passports and visas are issued forthwith?

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

(a) I am not aware.

(b) Special arrangements are already in place for expeditious issuance of passports to prospective cruise ship job seekers. Applications for these passports continue to be received. Those who have not yet presented their applications are urged to do so directly to the department without further delay in order to facilitate the prompt issuance of the passports to meet the targeted deadlines for the intended travel. On the issuance of visas, the applicants have to meet the criteria of individual countries before they are issued with visas.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, it seems the Minister and I are living in two different worlds. The problem of unemployment is a grave one in this country. Here is somebody who is ready to employ about 50,000 Kenyans without any particular qualifications as long as they can speak English or Kiswahili. If the Government takes this issue of cruise jobs seriously, could the Minister tell us what major action they are taking to ensure prompt issuance of passports? So far, only 9,000 Kenyans seem to have qualified for the jobs, but only 4,000 have been issued with passports. Is there any measure the Ministry is taking to ensure that Kenyans do not lose the 50,000 jobs?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, the information I have is that the Government has received only 4,031 passport applications from persons intending to be recruited for cruise ships employment overseas. So far, we have issued 3,240 passports, and the remaining 791 applications are under process and should be ready before 30th November, 2001, provided the applicants meet the requirements.

Mr. Wamae: Mr. Deputy Speaker, Sir, why is it taking so long for the Immigration Department to issue these passports? Does the Minister realise that unless these Kenyans get passports in order to travel to the Middle East to take up these jobs, they could be taken by other people from other countries?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, the hon. Member should appreciate that, out of the 4,031 applications, about 700 are pending and they will be issued out promptly.

Mr. Kombo: Mr. Deputy Speaker, Sir, is the Minister aware that some of those people who have not applied for passports do not have birth certificates, and are struggling to get them? Could he assist these individuals to get birth certificates so that they can apply for passports?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, the department that registers births would be very willing to help anybody who wants to apply for these jobs. The hon. Member should assist them by alerting me if any one of them is experiencing problems, and I will act accordingly.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, could the Minister undertake to issue passports to these people within four days of application under a special programme, so that the Government can demonstrate that it is interested in the welfare of Kenyans?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, the deadline is 30th November, 2001, and I have undertaken that they will be issued with passports before that day. But the hon. Member must also understand that there are certain requirements by the cruise ships, which the Government must verify before these passports are issued out.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, the Minister seems to have forgotten that the majority of those applying for these jobs are from rural areas. Most of them have never been to Nairobi. Bearing that in mind and considering that the Government, in the past, has given conflicting information as to whether these are legitimate jobs or not; could the Minister confirm to this House that these 50,000 jobs are for real and that they are available? Kenyatta National Hospital should be allowed to do these medical tests because part of the problem is the Kshs8,000 that is required for the tests. Could he consider decentralising the issuance of birth certificates, passports and medical tests so that Kenyans do not lose these jobs?

Mr. Deputy Speaker: How many questions are you asking?

Dr. Ochuodho: This is a very critical issue, Sir!

Mr. Deputy Speaker: You have asked three questions in total!

Dr. Ochuodho: Mr. Deputy Speaker, Sir, let the Minister answer the one which he considers fit.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I undertake to give passports to all those people who qualify.

Mr. Deputy Speaker: Next Question, Mr. Muchiri.

INADEQUATE POLICE PATROLS IN EASTLANDS

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

(a) Why has the Minister not increased the establishments of regular and Administration Police officers in spite of the increased insecurity in Korogocho, Githurai, Kahawa West, Mathare North, Kariobangi, Thome, Mwiki and parts of Juja?

(b) How many police officers and Provincial Administration vehicles serve these areas?

(c) What are the monthly patrol allocations for these vehicles?

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

(a) The establishment of security officers is usually increased immediately after new police officers complete training in various colleges. The establishment of regular police officers in the areas in question has been increased following the passing out of police officers from Kenya Police Training College in Kiganjo on 16th November, 2001. Administration Police (APs) officers have been deployed in chiefs' camps in the affected areas and reinforcements are sent in as and when the need arises.

(b) There are nine vehicles for regular police and one Land-Rover, serving the APs in Kasarani Constituency. Juja area has two police vehicles.

(c) The average monthly fuel allocation per vehicle is 600 litres in Nairobi and 200 litres in Juja area.

Mr. Muchiri: Mr. Deputy Speaker, Sir, the Minister is not serious here! Kasarani Constituency has been leading in the rate of crime for the last three years, compared to other areas in Nairobi. The Minister has just said that, in every chief's camp, there are APs. Could he tell this House when he will provide two APs to Kariobangi, Mwiki, Thome, Korogocho and Kahawa West respectively? When will this be done and what will be the establishment?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, due to the volatility of security in the area, I may not be able to say what the establishment is now, or what it will be in future. But the hon. Member appreciates that we were with him in his constituency recently and we agreed to increase the number of police officers. After the passing out of more police officers from the Kenya Police Training College, in Kiganjo, we agreed that more police officers should be sent to Kasarani Constituency. So, Kasarani Constituency will definitely have more police officers than it had before.

Mr. Muiruri: Mr. Deputy Speaker, Sir, on many occasions, when people report crimes to the police, they are told there is no transport. Sometimes, when one goes to report another person's death, one is requested by the police to hire a vehicle to take the body to the mortuary. In cases where serious crimes like murder are committed---

Mr. Deputy Speaker: Order, Mr. Muiruri! You are making a speech!

Mr. Muiruri: Mr. Deputy Speaker, Sir, you heard the Minister say the allocation of fuel to a vehicle in Juja Police Station is only---

Mr. Deputy Speaker: Order, Mr. Muiruri! If you do not ask your question right now, I will move to the next person.

Mr. Muiruri: Is the Minister satisfied that the allocation of only 200 litres of fuel per month, which actually amounts to 6 litres per day, is adequate to cover the whole of Juja? This is why the Police Force is unable to combat crime!

Mr. Sunkuli: Mr. Deputy Speaker, Sir, that amount of fuel is adequate but not sufficient. If we had money, we would be able to allocate more finances to these police stations.

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. Occasionally, we are asked by the Provincial Administration, and indeed by the police, to contribute money to repair their vehicles. Recently, we had to do that for Ruai and Embakasi police stations. How much money has the Minister reserved for maintenance and repair of these vehicles in Kasarani and possibly Embakasi Police Divisions?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I am afraid, I do not have those figures here because that is a different Question.

Mr. Kibicho: Could the Minister tell this House the use of having police posts with five police officers without telephones or any other form of communication gear?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, the hon. Member is describing the problems that many poor countries face. I wish we had more money to fund the Police Force. But we are trying to ensure that these facilities are available.

Mr. Muchiri: Mr. Deputy Speaker, Sir, the Minister has not answered my Question. When did he post APs to the chiefs' camps he has referred to? The Minister was in my constituency the other day, and we requested him to upgrade Ruaraka Police Post to a full police station. When is he going to upgrade Ruaraka Police Post to a police station, in order to reduce crime in Korogocho area?

Mr. Sunkuli: We will do that, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Next Question, Mr. Musila!

NAMES OF CONSTITUENCY AIDS CONTROL COMMITTEES

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

(a) Could the Minister table the names of Constituency AIDS Control Committees which have been formed throughout the country?

(b) How much money was allocated to each of the Committees since they were formed and how much of the

allocated money has so far been paid to the Committees?

(c) Could the Minister give the number of bicycles or other means of transport that have been issued to each Committee?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I beg to seek the indulgence of the House again, that this Question be deferred to next week.

Mr. Musila: Mr. Deputy Speaker, Sir, I sympathise with the Minister. But the Chair will agree that, that is not a very convincing reason. Nevertheless, this is the third time this Question is coming to the Floor of the House. Could the Minister undertake to reply to this Question satisfactorily, on Tuesday next week?

The Minister of State, Office of the President (Mr. Sunkuli): I will do so, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: The Question is deferred to Tuesday next week.

(Question deferred)

Next Question, Mr. Keriri!

DISBURSEMENT OF HELB BURSARIES

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

(a) What criteria does the University Loans Board use to award bursaries and loans to students in public universities?

(b) Could the Minister table a schedule showing the following in respect of each of the six public universities for the current university year:-

- (i) the name of each student;
- (ii) the student's district; and,
- (iii) the amount of loan and bursary given to each student?

(c) How many Kenyan students have been awarded loans and bursaries in private universities and how much have those loans and bursaries amounted to in the last two university years?

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

(a) The criteria used by the University Loans Board, otherwise known as the Higher Education Loans Board (HELB) under the HELB Act of 1995, in disbursing loans are as follows:-

- (i) The applicant must be a Kenyan citizen.
- (ii) The applicant must be a *bona fide* student registered in a public university or a private chartered university recognised by the Commission for Higher Education.
- (iii) The applicant must be a full-time student undertaking a course of study whose duration must be, at least, one year.

(iv) The applicant must apply for the loan on a prescribed loan application form provided by the HELB.

(v) The applicant must also prove to the Board that he or she is needy by declaring his or her family total annual income and liability on a prescribed loan application form.

(b) The schedule showing the name of each student, the student's district and the amount of loan and bursary given to each student is hereby tabled. That is what he has asked for.

(c) In the university---

Mr. Deputy Speaker: Order! You should table the document! Tabling means that you put it on that Table!

The Assistant Minister for Education, Science and Technology (Mr. Ojode): Mr. Deputy Speaker, Sir, I hereby lay the document on the Table!

(Mr. Ojode laid the document on the Table)

(c) In the university years 2000/2001 and 2001/2002, a total of 1,536 students from private universities have been awarded loans totalling to Kshs36,660,500.

Mr. Keriri: Mr. Deputy Speaker, Sir, I am sure that the Assistant Minister has the same problem as mine. I have read the document that he has tabled and the criteria that he has stipulated is very good and fair. But I do not think they are strictly followed. If the Assistant Minister has read the document, he must have noted many students are denied the bursaries after they have applied. I will give him an example. Out of 224 students from Kirinyaga District in the University of Nairobi who applied for loans and bursaries, only 85 students got bursaries. In the Chair's Kisumu District, out of 106---

Mr. Deputy Speaker: Leave the Chair out of that!

Mr. Keriri: Mr. Deputy Speaker, Sir, it is coincidental that you come from there! Now, out of 106 students who applied for both loans and bursaries, only 47 students got bursaries. Why is that? I could go on and on!

Mr. Ojode: Mr. Deputy Speaker, Sir, I will give the figures for Baringo District, if that is the problem. But, first, in the year, 2000/2001, we disbursed loans to 688 students, to the tune of Kshs16,184,000. In the year, 2001/2002, we disbursed loans to 848 students, which amounted to Kshs20,476,000. That totals to 1,536 students. When we look at the districts, just as the hon. Member, who is a friend of mine has cited, Kirinyaga District alone had 584 applicants and 556 were given the loans. Baringo District had 327 applicants, and 315 were given loans.

An hon. Member: Read the whole list!

Mr. Ojode: The list is very long! If you want me to read it---

(Loud consultations)

Mr. Deputy Speaker: Order! That list, together with a whole pile of papers, was tabled by the Ministry. So, really, Members who have not taken the trouble to find out information upon which they will base their supplementary questions must let the House progress!

Mr. Keriri: Mr. Deputy Speaker, Sir, I do not know what the Assistant Minister is reading. I do not think he finished answering my question. He had not finished answering my question!

Mr. Deputy Speaker: Let him finish, but that is the last question!

Mr. Keriri: No!

Mr. Deputy Speaker: We gave you an opportunity to take the documents away so that you can raise supplementary questions! I will give you two more chances!

Mr. Ojode: Mr. Deputy Speaker, Sir, the criteria used is based on a computer-based mean testing formula. It is used to analyse the level of needs of each applicant. The computer assessment is also corroborated by information of each applicant's ability to pay fees in his or her former secondary school. Loans are awarded to students depending on their level of needs. There are students who apply for loans and yet, their parents can afford to pay the fees. So, for those who can afford to pay, the Ministry does not disburse any funds!

Mr. Keriri: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that there are very many students in the universities who, in fact, cannot afford to pay fees? When the examination time comes, they are not allowed to do examinations although they plead poverty and they are poor. They are refused to sit for their exams. If he is aware of that, could he, please, make sure that those students are not stopped from doing their examinations, just because they cannot afford to pay fees?

Mr. Ojode: Mr. Deputy Speaker, Sir, if the Questioner has a specific case, let him bring it to us and we will deal with it as and when the need arises! We will do something about it!

GRABBING OF HOLDING GROUND IN NANYUKI TOWN

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Lands and Settlement the following Question by Private Notice.

(a) Is the Minister aware that the only slaughter yard land and holding ground for animals in Nanyuki Town, measuring about ten acres, has been allocated to a private developer?

(b) Why was the land allocated and who are the beneficiaries?

(c) What immediate action is the Minister taking to revoke the allocation?

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

This Question was asked last week and I promised to answer it today. However, I have the same answer that I gave last week! But my Ministry will make sure that, that parcel of land in Nanyuki Town will not be grabbed by anybody as alleged by the hon. Member! I would like to assure him that my Ministry will take all the necessary steps to ensure that, that land will not be grabbed.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, I am grateful if the Assistant Minister is going to take action. But could he confirm to us that the slaughter yard and the holding ground will not be grabbed?

Mr. Sudi: Mr. Deputy Speaker, Sir, I would like to assure the hon. Member that the land will not be grabbed, and it has never been grabbed.

Mr. Ndicho: Mr. Deputy Speaker, Sir, the issue of grabbing essential public utility facilities is creeping back slowly into this country and, for sometime, it was not there. Could the Assistant Minister assure this House that the

grabbing of public utility facilities will stop forthwith and that his Ministry will stop processing title documents? Right now, a certain school in Thika has been subdivided into two portions and the title preparation process is going on in the Ministry. Could he assure us that he will stop the processing of title documents for all the public land that has been grabbed by individuals?

Mr. Sudi: Mr. Deputy Speaker, Sir, as you are aware, there is a total ban on allocation of land in Kenya. However, I would like to assure hon.

[Mr. Sudi]

Members, and all Kenyans at large, that processing of title documents for parcels of land which are acquired or seem to be acquired illegally is not done.

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

Next Order!

POINTS OF ORDER

KILLING OF CATTLE BY KWS HELICOPTER

Mr. Parpai: Thank you, Mr. Deputy Speaker, Sir. I rise to demand a Ministerial Statement from the Minister of State, Office of the President in charge of internal security, concerning an incident that took place yesterday, 21st November, 2001, where a KWS helicopter chased cattle at the border of Rombo Group Ranch and Tsavo East National Park. The helicopter crashed and killed five cattle instantly. A herdsman who was herding the said cattle ran for his life through Ziwani Estate in Taita-Taveta where the security men shot him with an arrow which went through his body, wounding him seriously. As I speak here right now, the security man who shot the herdsman with an arrow has not been arrested yet.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I will issue a Ministerial Statement next week on Tuesday.

BEATING OF HON. KIKUYU

Mr. Katuku: Mr. Deputy Speaker, Sir, last week on Wednesday, I stood here to demand a Ministerial Statement from the Minister of State, Office of the President in charge of internal security, over the beating of Mr. Kikuyu. The Minister had promised to issue the statement yesterday. I would want to know what is the position now, in view of the reshuffle and the fact that we have a new man in the office.

An hon. Member: A young Turk!

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, because the hon. Member appreciates that change, we will issue that statement on Tuesday next week.

CLASHES IN TANA RIVER DISTRICT

Mr. M.A. Galgallo: On a point of order, Mr. Deputy Speaker, Sir. I rise to demand a Ministerial Statement regarding those ugly incidents in Tana River District. Those clashes started in March. The situation calms down and then flares up again. We are wondering that where there is an administration--- Some askaris were involved in the conflict and no action was taken. The conflict was caused by claims over watering points. Could the Minister of State, Office of the President in charge of internal security issue a statement? Over two weeks ago, Dr. Ochuodho raised this issue and the Minister made an undertaking that he was going to issue a Ministerial Statement. Could the Minister give a firm undertaking that he will issue a statement regarding the conflict going on in Tana River, the root cause and possibly the solution?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I will issue the statement in a week's time.

Mr. Deputy Speaker: Order! Order, Mr. Minister! This matter has been with the House, at least, for three weeks and yesterday or the previous day, the Chair did rule that all outstanding Ministerial Statements must be made on Tuesday next week. So, it has to be on Tuesday.

The Minister of State, Office of the President (Mr. Sunkuli): Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Hon. Members, you have seen a supplementary Order Paper and that is what we are going to use.

Next Order!

MOTION
AMENDMENT TO EAST AFRICAN
COMMUNITY ASSEMBLY ELECTION RULES

The Minister for Trade and Industry (Mr. Biwott): Mr. Deputy Speaker, Sir, I beg to move:- THAT, this House orders that the rules made under the Treaty for the establishment of the East African Community Act, No.2 of 2000, on 18th October, 2001, be amended in Rule 6 by deleting all the words immediately after the word "fulfil."

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. Standing Order No.42 is very clear and it states:- "No Motion may be moved which is the same in substance as any question which has been resolved (in the affirmative or in the negative) during the preceding six months in the same Session."

Mr. Deputy Speaker, Sir, I do recall that a few days ago, maybe, a month ago or so, the Minister for Trade and Industry came here and moved a Motion bringing in the rules which we debated in this House, showing clearly that when we start nominating members to the East African Assembly, they would be nine and three of them would be women. We know why this Motion is being brought here. It is just because yesterday, KANU could not resolve---

Mr. Deputy Speaker: You stood on a point of order and not to contribute!

Mr. Mwenje: I am explaining my point of order, Mr. Deputy Speaker, Sir. We know purposely why this Motion is being brought here, and it is because KANU does not want to nominate a woman among the two Members of the Assembly whom they were supposed to nominate. They sat yesterday and resolved to do that. This is clearly against our Standing Orders and this House cannot be taken for a ride to debate a matter which has already been resolved in less than a period of six months. This is completely out of order and you should rule it out of order!

(Applause)

Mr. Deputy Speaker: Order! Order! There are two things; one, Mr. Mwenje has a very selective mind because he does not read the whole Standing Order. What does it say?

"Provided that a Motion to rescind a decision of such a question may be moved with the permission of Mr. Speaker."

Mr. Speaker did give his permission for this Motion to be moved.

Secondly, what was the Motion before the House previously? It was that:-

"Pursuant to provisions of Article 50(1) of the Schedule to the Treaty for the establishment of the East African Community Act, 2000; this House approves the East African Community election of members of the Assembly rules laid on the Table of the House on Wednesday, 3rd October."

This is not the same Motion!

Proceed, Mr. Minister!

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. When we enacted the rules which we have gazetted under special gazette issue No.77, this subsidiary legislation became part and parcel of the East African Community Act, 2000. These rules were enacted as subsidiary legislation under the East African Community Act which is an Act of Parliament. Can we amend laws in this country through a Motion? They are now part of the domestic laws of Kenya. Are we not governed by the Constitution and the Standing Orders which stipulate that, if we wish to amend any part of our law then the amendment should be either through the Miscellaneous Statute Law (Amendment) Bill which would have to be published and brought to this House or through the introduction of another Bill specifically to amend the law? Once these regulations become part of the law, we cannot amend them through a Motion. It would be unconstitutional to debate it.

Mr. Deputy Speaker: Order, hon. Muite! You are a lawyer and ought to know this. Subsidiary legislation incorporating rules and regulations which are made by the Minister outside the Act can be amended by the Minister and published without coming to the House. The Minister is not even obliged to lay them on the Table. The law which you referred to merely asks the National Assembly of each partner State to hold those elections according to their own rules. This House is being asked to amend the rules and not the Act. I will not stop hon. Members from expressing themselves on this issue. If you do not like it, oppose it. I will not be party to this debate.

Proceed, Mr. Biwott!

The Minister for Trade and Industry (Mr. Biwott): Mr. Deputy Speaker, Sir, I think we have heard enough explanations that this is a subsidiary legislation. If hon. Members, who are lawyers, would like to enlighten this House as to the law I would suggest that they listen and improve on the Motion as we go along. We are faced with this Motion today because we have---

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. The Standing Orders of the House do require any hon. Member who is contributing to declare his interest, if he has got any. Has Mr. Biwott declared his interest in this amendment because of his wife?

(Loud consultations)

Mr. Deputy Speaker: Order!

The Minister for Trade and Tourism (Mr. Biwott): Mr. Deputy Speaker, Sir, indeed I am the Minister in charge of the East African Community and therefore, I have a particular interest; to see that the elected Members are taken through the National Assembly---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! We still do not have a list of members yet. Until it is tabled by the House Business Committee, I will not listen to rumours!

Hon. Member: We can substantiate!

Mr. Deputy Speaker: Order! When this Motion has been debated and passed I will require the Minister then to make a Ministerial Statement tabling the names. But before then I have no names.

Proceed!

The Minister for Trade and Industry (Mr. Biwott): Mr. Deputy Speaker, Sir, I think the House should decide whether they want to send members to the East African Legislative Assembly or not because we are faced with the critical time factor. Therefore, we must deliberate on and deal with this matter.

I brought this Motion to the House because you will recall that, when we debated these rules, pursuant to Article 50 of the East African Community Treaty, we were faced with the problem of how to proceed with the election of the nine members from Kenya to the East African Legislative Assembly. There were very many options. They could have come from the provinces, we would have elected them from this House or followed the laid down procedure in nominating Members of Parliament. It was decided that we should use the method which we used in nominating Members to this House. Therefore, we settled on nominating Members on *pro rata* basis following the exact system we used in nominating the Members to this House. We incorporated that in the rules.

In order to refresh the memories of the hon. Members, let me read the pertinent article, that is, Article 51 which states:

"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 is feasible, the various political parties represented in the National Assembly, shades of opinion, gender and other special interests."

The word "gender" is mentioned here, but there is no proportion. When we came to the rules we became a little bit wiser and decided as follows:

Hon. Member: Who decided!

The Minister for Trade and Industry (Mr. Biwott): The whole House decided. Rule Six states as follows:

"The House Business Committee shall consider the nominees of the parties delivered to it under Rule 5(4) 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 far there is no problem. It is the ideal situation which we should aspire to achieve. Realities have made it impossible for this number to be brought in the way it was envisaged in this particular point. This is because we failed to follow a mechanism that would have automatically brought in the three women to the House for nomination. We failed because we allowed each particular party to nominate their respective candidates and announce without further reference to anybody. They, therefore, prejudiced the entire issue by nominating the members and announcing them. The DP went ahead and nominated two women and announced them.

Hon. Members: It was one woman!

The Minister for Trade and Industry (Mr. Biwott): Whether they announced the name of one woman or man; it is all the same. Those names have been made public. They have already been given hope and promise. FORD(K) and NDP also nominated their candidates and made the names public. KANU was the last one to name its candidates.

Mr. Deputy Speaker, Sir, they nominated them and have also made their names public. So, it is now very difficult to go back and ask those people to come back and change. What should have been done is---

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. I am again rising on a point of order that the hon.

Member does declare his interest. Now that he has said the KANU list is in the public domain, and I agree with him, could he confirm that a member of his household is, indeed, part of the KANU nominees?

Mr. Deputy Speaker: Order! When the list is read, you can legitimately raise that issue. You do not know if he is going to confess his interest at the end. Let me say it for the last time that, that list is not officially before this House.

Order hon. Members! He is making reference to numbers. His relative is not a number! When the names are laid on the Table, then Members have a right to refer to the list and amend it.

The Minister for Trade and Industry (Mr. Biwott): Mr. Deputy Speaker, Sir, I have just said that each party nominated their respective numbers, announced them and they are known. I can see right here that hon. Ms. Karua is bitching to become part of that household and I will say: "No"!

(Laughter)

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for this short and not so good-looking Member for Kerio South to suggest that I want to become a member of his already bloated household? Could he declare his interest---

(Applause)

Mr. Deputy Speaker: Order! Order, hon. Members! May I advise that hon. Members keep their amorous intentions out of the Chamber!

(Laughter)

The Minister for Trade and Industry (Mr. Biwott): Mr. Deputy Speaker, Sir, I think hon. Biwott looks very handsome and if women have got any problem with that, then I think it is only natural that they should be admiring an hon. gentleman called Biwott.

(Laughter)

Mr. Deputy Speaker, Sir, I was just saying that political parties made a mistake, which has now brought us into this House and which has made us now find a way of overcoming it, in the process in which we elected those Members. If it had been provided for as it has been provided in other institutions or organisations such as the World Trade Organisation (WTO) for example, where they follow one universal rule but they allow waivers for some to flout the rule for the time being and, therefore, give derogation--- In this particular case, we do not have a derogation where we can allow these nine Members to go and then revert back to our rules. This is so that, in future, we will make sure that parties do not announce their nominees before they are finally elected in this House.

Mr. Deputy Speaker, Sir, what do we have to do now? What we are suggesting at the moment is that, for the time being and in order to facilitate the submission of these names for next week's swearing in ceremony, it is important that we do something. What do we do? One, is that we nominate the third woman, so that we have three women. That will be an ideal situation, failure of which we will have to resort to this. I am suggesting that we have reached that stage where we have had to resort to amending our own rules by deleting the section which refers to the number percentage in order to make it flexible. You will see that in the region, there is no uniformity in the three countries. Tanzania has produced three wives. I mean three women!

(Laughter)

Tanzania has brought three women to escort the six men so that altogether, they are nine. In Uganda, they have produced four women to escort five men. In Kenya, unfortunately, they have failed and produced two women to escort seven men. So, my unenviable position here is to persuade you---

Mr. Kanyauchi: On a point of order, Mr. Deputy Speaker, Sir. You heard the hon. Member's own words that the women are escorting the men. Surely, that---

Mr. Deputy Speaker: Order! That is not a point of order! You cannot stand up and say that, that is what he is talking about. I do not want a narration of what the Minister has said. Hon. Kanyauchi, if you do not have a point of order, sit down!

The Minister for Trade and Industry (Mr. Biwott): Mr. Deputy Speaker, Sir, women are, indeed, equal to

women and they are going to the East African Community in their right as elected Members of the East African Legislative Assembly. Just as it is in this House, the women who are here, are here on their own right as hon. Members of Parliament.

So, what I would like to appeal to hon. Members to do is to see this Motion in its proper light. This Motion is seeking flexibility so that we can take as many women as we elect. We can take two, three, four, five or even the entire nine Members to that Assembly. This flexibility was allowed in the East African Treaty, where it says clearly and I would like to read it to you again to remind you. It states:-

"Each National Assembly shall decide on the procedure for electing."

However, for purposes of our own, we decided that "electing" means getting members from the parties. That was actually a big problem which we may have to consider in future, if we are going to get the right people. However, today, we are bogged down with the problem. We have to decide today. I am appealing to the hon. Members to agree to the amendment, so that we introduce flexibility in the election of the nine East African Members of Parliament.

Mr. Deputy Speaker, Sir, I am saying this because we do not have the time. The East African Legislative Assembly is due to be sworn in on 30th November. Those to be sworn in have to be there in time to rehearse and to be inducted into the whole process. If you also take into account the fact that we are adjourning today until Tuesday, which is the 27th, then one will see clearly that there is not enough time. The only way in which we can overcome this temporary problem is to amend our own rules and make them compatible with the East African Treaty which allows flexibility. If we want further improvement now, let us improve on these rules to ensure that, in future, we will never be confronted with a situation like this; where people are given hope and then at the same time, they are being asked to come back.

With those few remarks, I beg to move.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I beg to second the Motion. The reason why I am supporting this Motion is because there will be a stalemate. The East African Legislative Assembly will be inaugurated next week, and we seem to have created a law quite similar to that of the Constitution of Kenya Review Commission which made sure that we did not have a Commission in place for quite over a year. Unless we amend these regulations, we are going to have a stalemate because the East African Legislative Assembly regulations - the law itself - was wise enough not to limit the Assembly to specific numbers.

The law in East Africa states that, while making these rules, the Legislative Assembly should have regard to gender. We can untie our hands and say that we require a specific number of women. It is now clear that when each political party went to sit in its own caucus, only a party as wise as KANU could think about women.

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

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, some of the political parties did not think about women. I know that the Democratic Party of Kenya also did acquire some wisdom and chose a very eminent lady to represent them. Some political parties have it in their manifestos to defend gender sensitivities, but in action, they have not been able to do so. It is a problem that bigger political parties - other parties that used to be big - could not think about bringing women to the Legislative Assembly. Because we sympathised with the situation of those political parties, knowing that, indeed, we live in an African country which is evolving and which is quickly realising that we need to have gender sensitivity, let us not travel at the speed of light. We are not yet there and, because we are not yet there, let us realise our weaknesses and, therefore, amend the law. Let us accept that this time round, we are going to have two women and next time we might have ten women and have the law amended.

I beg to second the Motion.

(Question proposed)

Mr. Deputy Speaker: Yes, Ms Karua.

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

Mr. Deputy Speaker: Order, Mr. Mwenje! It is time for Ms Karua!

(Mr. Mwenje insisted on his point of order)

Mr. Deputy Speaker: Order, Mr. Mwenje! Do not tempt the Chair to reduce your voting numbers! That is why the Chair has been very lenient when hon. Members are standing on points of order which are not points of order. You will get an opportunity to contribute.

Proceed, Ms Karua.

Ms Karua: Mr. Deputy Speaker, Sir, I rise to oppose this Motion. The Minister has not even begun to explain why it has become necessary, less than a month, after passing these rules, to come back to the House to have

the rules changed. If he was to be candid enough, he would have said that the rules have been changed for the convenience of the ruling party KANU. I am a Member of the House Business Committee. For the last one week, we have been waiting to see whether the ruling party KANU could go back to their leave and bring two women because they have five nominees. There was an understanding in the House Business Committee - when we enacted these rules and divided the positions among the political parties - that the parties with more than one nominee were those that could bring women. It is, therefore, not correct for the Minister to start blaming parties that had one nominee. The only other parties nominating are FORD(K) and NDP. They have each one slot. They cannot possibly bring a fraction of a person. It was incumbent upon DP and KANU to bring the required number of women; DP having two, could only bring one. It practised gender equality. KANU having five nominees was expected to bring two women.

It is becoming apparent that certain elements in the Government have waged war on the women of Kenya. In designing these rules, we were following our own Constitution. Members of this House wanted to vote in the Members of the Assembly, but we said that because our Constitution has a provision for nomination, let us nominate in accordance with Section 33 of the Constitution.

Section 33 talks of gender parity. We realised that, because the nine slots allotted to us is an odd number, we may not achieve gender parity. So, we settled on a rule that provided for one-third. What is so difficult about the one-third rule? It is only becoming difficult because some people do not want to hear about women. They want to use them in their parties to campaign during elections. Women were very visible in the just ended Makueni by-election, but after the election, there were no women to nominate. It is time we became frank to Kenyans and said that the ruling party KANU and the Government have no use for the women of Kenya.

I congratulate the Minister for putting the name of a member of his household, eminently qualified, among those nine selected persons. I have no doubt that the lady will do this nation proud. They could have gone to another household and got a second lady.

(Applause)

I appreciate that charity begins at home, but once it has begun at home, it must expand to other households. Rather than amending the rules, I am appealing to hon. Members to ask the ruling party KANU to go back to their households. We would appreciate one more eminently qualified woman, and I want to underline again that the one woman so far nominated by KANU is, indeed, eminently qualified. I do believe, and I know for a fact that there are more eminently qualified women in the ruling party KANU. Let us practise what we preach. The Government has committed itself even in the Treaty of East Africa. But the Minister read out selectively. He only read out Article 50. I wish to refer hon. Members to Article 6, the fundamental principles of the EAC. It goes that the fundamental principles that shall govern the achievement of the objectives of the EAC by the partner States shall include - and I beg your patience - mutual trust, political will, sovereign equality, peaceful co-existence and good neighbourliness. Other factors are peaceful settlement of disputes and good governance including adherence to principles of democracy and the rule of law, accountability, transparency, social justice, equal opportunities, gender equality as well as in recognition, promotion and protection of human and people's rights in accordance with the provisions of the African Charter on Human and People's Rights.

If I may pause there, regarding the Treaty, one of the fundamental principles which the Minister must understand well, because he is the one who led our delegations in negotiation of the Treaty in Arusha, is the gender equality. If we cannot get one third of women, how can we even practise or even preach equality?

An hon. Member: Baba Dennis!

Ms Karua: Mr. Deputy Speaker, Sir, it is very disappointing that the Government cannot lead the way but the Government which pushed us to approve this Treaty in this House is now rescinding on this Treaty. Article 50 talks of the criteria for selecting Members to the East African Assembly. When it talks of consideration of gender, it does not talk of Article 50 in isolation. There is Article 6 which talks of gender equality. In an ideal situation, we would be where Uganda is. Uganda nominated four women. We appreciate that being nine members, an odd number, we cannot have four and a half. So, it can go either way to four or five. Uganda practises what they preach. Tanzania nominated three women. They could not achieve equality, but to show that they are moving towards equality, they went by the one-third rule. They have three women and six men. In Kenya, we preach water and drink wine. We, first, approved the rules to provide for one-third women representation, to show that we are moving towards gender equality. We now come back before the House to ask that the same Rules be watered down because we are not willing to warm to more than one household and get qualified women to take to the Assembly.

Mr. Deputy Speaker, Sir, I do not think that Kenyans are being treated with the respect they deserve. The women of this country feel insulted. I feel doubly-insulted that a Minister can stand here and say that women will escort the men. You can escort one another in a domestic situation. But in public affairs, we do not escort one another.

Every Member of the regional Assembly will go there as a full Member and will not escort another Member. We are not here to escort one another. We are here as individual hon. Members who have been elected to be in this House.

How can Kenyans continue to accept Government Ministers insulting them in broad daylight? What is the future of the women of this country if a Minister can stand here and say that the women will escort the men? May I correct the Minister by telling him that women will go there as full representatives of Kenyans. When you hear people talk of "escort" you can see where they come from. You can see why they cannot even obey the simple rule of this House, which provides that one-third of our representatives in the regional Assembly should be women.

Mr. Deputy Speaker, Sir, perhaps, we made a mistake. However, the mistake is not the provision that one-third of our representatives should be women. The whole matter of election of our representatives in the regional Assembly should have been handled by this House, so that petty personal interests did not go to the Assembly. That is what we are seeing here today. A very serious issue is being trivialised and reduced to levels that are embarrassing to this country. Is Kenya is going to take its rightful place in the regional Assembly if, at the very first opening of the Assembly, we cannot even comply with simple rules?

Let me remind this House that in 1997, during the Inter-Parties Parliament Group (IPPG) meetings, we amended the Constitution, and Section 33 now provides that, of the 12 nominated Members of Parliament, the principle of gender equality would be observed in their nomination. So, this House was expected to have six female and six male nominated hon. Members. Once again, the ruling party, and by extension the Government, nominated four male and only two female Members of Parliament, thereby flouting the Constitution. Now we are here, being told to amend the rules, because they will break them anyway.

Mr. Deputy Speaker, Sir, I urge this House that we do not think along party lines today. Let us think about our honour, as Members of Parliament, in the discharge of our duty to our constituents, who constitute men and women of this country. In our laws, we promise them that each one of them has equal rights only to come here and amend the same laws to give them less.

It has become necessary for me to refer to the Universal Declaration on Human Rights. It is quite obvious that we do not remember the commitment we have made. This country is a member of the United Nations. It is, therefore, party to the Universal Declaration on Human Rights, which actually upholds the equality of all human beings. Article One of the Declaration on Human Rights states:-

"All human beings are born free and equal in dignity and in rights."

That is why we feel so insulted by the statement that women are to escort the men to the regional Assembly. We are equal in dignity and in rights. Our Constitution echoes this declaration; it upholds the equality of all human beings. So, let us not continue shaming our country and disillusioning those whom we represent. Let us uphold the rights and dignity of each and every Kenyan. We are saying that the dignity of the women of this country and their rights are being trampled on by coming here to seek to amend a simple provision that is talking of sending one-third women of our representatives to the regional Assembly. The provision does not talk of half women representation yet.

Mr. Deputy Speaker, Sir, I would like to remind the Minister that we are not moving at a terrific speed; we are moving slowly. If we were moving at a supersonic speed, we would be asking for a 50 per cent women representation in the regional Assembly. But we are moving slowly by slowly. For now, we are only asking for one third representation, and then we get to the next stage later. We have already passed that rule. Perhaps, when he replies, the Minister will tell the women of this country, and Kenyans in general, what it is that the Government has against the women of Kenya. Is it that the Government does not believe in their intelligence, worth and human dignity? Why do we pass a law and then the next day want to trample on it? Let this House not be used by the ruling party, KANU, or by any other party for that matter, to bend rules to suit their own political interests and ambitions.

Finally, I would like to take this opportunity to address myself to the women of Kenya: We should be awake as women of Kenya. Let us watch how we are being treated. Let us not be used and dumped. The policy of "use and dump" should be rejected not only by the women of Kenya but by all people of goodwill; the men also are our brothers. Let all people of goodwill reject this process of devaluing other human beings. Let us reject this very embarrassing move to relegate women to the periphery. It appears that the Government is only ready to recognise women when it stretches its hands to the donors to borrow money. That is when the Government adopts the language of gender equality. We are for gender equality. Can we not be our own people and recognise that we are all human beings? Let the men in this House stand together and protect the dignity of their mothers, sisters, wives and daughters - the dignity of the women and the people of Kenya.

Mr. Deputy Speaker, Sir, with those remarks, I vehemently oppose the Motion.

Mr. Musila: Mr. Deputy Speaker, Sir, I happen to be the Chairman of the Departmental Committee on Defence and Foreign relations, which has extensively dealt with the matters of the East African Community relating to the Treaty. Lately, we have been discussing the composition of the Assembly. I will, therefore, be failing in my duty if I support this Motion.

(Applause)

I oppose the Motion because this is a matter of principle. There is no way Kenya can be allowed to send only two women to the East African Legislative Assembly when other countries are sending there more women. You travel to other parts of the country. I also do travel. I came from Kampala only yesterday. You will agree with me that Kenya has become a laughing stock when it comes to matters relating to women all over the world.

Dr. Kituyi: Yes! Tell them!

Mr. Musila: Mr. Deputy Speaker, Sir, the rules were brought here, and we reluctantly approved them although they were not democratic. We agreed to approve these rules because we wanted to speed up the process of appointing our representatives to the Assembly. We are now being told that Kenya cannot nominate three women and, therefore, we must amend the rules to provide for two women representatives in the Assembly. Ugandans have elected - not nominated - four women. We had even assured Ugandans that Kenya would have three women representatives in the Assembly. What shall we tell them when we meet them in Arusha next week?

Mr. Deputy Speaker, Sir, I do not entirely support the so-called "affirmative action". We call for equal opportunities for our women in terms of election and appointment. But what equal opportunity are we giving to our women this time round for them to join the East African Legislative Assembly? I do not think we are being fair. All right-thinking hon. Members of this House, including those in my party, should oppose this Motion.

(Applause)

We have been asked to be flexible and allow this change of the rules for the time being, and that we will put things right next time. We are talking of a five-year period, which is the life of the East African Legislative Assembly. Do we now send two women to that Assembly and wait for five years to amend these rules and provide for the third woman representative to that Assembly? I feel very strongly that we are not being fair to our women. We must be very clear on this.

Mr. Deputy Speaker, Sir, I would like to take this opportunity to appeal to my own party to go back to the drawing board and nominate two women and three men, so that we can very ably argue, as we have always done, that we support our women. I have heard even the Chairman of our party and the Head of State say that we do not need affirmative action because we have given our women equal opportunities. I agree with him to that extent, but here we are not doing what we have been saying. We are not, by all means, giving our women an opportunity. Therefore, I will appeal to our party to go back to the drawing board, and even if we are to drop one of the men, for goodness sake, let us do it for the sake of women.

Mr. Deputy Speaker, Sir, I dare say that the argument that the people already know our nominees cannot hold water because the rules provide that this House shall elect Members. Therefore, those announcements in the newspapers and over the radio and television are not official and we do not know about them. Let us stand firm as a very principled House and send three women to Arusha.

With these few remarks, I beg to oppose.

Mr. Kibaki: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to speak on this particular Motion.

As we debate this issue, as a Parliament which is taken very seriously by Kenyans, we should not make it a laughing matter. It is a matter to make any genuine parliamentarian very sad, indeed: We debated this subject for over two weeks and hon. Members of the party which is now seeking to bring this amendment were given every opportunity to meet and agree to the selection of two women. They did that. Now, they are trying to find an easy way by forgetting women altogether. We are being asked to join in that "crime" and we must refuse to do that. We have and must refuse to join in that "crime", first because we are Kenyans and secondly because, as hon. Members of Parliament, we represent all Kenyans regardless of gender. Therefore, where the rights of women, children or anybody else are concerned, we must stand up to what is correct, genuine and fair. What is fair is what had been agreed upon by this Parliament.

This Parliament had agreed in the rules that we should have one-third women representation in the East African Legislative Assembly. Nobody forced us and we knew what we were doing. We were not lost; we understood perfectly and approved the rules. The question that will be asked by all Kenyans, and, in fact, by the world, particularly, Ugandans and Tanzanians will be: "What suddenly happened to Kenyans so that they became confused? Having agreed to something, what then happened so that they became so confused? Are we unwilling to make such a tiny decision about recommending two additional women to the East African Legislative Assembly?" If we will pretend that in the East African Community we shall be promoting those principles which are spelt out in the Treaty,

no one will believe us if we pass this Motion. Why should they believe us when we can pass a rule three weeks ago, and later abandon it for no reason? We cannot pass this Motion. This is not something which we can do with a clear conscience. So, regardless of whether one is in KANU, Democratic Party of Kenya (DP) or any other party, this is not a Motion we can pass with a clear conscience. You promised to set up certain rules to guide you and you cannot now go back and reject what is right for no reason. No reason has been given for this. Therefore, personally, I oppose the Motion.

Mr. Deputy Speaker, Sir, equally in Kenya, this subject has been debated ever since we passed the rules. Since we passed the rules, the debate has been going on. In fact, a sense of hope has been created that, now at last, Parliament, although it has not supported very much the equality of opportunities, at least in this one case, has taken an action which would give women a sense of hope. How can we now join, as we are being requested to do, in destroying that hope which we were building? It is wrong! How can we be here and not have a conscience? We are unwilling to think that we truly represent Kenyans. What will be our reason? Why did KANU reject the idea of having women in the East African Legislative Assembly? No reason has been given. So, even if you vote for this Motion and you are questioned in your constituency, surely, you will be unable to defend yourself. There will be no sensible Kenyan to whom you can speak and he or she listens to you and defends you; not even your wife. She will not defend you. I cannot understand this issue. So, the easiest thing for us to do is actually request the Minister to abandon this idea of trying to create a crisis in own consciences. This is not a proper thing, but if that is the way he will seek solutions to problems, then we must reject the Motion for no other reason other than the fact that we see it as defeating the purpose of promoting the rights of women. We cannot join in that effort. All of us here; whenever we speak on some other debates in this same House, we keep remembering that women constitute 51.5 per cent of the population of the Republic of Kenya. Therefore, if we will have a developed nation called Kenya, women must have an equal opportunity. They should not have one-third, but half opportunity. We must come to that target where half of the opportunities are taken by women. That is how all the developed nations are. No nation can develop on the basis of half the population. You must utilise the whole population, which includes women. We had taken a step forward and now we are being told to take a step backwards. Is the Government not ashamed really? Would it not be ashamed to ask us to take two steps backwards after we had already taken a step forward? Anybody with a clear conscience and a proper mind, would not agree to do so. This is not logical.

Finally, let me say that the East Africans, whom we want to impress and with whom we want to work, will not take us seriously. Let me repeat what the hon. Member for Mwingi South said, that we will really look very silly in front of our colleagues in the East African Legislative Assembly. The way in which we have behaved, they will never take us seriously. They will say that we have some other principles which guide us and not reason. This is because if you were guided by reason, you would not have made a decision two weeks ago and then reversed it, above all, on a matter of principle such as this one. So, we are presenting Kenyans in a very bad light, in the eyes of the East African Community and in the eyes of the Governments of East Africa. In fact, we are disgracing the very Government which we are pretending to represent. We are actually disgracing it, because this Government will now be identified as one which does not want to support the principle of helping women, and yet they keep saying in international conferences, in Nairobi, and everywhere that they want to support women. Who will believe you? Truly, nobody! In any case, when you ask them why they want to do it, they only say "because they could not reach at an agreement." Why could they not reach at an agreement? Nobody knows, and we do not know! So, even the question as to why they could not reach at an agreement was never ever explained to the House Business Committee of this Parliament.

Mr. Deputy Speaker, Sir, as a Member of that Committee, I want to say that, that Committee is not unanimous in this Motion. Indeed, the bulk of us are hostile towards it. We are not even party to the drafting of that particular Motion which is now before this House. So, it is not a Motion originating from the House Business Committee; it is a Motion originating from KANU, simple and square! It comes from KANU, not from the House Business Committee! So, we have already rejected it, and we shall actually reject it again in this House! If you want to bulldoze it through the House so that you can do something wrong, since you are used to doing so many wrongs and crimes, you can continue, but we will reject it!

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

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Speaker, Sir, I am very much surprised that this substantive issue is now degenerating into an accusation of one party against another. One party is trying to give the impression that it is much more virtuous; that it has much more support for women as opposed to others.

Mr. Deputy Speaker, Sir, I want to inform this House that we would not be discussing this matter today, if indeed, the initial proposition that had been brought here by the Minister for Trade and Industry, had been agreed to. Some of you are now denouncing what we had earlier agreed on. You will recall that Mr. Biwott's first proposal on the method of electing Members to the East African Legislative Assembly, was that, let us really do an actual election. Let

the members who want to be elected come here, and let us, therefore, vote them on the basis of merit. That is what the Minister had stated. The whole principle underlying that - let us not turn around - was that, indeed, those who were going to represent us in the East African Assembly will not go there as members of the Democratic Party of Kenya, FORD(K) or KANU, they will be there representing Kenyans. That is what we wanted. Therefore, I am very much surprised when some of the hon. Members are against this presentation of Members. Had we decided that the matter be discussed by the House, in terms of the nomination, this could have been done very easily. But some hon. Members refused and insisted that every party brings its nominees here. The moment we decided on that, we turned the whole process into an extremely political exercise. Let us face it. If indeed, we cared for the women, we should have come and nominated them here. That is the fact, whether people laugh around, that is the basic truth. We should have done that. Some people say that they care so much for women, while out of the two candidates nominated by their parties only one is a woman. Why do you not have all of them as women?

Hon. Members: Aaah! Aaah!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): You should have done that if you cared, instead of shedding crocodile tears here! Why shed crocodile tears?

(Loud consultations)

An hon. Member: The problem is on your own side! You are now forgetting the whole idea!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Forget it! I want to say this; the KANU Government is clear in the manner in which it has handled women issues.

An hon. Member: Where?

The Vice-President and Minister for Home Affairs (Prof. Saitoti) Mr. Deputy Speaker, Sir, you only need to see the extent to which we are moving towards ensuring that women are more empowered. In the universities we have women professors, but we intend to increase their number to ensure that more power is given to them. The President has appointed more women into such portfolios as Permanent Secretaries. Women have also been appointed as judges. Of course, we want more women to come in. We are on the move! More women have also been appointed in other sectors. So, the rhetoric that women are being subjected to discrimination here, is nothing but politics. Cheap politics!

Mr. Deputy Speaker, Sir, I want to say that the Treaty was very clear. We must admit one thing, that when the Treaty was formulated, we had to ensure that there was inherent flexibility. There is no doubt that those who drafted that Treaty did recognise that, extraordinary circumstances could occur and they should be handled as they rise. An example of such circumstances is the difficulty we are facing today. I want to say this: Officially, the nine names have not yet been submitted to this House, but it is a well-known fact today---

(Loud consultations)

Mr. Deputy Speaker: Order! You should not consult loudly!

The Vice-President and Minister for Home Affairs (Prof. Saitoti) Mr. Deputy Speaker, Sir, I was saying that, it is, indeed true, that the names have not been submitted officially before this House. At the same time, we cannot ignore what is in the public domain. What is in the public domain is that there are nine people who have been nominated by various political parties to go to the East African Legislative Assembly. Each one of these nominees knows this, and so do other people.

Mr. Deputy Speaker, Sir, what I think is the difficulty here is the issue of being pragmatic. I am fairly gender sensitive.

An hon. Member: But women know that you are not! They are the ones to judge that better!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): I am sorry. Irrespective of whatever women say, I have always been gender sensitive. I believe that we have a problem today. We have nominated nine people and their names are well known. Now, who do we really remove from the list?

An hon. Member: One Member from the KANU list of nominees!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Speaker, Sir, I want to be frank here. We have tried to ask each and every one on the list of nominees to volunteer so that we can remove his name, but each one of them has said: "Look, I have got an equal opportunity like everybody else." They have said that: "If you remove my name, I will sue you for discriminating against me." That is the difficulty we have today. So, what

we are saying is that, that has nothing to do with being anti-women. We have this problem, let us find a mechanism to solve it. Indeed, laws are made by men and women, to serve certain purposes. If you get to a situation, where, indeed, you cannot exercise the practicality which is demanded, then you can use common sense.

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

Mr. Deputy Speaker: Under which Standing Order, Mr. Murathe?

Mr. Murathe: Under Standing Order 88(2). The Vice-President is deliberately misleading this House! There is nobody who has properly been nominated to the East African Legislative Assembly until the House Business Committee does so. So, there is nobody who can sue anybody!

Mr. Deputy Speaker: Order! Order! You know, when you come late to the House, try to find out what has been ruled upon. The Chair had already ruled that there is no list of nominees before this House.

(Loud consultations)

An hon. Member: We know they have already been nominated!

Mr. Deputy Speaker: Order! Order! There are only numbers! There is a difference between numbers and nominees.

Hon. Members: We even know those names on the list of numbers!

Mr. Deputy Speaker: Order! Order! You are not going to take numbers to the East African Community, you are only going to take people.

(Loud consultations)

Do you want chaos or order?

Hon. Members: We want order!

Mr. Deputy Speaker: Then you should stop your arguments! Stop those arguments!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Speaker, Sir, I will not refer to what the hon. Member has said. Clearly, for some reasons, he is worked up and I sympathise with him. I would like to say that we are now at a point---

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. The Chair will remember that last time, when we asked why KANU had not nominated women, the Vice-President and Minister for Home Affairs said that I was asking a bizarre question.

Mr. Deputy Speaker: Order! That is not a point of order, but a question!

Mr. Murathe: Mr. Deputy Speaker, Sir, you should ask him to stop misleading the House!

Mr. Deputy Speaker: Order, Mr. Murathe! The Chair is in a very good mood today!

Proceed, Prof. Saitoti!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Thank you very much, Mr. Deputy Speaker, Sir. Let me not refer to what the hon. Member has said. I would also like to bring to the attention of this House the fact that, as things are, if, indeed, we would have had sufficient time, I would have agreed to the fact that we go for more consultations in order to nominate more women. Unfortunately, as things are today, perhaps tomorrow will be the last day when we should submit KANU's nominees to the East African Legislative Assembly. The biggest shame will be when the Members appear before the East African Legislative Assembly on the 29th of this month or early next week in order to be acquainted with the work they will be expected to do there only to find that we do not have anybody to represent us. Putting that aside, it will be a shame when the Assembly will be inaugurated on the 30th of this month, but because of our wrangles, we go there and say that we could not find a way in which one man could be replaced by a lady. We should be sober as we debate this Motion. We have this problem, which is temporary. If we are short of one woman, but we have a man, will he not represent Kenya in the East African Legislative Assembly?

Hon. Members: No! No!

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Speaker, Sir, let me inform these hon. Members that I am a former Member of the East African Legislative Assembly, and I know the debates which take place there. The debate will not be whether one is a man or a woman, neither will it be on whether one is a member of DP or another political party. The debate will be discussion of fundamental issues. There will be no problem as long as the Members who will be nominated to this Assembly will be Kenyans. Let us avoid drawing whoever will be nominated to the East African Legislative Assembly to take partisan position today because they will go there as Kenyans. These Members will discuss important and fundamental issues which touch on trade and economies. They will discuss issues between the East African Community and other regional organisations. I would like to say that petty issues, such as political parties, will not arise. Questions such as: "Has your party been doing

better in Parliament or does your party care more for women?" will not arise. I would like to inform the hon. Members that those issues will not be raised at the Assembly. If you think about them, you are day-dreaming.

What we are trying to do here is not a discriminatory action. We are solving a problem today because time is against us.

Mr. Gatabaki: On a point of order, Mr. Deputy Speaker, Sir. I rise under Standing Order No.88(2). Is it in order for the Vice-President and Minister for Home Affairs to keep on misleading this House by saying how they are gender-sensitive, while we know and we have seen it in public places or gatherings that none of them, and even the President himself, is ever accompanied by his wife?

(Laughter)

Mr. Deputy Speaker: Order! Hon. Gatabaki, that is a very good try! Next time, you will probably get it accurately!

Proceed, Prof. Saitoti!

The Vice President and Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Speaker, Sir, I think I am almost coming to the end of my contribution. I would like to say that the passage of this Motion is not meant to hurt the women of Kenya. All of us believe in the empowerment of women economically. We also believe in the involvement of women in decision-making. But, frankly, I do not believe that, because we are 22 per cent, as it is the case today, this will fundamentally change the contribution the Kenyan team will make to the East African Legislative Assembly. We are in a difficult situation today, and we have got to surmount it. I wish we had more time. We are dealing with a pragmatic issue and let us see how we will tackle it.

Finally, I would like to say that even the European Union Parliament does not have one-third of women Members. I would also like to say that the House of Commons does not have one-third of women Members. But more important, these legislations are not even in place. I think what is important is to change the attitude of men over time. We should change the traditions that cannot be legislated.

Mr. Deputy Speaker, Sir, with these few remarks, I would like to beg all hon. Members to vote for this amendment and send the Kenyan team to Arusha to represent the country and be sworn in on 30th November, 2001.

Dr. Kituyi: Thank you very much, Mr. Deputy Speaker, Sir. When I first saw the Supplementary Order Paper this afternoon, I got angry, annoyed and felt offended that we were being petty and childish. But I had to struggle to overcome anger and try to listen to the reasoning of those behind the Supplementary Order Paper. I have tried to listen to them and glean the words they are using to get some substance of statements by honourable men and women.

(Mr. Biwott consulted with Mr. Osundwa)

Mr. Deputy Speaker: Order!

An hon. Member: Order, Mr. Biwott!

Dr. Kituyi: Mr. Deputy Speaker, Sir, from my gleaning, what have I found? I have heard the Vice-President tell us that all this is politics and it is urgent. The Minister for Trade and Industry has also told us that this is about women escorting men. In fact, he even gave the number of wives who will go to Arusha. I controlled myself from losing my temper. When I listened further, I heard him say that all this is politics with other parties. I would like to agree with Prof. Saitoti, who is an eminently learned person, who said that all this is politics. I would like to say that this is not politics of the National Assembly of Kenya or politics of the East African Legislative Assembly representation, but it is factional politics within a political party which cannot execute its responsibility.

(Applause)

A party is given a mandate to execute certain things, under what I consider and agree with Mr. Biwott, a very poor piece of legislation or rules. They appropriate that responsibility and their factional in-fighting cannot allow them to sort out their problems, which they impose on the House and pretend that this is politics from the Opposition.

Hon. Members: Shame! Shame!

Dr. Kituyi: Mr. Deputy Speaker, Sir, I will round off my contribution by saying why this is not even KANU politics. This is factional politics. My final submission will be that the women of Kenya; the women that KANU can look at, are being sacrificed at the pedestal where the KANU candidates from Western Province were being sacrificed.

Mr. Deputy Speaker, Sir, but let me start here to go to that point. The day before yesterday, I enjoyed a rare privilege to address hon. Members of Uganda National Assembly. In my contribution, I said if East Africa is going to

move---

(Loud consultations)

Mr. Deputy Speaker, Sir, save me from my colleagues who are consulting rather loudly!

Mr. Deputy Speaker: Hon. Members are consulting in a language you cannot understand, but they are not consulting loudly.

Dr. Kituyi: Mr. Deputy Speaker, Sir, my argument is that if we have a vision of greater merging of East Africa, we must start working towards institutions that are congruent; comparable institutions and practices and acceptable minimum standards of culture and ethics; and that Kenya can stand on a higher ground compared to Uganda on the matter of political infrastructure; that we can claim that multipartyism is better than single-party under any name. Not only did we get a very positive appraisal from our colleagues, but the dominant mainstream media of Uganda carried editorials yesterday saying Uganda should listen to Kenya. If Kenya is practising multipartyism, and we want to have common standards, we must listen to Kenya and Tanzania. On the basis of that, if we, as Kenyans, want to say that we want common standards with Uganda and Tanzania, we should look at what they are practising. What are the minimum decencies they are displaying? Do we stand taller or shorter than them, if we are succumbing to petty competitions and polluting the contents of the persons we send to Arusha?

Tanzania has elected nine members to go to Arusha, including three very eminently qualified ladies, and other very eminently qualified persons, like Dr. Marandu, the leader of NCCR-Mageuzi whose party is not even in Parliament. The Tanzanian Parliament, in their collective wisdom, saw that the value of having Dr. Marandu in Arusha was much larger than their hatred of his political party. They did this soon after defeating him in an election; when the wounds were still raw! The majority of those people who are choosing Dr. Marandu are CCM members. They showed a capacity for humility; a capacity to rise over pettiness and define the national interest and prosecute it.

Mr. Deputy Speaker, Sir, we are told that this matter is urgent. It is ridiculous! This Government, through the Minister in charge of Trade and Regional Co-operation, signed an understanding with Tanzania and Uganda. They made an undertaking that the nine members of the East African Legislative Assembly from Kenya would be availed by 30th October, 2001. Not Tuesday next week, but 30th October, 2001.

Mr. Deputy Speaker, Sir, I have had the privilege of being in a meeting you chaired, where this Government confirmed that it was going to adhere to that timetable; that it would be ready by the 30th October, 2001, not Tuesday next week. If this Government thinks this matter is urgent and does not see the assault it is causing Kenyans by saying: "Because we cannot agree about which man should be dropped and have a woman, we should rush quickly and have men anyway and send them to Arusha next week", it is sad. It is possible for eight members of the Kenya delegation to be sworn in next week as Kenya continues to deliberate on an additional member who is a woman to come later. The experiences of collective swearing in are not as important as the principle of fairness on gender rights.

(Applause)

Mr. Deputy Speaker, Sir, I stood before this august Assembly to contribute to a matter which the Leader of Government Business has just been seized with a few moments ago. He said, "We had a better draft for the rules of election and because you were fearing, you refused it". What is he saying? He says, "we wanted very good rules that would have been very democratic, but you refused them. Now, because you refused them, we can even dilute further the poorer rules that you wanted". There are some eminently learned lawyers on that side and some of them are jurisprudential positivists. They believe that certain incremental amendment should be directed towards a certain goal. But if you say: "We are proud we had brought something very good and what you have now is weak and it is weak because you contributed to it," that cannot be the basis for you to argue: "Now let us have something even weaker." It should be the base of arguing: "Let us get something better".

Mr. Deputy Speaker, Sir, I listened to the Minister in charge of regional co-operation. Do you know what he said? He said: "When we remove this quota thing, we will allow for even many more women to go in." That argument, even in primary school, cannot win. This is because if you want to increase the number of women who go to the East African Legislative Assembly, you do not remove the benchmark minimum requirement, but you remove the upper limit. If there was an upper ceiling that you cannot have more than four women and Mr. Biwott is arguing to remove it, he will make sense. But to say that you want to remove the minimum ceiling as a way of increasing the numbers, it is an insult, not only on logic, but even in English language. But you know, my friend, hon. Biwott, as usual meant well.

Mr. Deputy Speaker, Sir, I want to round off now on two basic lines. When hon. Biwott said that women will be going to Arusha to escort men, he was not totally wrong. Some hon. Members here may not know that the Minister who is responsible for East African Community affairs is a member of the East African Parliament. Some hon.

Members here do not know that hon. Biwott is a member of the East Africa Legislative Assembly. For if you know that and you know that Dr. Kamar is his wife and sees her walking with him to the Parliament, he feels that all women are walking with their husbands to escort them! We were wondering why he was having problems calling women wives and seeing hon. ladies who are going to Arusha as escorting men. It is domesticated consciousness. We can sympathise with him, but we must reject it. We can understand him, but we must reject him.

Mr. Deputy Speaker, Sir, I started off by saying this: Battles which have nothing to do with this National Assembly, because of want for machinery of resolving them, are being spread to waste the time of this House. We have critical Bills that are pending before this House. We have the Coffee Bill, the Sugar Bill and the Statute Law (Miscellaneous Amendments) Bill. There is so much business to be done before Christmas. We are sacrificing a whole day because KANU, just like it could not count last year in constitutional amendment from one to 13, now it cannot count from one to five. Even once, it cannot count women from one to two. What is it about? I am not appealing to KANU; I am appealing to hon. Members of the National Assembly of Kenya: "Refuse being used in the name of a party for factional fights." There are some of you there who see the outrage in what is being brought before this House. You know that it is not a KANU agenda; you know it is disgraceful to the National Assembly of Kenya. Do not allow those factions who want ascendancy to use the name of the party to intimidate you to do something wrong. Do not allow those who see the simple interest of creating vestiges to fight hon. Simon Nyachae to use you to fight their battles. Do not allow some of those old guards in KANU to use you to fight their battles. These are not your wars! These are not KANU wars! The ruling party KANU has very consistent persons there. I see some of those persons who can be serious players in the national politics of this country. But at the dawn of the 21st Century, at the foot camp of this new mountain, we cannot pretend that more than half of the National Assembly of Kenya is so profidious, that it cannot see the outrage of saying: "Because we could not agree on which of these men to drop and put there a woman, therefore, let us go to Parliament and change the rules". What is the purpose of rules? Rules are not an expediency, that if they do not suit you, you change them. That happened under Communism and the monolithic period, but today, as a House, can we not show some decency? Can we not refuse this retroactive cocoons within KANU? To pretend that this cocoon's bad manners is our collective bad manners, how can we face the women of Kenya? That because some people could not accept that a certain man be dropped, the National Assembly of Kenya went ahead to change the rules to suit their conveniences. I would like to end by begging---

Mr. Katuku: On a point of order, Mr. Deputy Speaker, Sir. Pursuant to Standing Order No.8, in view of the good contribution made by Dr. Kituyi, and, in view of the time factor, I would like to call upon the Mover, this time not to respond, but to withdraw the Motion. We are wasting time and yet this House has other serious business to do.

Mr. Deputy Speaker: Order! Standing Order No.8 does not give you such powers!
Proceed, Dr. Kituyi!

Dr. Kituyi: Mr. Deputy Speaker, Sir, I am appealing to reason. I am appealing to a sense of being national leaders; our individual consciences as hon. Members of the National Assembly of Kenya, not our parties. There is no partisan position in suppression of gender. It is individual factions and cocoons who want to force their views on others.

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. We have now all understood what "they" are about to do. Would I be in order to move that the Mover now be called upon to reply?

Mr. Deputy Speaker: Order! This is a very important Motion, and I think it is only fair that I allow a few more hon. Members, particularly those representing various parties in the House, to express their views.
Proceed, Dr. Kituyi!

Dr. Kituyi: Mr. Deputy Speaker, Sir, I would like to conclude the way I started. When there was competition between Mr. Kangwana and Mr. Mwinamo, the dynamics had nothing to do with Kisii and Luhyas. The dynamics were: Which faction should demonstrate ascendancy? Mr. Mwinamo was canon fodder in that struggle. That is a small sacrifice. But when in such factional fights you sacrifice the women of Kenya and the gender sense of Kenyan society because some small group of persons want to show that they can still control things, you hurt your dignity and the dignity of the National Assembly of Kenya. Please, use your conscience to reject this primitive proposal.

I beg to oppose.

The Minister for Public Health (Prof. Ongeri): Mr. Deputy Speaker, Sir, I stand here to support this Motion.

Hon. Members: No! no! no!

The Minister for Public Health (Prof. Ongeri): Mr. Deputy Speaker, Sir, I can see the opposite side of the House is excited, and they have a right within their limits to be excited as long as they do not get so excited, for me to hospitalise them. I would like to ask them to maintain their cool.

Mr. Deputy Speaker, Sir, I think we must be practical and analyse what we are just about to do in this House. I appreciate the eloquence with which some hon. Members have amicably expressed their views. I only wish they took

an extra minute to analyse what the East African Legislative Assembly Treaty says. Then, we will be on an equal footing. But they have taken one aspect of the Treaty, slanted the debate along that aspect, at the top exclusion of all other points that have been clearly initiated in the Treaty.

Mr. Deputy Speaker, Sir, the East African Legislative Assembly Treaty, in advising national legislatures, has clearly absorbed this matter and come out with what I think is the practice worldwide. The practice is to try and accommodate gender. In every debate and, certainly in most of the debates I have attended internationally, that has been the practice. What is currently being practised on the ground is not what is being said in public utterances. The East African Legislative Assembly Treaty says:-

"In electing the nine Members of the Assembly, they shall as much as it is feasible, consider the various political parties".

So, we have looked at the feasibility of accommodating as many political parties as possible.

Mr. Deputy Speaker: Order, Prof. Onger! We are discussing the rules!

The Minister for Public Health (Prof. Onger): Mr. Deputy Speaker, Sir, I am just laying my foundation.

Mr. Deputy Speaker: Order! The actual East African Legislative Assembly Treaty is not an issue. It has given us powers to make rules and hon. Members are objecting to the amendment of the rules. Let us get it straight!

The Minister for Public Health (Prof. Onger): Mr. Deputy Speaker, Sir, I am laying my ground for my contribution. I will come to the rules later on. Please, give indulgence to what I am trying to do.

Mr. Deputy Speaker: Order, Prof. Onger! That point has been made many times. I can stop you from proceeding, for repetition!

The Minister for Public Health (Prof. Onger): Mr. Deputy Speaker, Sir, the issue is about gender. The Treaty does not only talk about gender. It talks about shades of opinion and other special interests. That is why I am referring to the Treaty. The gender issue is only part of the issues that constitute the Treaty. In considering our rules, we cannot just consider one part of that Treaty and magnify it at the expense of other opinions that have been expressed in that Treaty. Therefore, my understanding is that the rules cannot be superior to the Treaty. We all agree that the rules are made to enable us to perform the duties that have been prescribed by the Treaty. In formulating our rules to nominate the nine Members, we have not taken into account the other shades of opinion that will give us a holistic approach to the appointment of the nine hon. Members of Parliament. We are in a crisis, and I entirely disagree with hon. Members who want to ventilate views to the effect that, there is a faction in KANU which is trying to vent its thinking through this Motion. It is utterly wrong and inconceivable that somebody should be able to reach that level of thinking.

Mr. Deputy Speaker, Sir, it is quite clear that we are electing nine Kenyans to the East African Legislative Assembly. Rome was not built in a day and neither does one step negate the completion of a mile. The first step is always a critical step and we have made that first step. Having made that first step, we must be given the level of flexibility in order to deal with the matter at hand. There is no doubt in our minds that, come next week, the nine hon. Members from Kenya will be required to be sworn in. We have already taken the first step to do our nominations. There may be some acrimony here and there about the number of women to be represented, albeit we have made a step and we have moved closer to where we shall be. I would like to plead with hon. Members, that having reached this level, there is a great degree of understanding required at this stage. Nobody is greater or smaller than the other, be it a lady or a man. I think, having made that critical step, it is important that we also take that into consideration.

I would like to plead with hon. Members, on both sides of the House, that having reached that far, could we, like good ladies and gentlemen of this House, accept this amendment? It is a good beginning, which points to the future and, therefore, we have the flexibility to account for our actions. There is nothing wrong about this and we should not get excited about it. Everybody is qualified in his or her own right, and there should be no discrimination. First, it is also too late to do anything else beyond what is available to us and, secondly, one other point which the Opposition hon. Members may have lost sight of is that talking of one-third of the hon. Members of the East African Legislative Assembly does not at any stage refer to one-third of the nominees from KANU, DP, NDP and FORD(K). It says that one-third of the Members of the East African Legislative Assembly should be women. Therefore, you cannot apportion blame to KANU and remain clean and become the champions of the rights of the women of Kenya! We are equally champions of the rights of the women of Kenya. In fact, we have demonstrated better will and resolve in accommodating women in every sphere of our lives; be it in medical life, Civil Service or colleges and universities. We have done extremely well. I do not think we want to dilute the good that we have done so far, to the extent that we want to be subject to the parochial thinking of some of the Members of Parliament who have spoken along that line.

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. Are you satisfied that hon. Prof. Onger is not imputing bad motives on the hon. Members of this House, particularly on the Democratic Party of Kenya (DP) which has appointed a lady and a man?

Mr. Deputy Speaker: Order, hon. Mwenje! If the DP has come up with a lady and a man, I think the hon. Members have the right to complain. But, if you have appointed a lady and a gentleman, it would be a different story!

The Minister for Public Health (Prof. Onger): Mr. Deputy Speaker, Sir, there would be absolutely no harm for my friend to exonerate himself by appointing another lady. That is within the rules of this game. It is within the rules of this House that any party can nominate a lady. It is not a preserve of KANU alone or any other party. Any political party that has a chance to nominate women can nominate all of them. There is no hard rule about it. I think this particular rule which we want to amend will give us the flexibility, such that tomorrow, KANU might want to nominate women to all the positions, as we have always done. We are not fearful of that position. The hon. Members on the opposite side know it very well, but they do not want to admit it because they have a political agenda. They want to project KANU as anti-women!

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

The Minister for Public Health (Prof. Onger): I do not need your information! I am well informed! Let us not bring in things that will tie us down. Let us make a move towards the right direction. This morning, during the meeting of the House Business Committee, we all agreed! There was nobody who disagreed! Hon. Kibaki may not have been in that meeting but we all agreed!

[The Minister for Public Health]

Therefore, there was no such thing as a disagreement!

Mr. Kibaki: On a point of order, Mr. Deputy Speaker, Sir. I appreciate the fact that the hon. Member is trying to cleanse himself. But it is not possible by using Mr. Kibaki's name! This matter has been debated in three or four House Business Committee meetings. So, he cannot now pretend as to the position we took. At no time did we support the mischief which they are trying to bring now!

The Minister for Public Health (Prof. Onger): Mr. Deputy Speaker, Sir, if those are the sentiments of hon. Kibaki on this matter, indeed, those sentiments were expressed this morning. It is a pity that he was not there but they were expressed; that we come with this amendment to this House. Therefore, his opinion cannot override the opinions of the other Members of the House Business Committee. Let us be decent about this matter so that we can move. Therefore, I would like to appeal to this House that we move in a deliberate manner and make progress by accepting these amendments, so that we can be able to nominate the nine Members to the East African Legislative Assembly.

With those few remarks, I beg to support this Motion very strongly.

Mrs. Sinyo: Mr. Deputy Speaker, Sir, I rise to oppose this Motion. We have heard so much for and against this Motion, such that at this point, I do not have much to say. I just want my voice to be heard.

Mr. Deputy Speaker, Sir, we are not going to be influenced here; that the time is short and that these hon. Members are supposed to be sworn in. These hon. Members have had all the time but now they are cunningly and maliciously trying to hijack us this afternoon by bringing these amendments, because they know that hon. Members are planning to leave for their constituencies. The hon. Members from the Government side have ganged up to come and pass this Motion. This is malice! It is a pity that hon. Members of Parliament are playing this game.

Mr. Deputy Speaker, Sir, about 11 years ago, and the hon. Vice-President and Minister for Home Affairs is aware, we hosted the United Nations Conference on the equal opportunities and justice for women globally, let alone regionally. Today, the Vice-President and Minister for Home Affairs is standing here to oppose that very Platform of Action! From the international realm, it is sad and criminal to do this.

Mr. Deputy Speaker, Sir, I do not want to be offensive but this scenario is like when there is a bad thing which you do not want - and there are many bad things. I imagine of sewage and vomit as bad things. Bad practice, culture and discrimination are bad things too. Ten years ago, we resolved that we do not want these bad things. Today, we are behaving like a dog that has vomited and is looking for that very vomit as a delicious meal.

If we are hon. Members of Parliament, standing for the voters of this country who elected us into this House, our girls, women and people with disabilities whom we deliberately ignored by saying political parties can choose to have a disabled person or not--- Political parties wilfully chose not to have a disabled person, and so, they are not represented. But when it comes to these rules, which we all passed soberly, we should think twice.

With those remarks, I oppose this Motion from the bottom of my heart. May God help this nation so that we do not make a mistake because he created man and woman equal in his image and likeness.

(Applause)

Mr. Muturi: Mr. Deputy Speaker, Sir, I rise to oppose this Motion very strongly. About a month ago, we passed these rules, and we all agreed that the rules as they were formulated, serve the interests of this country well. Today, neither the Minister who moved this amendment nor the hon. Members who are supporting this amendment, have told us in what way these rules cannot be operational.

Mr. Deputy Speaker, Sir, has anybody here said why we cannot be able to select one-third of women to

represent us in the East African Legislative Assembly? The answer is no! If, as explained, during negotiations and discussions for the formulation of the rules, we agreed that the political parties that had more than one slot would provide a slot for a woman, logic dictated that only two parties were capable of providing the two slots. Those two parties were the DP and KANU! So, we need not belabour the point. KANU should provide two women! I am happy that they have provided one. Since it is a matter that is within public domain, and that there were some protracted arguments about where the fifth candidate was to come from, I want to suggest that the region which got the slot for the fifth nominee from KANU should provide that woman! In the event that, that region is unable to do that, then the other region which was tussling with it should be given the slot to provide a woman! Even the man---

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. My region has got highly qualified women! So---

(Laughter)

Mr. Deputy Speaker: Order! Hon. Members, why are you only saying that women must be equal to men and not the other way round? Let **[Mr. Deputy Speaker]** the men be also equal to women for a change!

Proceed!

Mr. Muturi: Thank you, Mr. Deputy Speaker, Sir---

Mr. Muhiha: On a point of order, Mr. Deputy Speaker, Sir. In view of the fact that this debate has taken the right direction, under Standing Order No.81, would I be in order to ask that the Mover be now called upon to reply?

Mr. Deputy Speaker: Order, Mr. Muhiha! That point had been raised before! So, if you were in the House, you should have heard it and my ruling; that, this is a matter of great importance. It is incumbent upon the Chair to give not only as many Members as possible an opportunity to contribute, but nearly all parties! That has not been reached yet!

Proceed!

Mr. Muturi: Mr. Deputy Speaker, Sir, I was saying that a lot has been said about Article 50, which gave guidance as to how each national legislature was to formulate the rules regarding how they are going to elect the nine Members to the Assembly. Pursuant to the guidelines which are in Article 50 - other considerations and special interests - we are not being told that the reason why KANU is unable to provide the second woman is because some certain special interests must be represented by that man who is taking a slot for the woman! The argument has been that the reason why we want to amend these rules is because we did not consider other guidelines, which are provided for.

(Mr. Shidiye consulted loudly)

Mr. Deputy Speaker: Order, Mr. Shidiye! You are supposed to be a Whip but you are most disorganised!

Mr. Muturi: Mr. Deputy Speaker, Sir, therefore, because in the propagation of those rules, we did give consideration to gender, special interests and political party affiliations, I see no reason today proffered as to why we should amend those rules. They have given consideration to all those guidelines provided for under Article 50 in the Treaty. Therefore, so that I can give an opportunity to other colleagues to speak, I want to conclude by saying that if we are voting with our conscience, we should all oppose this Motion.

Thank you.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I stand to oppose this Motion. Women of this country have been given a raw deal by the KANU Government! No nation can claim its position in the civilised world if 50 per cent of its population has been left out of decision-making positions. That has been the case for this country. First, I would like to take this opportunity to thank the DP. When we wrote to them and asked them to appoint a woman among their two slots, they did so. We thank them for that. We urge them to continue supporting the women's agenda in this country.

Mr. Deputy Speaker, Sir, it is obvious that what we are seeing today is what we have seen in the past. As far as women are concerned, KANU's mentality is very clear. It is what we are seeing in this House today. It is embarrassing to know what the Minister in charge of the East African Co-operation feels. He even said that they took everything into consideration. Other Members of this House have said that he decided, among other colleagues of his in the Cabinet, to pick one of his household members. We do know that, that is not the only one. We do not mind him appointing the other one, so that we could have the two of them! That will make the number that is required!

Mr. Deputy Speaker, Sir, we know that women---

(Mr. Shidiye consulted loudly)

Mr. Deputy Speaker: Order, Mr. Shidiye! In the last five minutes, that is the third time you are standing in the aisles and your Standing Orders state specifically that Members may not idle in the aisle. Let that be the last one.

An hon. Member: But he is a Whip!

Mr. Deputy Speaker: No, that is not how to whip! Let that be the last time!

Mrs. Ngilu: Mr. Deputy Speaker, Sir, this exercise makes a whole mockery of the nomination exercise. I just want to appeal, so that we are not laughed at and make a mockery of this exercise, that KANU, with five slots, should go back to the drawing board and nominate another woman. That way, we can have three women representing us next week. If it means that we will be late in giving in our names, let it be. We will only be joining Tanzania and Uganda for what they have done in the past.

Every time we go to conferences, women from Uganda, Tanzania and South Africa always ask us: "What is wrong with Kenyan men?" I ask the same question today. What is wrong with our current Cabinet today? The Cabinet does not have a single woman. When you meet as a Cabinet, do you not really feel embarrassed? Do you sit and take no views, aspirations and positions from women? Why is it that you make decisions without the women?

Recently, when President Moi appointed two women in the Civil Service, we really appreciated it. But he dropped two other women. The two women that he appointed come from his own backyard! What was wrong with Mrs. Margaret Githinji and Mrs. Masiga? I do believe that the Cabinet has to change. Whenever women are appointed, they should represent the whole nation and not certain areas.

With those few remarks, I beg to oppose the Motion.

Mr. Kajwang: Mr. Deputy Speaker, Sir, I stand to oppose this Motion. We must respect this House.

(Applause)

The Assistant Minister for Energy (Mr. Sasura): Wacha hiyo!

Mr. Deputy Speaker: Order, Mr. Sasura! You must not intervene between the Member on the Floor and the Chair.

Mr. Kajwang: Mr. Deputy Speaker, Sir, this is the National Assembly of the Republic of Kenya and when we make rules here, we are making laws. When we make laws, we do not make them today and change them tomorrow. That is not the nature of law. Law is expected to live for 100 years, if possible. We do not make laws out of whims. I remember that Mr. Imanyara was on the Chair that day and Messrs. Muite and Anyona fought so hard to change these rules. We also fought so hard to defeat them. We ran over them like a tractor, which is my symbol. But today, five days later or a week later, Mr. Muite is so happy that we are in this embarrassment because KANU has brought us back to change the rules which he fought so hard to put in place. Even if it is not a matter for women, just merely to think of changing these rules is embarrassing. Uganda and Tanzania are listening to us because they listen to the Kenyan radio and the budget. They read the *Daily Nation* and other papers from Kenya because of their proximity to us. They are interested in this matter. They are also listening to this debate. They are embarrassed that the Kenya Government and Kenya Parliament can pass a law today and change it tomorrow to please KANU and not only KANU, but a certain faction of KANU.

Mr. Deputy Speaker, Sir, I do not have to belabour this point. We are opposing any amendment, and even a comma will not be changed in these rules. KANU can go round and look for a proper woman; do away with one man, and put one woman there, so that we are proud that when this Parliament does something, we own it. We made these rules and we feel that these are our rules. How do we change them the next day? Even elders in the village do not make rules and change them the next day. How can this Parliament, made of intellectuals--- The Leader of Government Business is a professor; how does he make rules today and changes them tomorrow? We cannot accept anything like that.

The Vice-President and Minister for Home Affairs (Prof. Saitoti): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to invoke my name any time he talks? Could he leave my name alone right now?

(Laughter)

Mr. Deputy Speaker: Order! Order! Well, I think the hon. Member is co-operating with you!

Mr. Kajwang: Mr. Deputy Speaker, Sir, if KANU does not have a woman who is qualified enough, I can donate my wife who is a PhD holder.

Thank you.

(Laughter)

Mr. Waithaka: Thank you, Mr. Deputy Speaker, Sir. I also rise to oppose this Motion. I would be very brief because as has been stated by my learned friend, Mr. Kajwang, the Leader of Government Business is a professor of algebra. If we were talking about one-third and we go by the slots given to each political party, I want to dissent from what Prof. Ongeru said, that it is not a party issue. It is because five slots were given to KANU, two slots to the Democratic Party (DP), one slot to NDP, and one slot to FORD(K). If we apply our algebra, one-third of five will be 1.66 and because there is no 1.66 of a person, we round it to the nearest whole number, which is two. If you go to the slots given to the DP, one-third of two is 0.66 and because there is no person who is 0.66, you round it to the nearest whole number which is one. They have complied to the letter. If you go to one slot given to FORD(K), one-third of one is 0.33. When it is rounded to the nearest whole number it is zero. If we go to the NDP, the same scenario applies. They cannot nominate another member because we will go by the whole number. So, the ruling party, KANU, which has a Leader of Government Business who is a professor of algebra, should use their arithmetic and give us two women. They should not waste our time.

With those few remarks, I beg to oppose.

Capt. Ntwiga: Mr. Deputy Speaker, Sir, I stand here to oppose this Motion.

(Applause)

Mr. Deputy Speaker, Sir, I am a man of few words and this Motion must be defeated. This time, we should be debating the Coffee Bill because it is very important to us as coffee farmers. But we are here debating a very simple issue where the law states that one-third of the nominees to the East African Parliament must be women. I do not know what we are debating here. I would like to ask my party to go back, because there is time, and do something about this nomination. The majority of voters in this country, and especially in my constituency, are women. Women in Kenya and especially in my constituency have heard me talk here today, that I am in support of their occupying that seat in the East African Assembly. Practically, gender sensitivity dictates that we should consider women as equals when we come to this kind of affair. We should not overlook women at all in any aspect. It is even said that if you educate a woman, you have educated the whole world. If we expose a lady to the East African Assembly, that is another way of education. That is educating the whole world for that matter. Therefore, I support the nomination of another woman to make three, so that we do not become a laughing stock in the East African Assembly when it is assembled.

On my side, we have got some women nominees and others are elected, but I do not see them. I do not know why. They should be here to oppose this Motion at this crucial time. I am worried as to where they are.

Mr. Deputy Speaker, Sir, as I said, I am a man of few words. I have got one suggestion to make. The last nominee of KANU was a Mr. Kangwana and it was out of a lot of contest, and the fact that the wife of Mr. Kangwana is equally qualified, I am suggesting that we delete the name of Mr. Kangwana and insert in place thereof, that of Mrs. Kangwana or Mrs. Angwenyi to represent us in the East African Assembly.

Thank you.

(Laughter)

Mr. Kathangu: Asante, Bw. Naibu Spika. Kwanza ningetaka kuunga mkono maoni ya Bw. Ntwiga. Ikiwa KANU haina nia ya kuchagua bibi ya Bw. Biwott pekee yake katika Bunge la Afrika Mashariki, na kwa sababu ninajua kwamba Bw. Kangwana ni rafiki mkuu wa Bw. Biwott, basi itakuwa vizuri kama bibi ya Bw. Kangwana atachaguliwa pamoja na bibi ya Bw. Biwott. Ningetaka kulikumbusha Bunge hili kwamba muungano wa Afrika Mashariki ulizoroteka mwaka wa 1977, na jambo hili lilisababishwa na Kenya. Ikiwa tunapoanza muungano mwingine wa Afrika Mashariki, Kenya haiwezi kuchagua wawakilishi wake kwa muda unaofaa, hii inaonyesha kuwa bado tuna unafiki katika muungano wa Afrika Mashariki. Ni jambo la kusikitisha sana kwamba Kenya ilikuwa mojawapo ya nchi zilizofanya muungano kutawanyika. Tumekuwa na muda mrefu sana wa kuunga muungano wa Afrika Mashariki, lakini tunajua kwamba ni Kenya pekee yake ambayo haijamilishwa raia wake kuhusu muungano wa Afrika Mashariki. Nchi za Tanzania na Uganda zimefanya hivyo na mpaka sasa, ni Kenya ambayo haijateua Wajumbe wake.

(Loud consultations)

Mr. Deputy Speaker: Order! I seem to have a problem with hon. Members on my right-hand side who are

walking up and down the House. Please, this is an important Motion. Let us treat it with the seriousness it deserves.

Proceed.

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. May we now call upon the Mover to respond?

Mr. Deputy Speaker: I have already dealt with that point and I said clearly that I need to give an opportunity to at least one hon. Member from each party.

Proceed.

Mr. Kathangu: Bw. Naibu Spika, tangu niingie katika Bunge hili, kila Hoja imetengewa wakati wake. Kwa mara ya kwanza, nimeona Hoja ambayo haijatengewa wakati. Roho ambayo imedumishwa na upande wa Serikali ni kwamba tutaipotezea nchi hii wakati. Kwa hivyo, hii Hoja haijapewa wakati ili kwamba tushindwe kupata watuliwa leo na Jumane, ili wakati Bunge la Afrika Mashariki linapoapishwa, Kenya iwe bado haijateua. Kwa hivyo, ninaweza kuongea kwa masaa matatu ama siku mbili kuanzia sasa. Lakini kwa sababu singetaka kupoteza wakati wa nchi hii kama vile Bw. Biwott anataka tupoteze wakati, ninaweza kukubali kwamba kanuni No.30 ifuatwe lakini sio kabla ya kusema jambo moja.

Makundi yaliyo katika upande wa Serikali - na tunawaona - hayawezi kuleta biashara zao hapa ili tuzipeleke katika muungano wa Afrika Mashariki. Itakuwa vibaya kama tutazungumzia jina la Bw. Biwott hapa. Mnataka twende katika Bunge la Afrika Mashariki ili tuongee huko juu ya jina la bibi ya Bw. Biwott? Ninaona ni matusi makubwa kwamba Bw. Biwott hataki kuwe na mwanamke mwingine katika Bunge la Afrika Mashariki, isipokua bibi yake.

Mr. Deputy Speaker: Order! You should not start introducing things that you know should not be spoken here into the debate of this House, until and unless you have moved a Motion to discuss the hon. Member you are discussing. Hon. Kathangu, I will not allow that.

Mr. Kathangu: Bw. Naibu Spika, ninakushukuru kwa marekebisho ambayo umenipa--

The Minister for Trade and Industry (Mr. Biwott): On a point of order, Mr. Deputy Speaker, Sir. My Motion is very clear. It was tabled this afternoon.

Hon. Members: What is your point of order? Under which Standing Order?

*(Mr. Mwenje stood up in his place
and brandished the Standing Orders)*

Mr. Deputy Speaker: Order! I have been very lenient this afternoon because I felt that I should give every hon. Member an opportunity to participate in this debate and if there is a vote, they should be able to cast their vote. If you wanted me to apply those rules properly, I would have started right now by asking Mr. Mwenje to leave the chamber because he is not a warden that should pass papers to hon. Members.

Mr. Kathangu: Bw. Naibu Spika, ningetaka kumaliza kwa kusema kwamba jinsia ni jambo kubwa sana katika nchi hii. Tunaposema kwamba tuna akina mama 14 million---

The Assistant Minister for Environment and Natural Resources (Mr. Noor): On a point of order, Mr. Deputy Speaker, Sir. If you heard very well, Mr. Kathangu has imputed improper motives against Mr. Biwott, that---

Hon. Members: Under which Standing Order!

The Assistant Minister for Environment and Natural Resources (Mr. Noor): Standing Order No.74.

Mr. Kathangu said that Mr. Biwott did not want any other women to be nominated to the East African Assembly. Could he withdraw or substantiate those remarks?

Mr. Deputy Speaker: Order! Standing Order No.74 reads as follows: "No Member shall refer to any particular matter which is *sub judice* or to any matter which is in its nature secret."

So, Mr. Noor, I will not tolerate that kind of behaviour. You cannot bring trivialities into this House. I will, therefore, require you to leave the Chamber for the rest of the afternoon.

(Mr. Noor continued sitting in his place)

You are now a stranger in the House. If you do not move out, I will get the Serjeant-at-Arms to remove you.
Proceed.

(Mr. Noor withdrew from the Chamber)

Mr. Kathangu: Bw. Naibu Spika, nilikuwa nataka kumalizia kwa kusema kwamba jambo la jinsia katika Kenya ni jambo kubwa sana tunapojua kwamba akina mama ni karibu 14.5 milioni. Mimi katika FORD (A), siwezi kudhania ama kuota kwamba ndani ya jinsia, ni bibi yangu pekee yake.

Asante sana, Bw. Naibu Spika.

The Assistant Minister, Office of the President (Mr. Haji): Bw. Naibu Spika, asante sana kwa kunipatia nafasi hii. Ni jambo la ku--- Tafadhali tusitukanane. Ni jambo la kusikitisha ya kwamba wakati tunazungumza mambo muhimu kama haya, tunajaribu kuigiza watu wengine. Hii ni kwa sababu kama Tanzania na Uganda wamefanya mambo fulani, si lazima Kenya pia ifanye vile nchi kama hizo zimefanya.

Bw. Naibu Spika, jambo lingine ni kwamba kulikuwa na Mbunge mmoja ambaye alizungumza na akasema ya kwamba Serikali haipendi akina mama. Ninasimama kusema ya kwamba tunapenda akina mama kwa sababu ni akina mama wetu, mabibi zetu na usiku tunalala nao kwenye kitanda kimoja bila kuwa na chuki yoyote.

(Laughter)

Mrs. Mugo: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for you to allow the hon. Member to go on and bring matters of bedrooms in this hon. House, when we are discussing such important issues of representation in the East African Legislative Assembly?

Mr. Deputy Speaker: Order! I do not think the hon. Member has really stated what is not fairly obvious; that God ordained that man and woman shall be married, and that they shall be two in one.

(Laughter)

The Assistant Minister, Office of the President (Mr. Haji): Bw. Naibu Spika, mimi ninasema hivyo kwa sababu---

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

Mr. Deputy Speaker: It had better be a point of order!

Ms. Karua: Mr. Deputy Speaker, Sir, it is a point of order. This is because it is a sad day to allow the dignity of women to be insulted. For a Member to stand here and talk about men sleeping with women at night---

Mr. Deputy Speaker: Order! Hon. Haji, would you like to reverse your statement, so that women sleep with men?

The Assistant Minister, Office of the President (Mr. Haji): Bw. Naibu Spika, dada yangu hapa ndiye alisema Wabunge wa upande huu wa Serikali hawapendi akina mama, nami nataka kusema---

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

Mr. Deputy Speaker: Overruled! Proceed, hon. Haji!

The Assistant Minister, Office of the President (Mr. Haji): Bw. Naibu Spika, mimi ninasema hatuchukii wanawake kwa sababu wao ni sehemu moja ya sisi wanaume, na ni ukweli. Hata huyu dada yangu ana mtoto; lakini alimpata bila mwanamume? Si ni lazima alimpata na mwanamume! Do not put words into my mouth. Let me say what I want to say! Usijaribu kumlazimisha mtu kusema vile nyinyi mnavyotaka. Wacheni tuzungumze. Kwa hivyo---

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

Mr. Deputy Speaker: Order! Hon. Haji, when you said it for the first time, I took it as a joke, but when you repeat it twice or three times, it is no longer a joke. So, will you desist from using language that you see is clearly irritating some members of the House.

Ms. Karua: Wrong!

Mr. Deputy Speaker: Order! I was going to use an even better word, but I will take "derogatory" to some Members of the House.

The Assistant Minister, Office of the President (Mr. Haji): Bw. Naibu Spika, nakubaliana na wewe sana na nitafuata hivyo.

Ningauliza dada zangu pia wanipe amani, ili niweze kuzungumza kama vile wamezungumza. Wakati wao walikuwa wanazungumza, sisi tuliwapatia nafasi na wakazungumza vile walitaka. Mimi nataka kusema---

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. Since we have digressed from the subject at hand by talking about beds, sleeping and kids, would I be in order to call upon the Mover to reply?

(Applause)

Mr. Deputy Speaker: No!

The Assistant Minister, Office of the President (Mr. Haji): Bw. Naibu Spika, nataka kusema kwamba hakuna chuki baina ya Serikali na akina mama. Hii ni kwa sababu kama kuna Serikali tangu Kenya ipate Uhuru ambayo imepatia wanawake haki yao, nitasema ni Serikali ya siku ya leo. Hii ni kwa sababu mpaka wakati huu, wanashikilia mamlaka mengi sana na ni matumaini yetu ya kwamba sio tu hili jambo la kuenda kuwa Mbunge katika Bunge la Afrika Mashariki, bali kuna nafasi katika hiyo jumuiya za majaji wakuu wa Afrika Mashariki, na wanawake watapata nafasi pia katika hiyo. Watapata nafasi pia katika nyumba ya kazi ya Makatibu ambako bado kuna nafasi nyingi. Kwa hivyo, hakuna mambo ya kusema kwamba KANU eti hawapendi wanawake. Watu wa KANU wanapenda wanawake, wataendelea kuwapenda na kuwapatia nafasi. Hata nikisimama hivi, ninajua ya kwamba haitachukua muda mrefu kabla wanawake wengi kupata nafasi katika nchi yetu tukufu.

Bw. Naibu Spika, kwa hivyo, mimi naunga mkono mapendekezo ambayo yamefanywa, na nafikiria ya kwamba ni vizuri tuendelee vile Waziri ameshauri.

Naunga mkono.

Mr. Murathe: Mr. Deputy Speaker, Sir, you know we debated this issue here. Hon. Mrs. Mugo tried to insist that we put it specifically in the law; that we put one-third of women as Members of Parliament. However, KANU said that they would act in good faith. They said it was a question of honour and that they would give us two women. You can see the time. The Kenyan team is going to Arusha tomorrow and we shall not have finished this debate. There is a deliberate attempt to derail this debate, so that we end the business of the House to push it to next week.

Mr. Deputy Speaker, Sir, would I be in order to call upon the Mover to reply and tell us what he wants to do?

(Applause)

Mr. Deputy Speaker: No!

The Minister for Agriculture (Dr. Godana): Mr. Deputy Speaker, Sir--

Hon. Members: No!

Mr. Deputy Speaker: Order!

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. In view of the importance of this Motion and in consideration that it is now ten minutes to conclude this debate, and we would like to conclude it today, would I be in order to request the Members of Parliament to extend the time to 7 o'clock, so that we have time to vote?

Mr. Deputy Speaker: I will look into that.

The Minister for Agriculture (Dr. Godana): Mr. Deputy Speaker, Sir, I think on a subject of this importance, Members should not be out to stifle debate. I stand to support the Motion before the House. I consider, as many have said here, and, in particular, as hon. Ms. Karua argued very ably, that, indeed, this House did make a terrible mistake. Indeed, not one terrible mistake but two terrible mistakes. The first one was that the House was afraid, and particularly, the Opposition parties, to take the rules of democratic representation to the East African Legislative Assembly to its logical conclusion. Some of us wished that hon. Members who would represent Kenya in the Assembly would be elected on the Floor of this House. We wished that, indeed, candidates who were aspiring for those positions submitted their applications and were shortlisted in terms of complying with the internal rules of the House. Then, they would be given an opportunity to speak on the Floor of the House, if need be, as it had happened in Tanzania, when each candidate was called to the House to explain as to why he or she thought he or she was qualified to represent the country at that Assembly.

Mr. Deputy Speaker, Sir, unfortunately, hon. Members did not want that. I think that was the first terrible mistake that we made. We wanted to be in control; we wanted to decide alone, in anti-transparent manner, which individual should go. The second terrible mistake we made was that when we drafted the rules, whereas the relevant Article in the Treaty required us to respect, *inter alia*, the principle of fairness to every gender as far as is feasible; and no doubt the drafters of that Treaty had good reason for using that language, they did not want to pin down particular Parliaments to specific numbers. We added a phrase that at least one-third of the nominees of the parties were to be women. That is fine. But then, those who drafted these rules ought to have gone further to provide how that minimum number of one-third was to be assured.

Mr. Kombo: On a point of order, Mr. Deputy Speaker, Sir. After this lengthy debate, you will realise that under Standing Order No.87, the rest of hon. Members are just standing up and repeating what has been said before. Would I be in order to ask the Mover to respond to the debate?

(Applause)

The Minister for Agriculture (Dr. Godana): Mr. Deputy Speaker, Sir, the mistake, therefore, was made again when hon. Members decided to reject the first set of rules which have been presented by the Minister in charge for the EAC which, indeed, had provided for direct elections of Members to that Assembly in this House, and decided to hijack and make themselves draftsmen and draftswomen. That is when this phrase was inserted. As it is now, we are approaching the deadline and Rule 7 of the rules of procedure which follows Rule 6 does not envisage that we elect the Members of that Assembly piecemeal. It says that when the House Business Committee is satisfied, it shall lay on the Table of the House the nine names. Either, therefore, we submit nine names of those who have been nominated, knowing fully-well that we have not complied with the requirement of one-third representing women, or we revisit the rule---

Dr. Murungaru: On a point of order, Mr. Deputy Speaker, Sir. The last five speakers, either for or against the Motion, have been repeating themselves. There is no justification to carry on this debate. I request that the Mover be now called upon to reply.

(Applause)

Mr. Deputy Speaker: Order! Hon. Members, you know that the Chair must listen to all parties in the House.

Hon. Members: No! No!

Mr. Deputy Speaker: Order! As it is, I was just looking at the rules to see what I can do to bring this debate to a closure. Let me say that it does not do you any good, nor does it do me any good for about four hon. Members to stand up and say the same thing. Hon. Members, when I do want you to help me run the business of the House, I will ask you to do so. For the time being, I am running the business of the House because the Standing Orders have given me the mandate.

Proceed, Dr. Godana.

The Minister for Agriculture (Dr. Godana): Mr. Deputy Speaker, Sir, before I was interrupted by an argument which had already been laboured and belaboured; that, we were repeating ourselves, I was saying that when a rule is made, it is made for a certain specific purpose. If the law which has been passed by this House is unworkable, in practice, lawyers know that there are two ways of making them workable. Either the matter goes to court and the courts, through judicial interpretation, will bend the rules through seeking out the policy behind the legislation so as to arrive at a decision, or, if that fails, the person responsible - in this case Parliament - for drafting the rule that has proved to be unworkable has to get back the rule and decide to make it workable. That is what the Minister for EAC, Mr. Biwott, having found this situation close to the deadline, and we have not managed to make this rule workable, has come up with all good intentions to make sure that Kenya is not left behind, come the deadline of 30th this month. He has argued that if we cannot meet the figure of three - after all, it is not an obligation required by the Treaty - let us, then, change our own internal rule to make that rule workable, so that we can meet the deadline and our own representatives can be sworn in along with the other hon. Members of the East African Legislative Assembly.

With those few remarks, I beg to support.

Mr. Mwenje: Mr. Deputy Speaker, Sir, I hope you will allow us to proceed up to 7.00 p.m. because we would like to conclude this matter today. Also, this is because a team will be going to Tanzania tomorrow and we do not want them to be embarrassed when they find out that the Kenyan representatives in the Assembly are not there just because of a few "cocoon." The truth of the matter is that even under Standing Order No.42, the only way the Government side would have brought a Motion to change the rules is by filing a Motion that would rescind the first Motion that was passed here. Whatever we are doing now is wrong because there is no Motion to rescind the first one. So, the whole thing is illegal in front of this House. Even if this Motion is passed and concluded, we would still have to move to court and stop what is being done.

Some of us have just arrived from Uganda. Everybody in Uganda supports affirmative action, and we saw it. In Tanzania, we know that they have already done it. We are supposed to inaugurate the East African Legislative Assembly on 30th November, 2001, yet Kenya today is not ready. It is time now we told the small "cocoon" in KANU that they are not going to hold this House to ransom until their demands are met or that nothing will pass in this country or House until their demands are met. That is not right. The whole nation will condemn that "cocoon" of KANU which continues to hold this House or country to ransom and all those Ministers who have spoken for this Motion will remain condemned for life for speaking what is not in their minds and speaking with their stomachs and not with their heads. That is the position. It will never be---

Mr. Maitha: On a point of order, Mr. Deputy Speaker, Sir. I stand here as the Deputy Captain for Bunge FC and the 25 Members of Parliament who belong to the team who are travelling tomorrow to Arusha. If the debate is not concluded today, they will miss to vote on this Motion. I am appealing to the Chair to give us our constitutional rights, so that we can vote for this Motion today, by concluding the debate.

(Applause)

Mr. Deputy Speaker: Order! First of all, there is no law requiring all hon. Members to be present. That is what I would love to see; that this Chamber is full everyday when we are discussing issues. You play football as a very side issue. You cannot use football---

Hon. Members: He is appealing!

Mr. Deputy Speaker: Well, I do not think that there is anybody in this House who is more interested and keen in football than I am.

(Laughter)

Proceed, Mr. Mwenje.

Mr. Mwenje: Mr. Deputy Speaker, Sir, I would like to appeal to you to extend the time to 7.00 p.m. so that we have time to vote because we would like to---

The Assistant Minister for Local Government (Mr. Hashim): Mr. Deputy Speaker, Sir, we are in the month of Ramadhan, and some of us are fasting. So, the sitting hours of the House should not be extended beyond 6.30 p.m.

(Loud consultations)

Mr. Deputy Speaker: Order! Order! Hon. Members, I do not know what Standing Order you are using. Whether I will extend the sitting hours or not, that is my decision. I do not want appeals.

Mr. Mwenje: Mr. Deputy Speaker, Sir, this is the first time hon. Members are suggesting the closure of our business at the normal time when there is urgent business before the House. I do not understand the conspiracy that seems to favour one side of this House. That is not fair.

Mr. Deputy Speaker: Order! Order! Mr. Mwenje, the sitting hours of this House are governed by Standing Order No.17. It is only on an Allotted Day of a particular business that the Chair can extend the sitting hours to 7.00 p.m. On all other days, a Motion seeking the extension of sitting hours should be moved and approved earlier.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time for us to interrupt our business. The House is, therefore, adjourned until Tuesday, 26th November, 2001, at 2.30 p.m.

The House rose at 6.30 p.m.