

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 27th November, 2001

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

PROMOTION OF PROTOCOLS TO EAST AFRICAN CO-OPERATION TREATY

Mr. Kihoro: Mr. Speaker, Sir, I beg to give notice of the following Motion.

THAT, taking into account the historic quest for closer East African co-operation between Kenya, Uganda and Tanzania, which has manifested itself in the East African Community I and II; aware of the desire of the three East African countries to achieve greater association and unity leading to a federation; accepting that a better future for all East Africans lies in a durable federation, this House urges the Kenya Government to promote protocols to the Treaty for East African Co-operation to provide for:-

- (a) an East African citizenship;
- (b) a common voters role with equitable delineation of constituencies leading to the first general election in East Africa; and,
- (c) the establishment of an East African Federal Government.

ORAL ANSWERS TO QUESTIONS

Question No.420

SUB-DIVISION OF TULIMANI DIVISION

Mr. Kalulu alimuuliza Waziri wa Nchi, Afisi ya Rais:-

- (a) kama anafahamu kuwa Tarafa ya Tulimani inasimamiwa na DO mmoja, chifu mmoja na diwani mmoja; na,
- (b) ni lini Waziri atagawa

sehemu hii katika vijiji viwili.

The Assistant Minister, Office of the President (Mr. Samoei): Bw. Spika, ninaomba kujibu.

(a) Ndio, ninafahamu kwamba Tarafa ya Tulimani inasimamiwa na district officer (DO) mmoja, chifu mmoja na diwani mmoja.

(b) Tarafa ya Tulimani itagawanywa katika vijiji viwili kulingana na mipango ya Serikali.

Mr. Kalulu: Bw. Spika, ninafikiri kwamba Waziri Msaidizi haelewi idadi ya wananchi wanaoishi katika Tarafa ya Tulimani. Angalitwambia ni lini tarafa hii itagawanywa. Amesema itagawanywa katika vijiji viwili, lakini tunataka kujua ni lini itagawanywa.

Mr. Samoei: Bw. Spika, ninajua kwamba zaidi ya watu 36,000 wanaishi katika Tarafa ya Tulimani. Nimewahi kupata mapendekezo kutoka lokesheni, divisheni na pia Wilaya ya Makueni. Kwa hivyo, jambo hili ninaliangalia na pengine nikipata pesa katika mwaka ujao, nitaweza kuigawanya tarafa hii.

Mr. Shitanda: Mr. Speaker, Sir, the Assistant Minister has told us that we have a population of 36,000 people in this division. Could he tell us the population requirement for the creation of divisions in this country?

Mr. Samoei: Mr. Speaker, Sir, there are no specific figures. I should have added here that Tulimani Division

occupies an area of about 126,000 square kilometres. So, we take into consideration various factors, among them the population, the size of the area and recommendations by the area residents, for us to make a decision on whether to create a location or a division.

Mr. Kamolleh: Bw. Spika, kwanza, ninataka kumuuliza Waziri Msaidizi, ilikuwaje Serikali ikaweka DO mmoja, chifu na diwani katika Tarafa ya Tulimani? Jambo hili linaonyesha kwamba pesa zinatumiwa vibaya. Waziri Msaidizi ametuahidi kuwa pesa zikipatikana, Tarafa ya Tulimani itagawanywa mara mbili. Sasa hivi, tuna DO, chifu na diwani. Ilikuwaje katika Tarafa ya Tulimani mambo yakawa hivi? Ilikuwaje mpaka DO akatumwa kule? Mbona hatukukuwa na lokesheni mbili? Huo mshahara wa DO ungepelekwa katika divisheni nyingine.

Mr. Speaker: Kuna tofauti kati ya DO na chifu huko Tulimani?

Mr. Kamolleh: Iko tofauti kubwa!

Mr. Samoei: Bw. Spika, ninafikiri umenisaidia kujibu swali hilo. Kuna tofauti kubwa kati ya mkuu wa tarafa na mkuu wa lokesheni. Sijui kama Bw. Kalulu atakubaliana na mimi. Kama atakubaliana nami, tunaweza kuunganisha tarafa hiyo na tarafa ya Kisau na tuachane na mipango ya kuigawanya Tarafa ya Tulimani.

Mr. Kalulu: Jambo la nidhamu, Bw. Spika. Waziri Mdogo haelewi kwamba urefu wa Tarafa ya Tulimani ni kama kutoka hapa mpaka Ngong, kwa sababu hajatembelea sehemu hiyo. Hajui kwamba tarakimu ya watu waliohesabiwa mwaka uliopita, ni 60,000. Je, anaweza kukubaliana na mimi kwamba hajawahi kufika kule? Yafaa afike huko ajionee idadi ya watu na umbali ninaozungumzia. Vile vile, kuhusu ugawaji wa vyakula, pesa na kadhalika, yafaa Waziri Mdogo atembelee Tarafa ya Tulimani ili aweze kuleta Hoja katika Bunge hili kuhusu shida katika sehemu hiyo, au aende kule atugawie vyakula na pesa. Kwa sababu diwani---

Mr. Speaker: Bw. Kalulu, sasa unahutubia Bunge hili, hali ulisimama kwa jambo la nidhamu. Umesimama kwa jambo la nidhamu kulingana na taratibu gani ya Bunge?

Mr. Kalulu: Bw. Spika, nimeuliza swali na kusema kwamba idadi ya watu wa Tarafa ya Tulimani ni 60,000, si 30,000! Tena kuhusu umbali wa Tarafa ya Tulimani, ninauliza kama Serikali inaweza kwenda kugawia hivyo vijiji viwili vyakula na pesa. Ningependa Waziri Mdogo aseme kama atafanya hivyo kesho au kesho-kutwa.

Mr. Samoei: Bw. Spika, nilisema awali kwamba Serikali tayari imepokea mapendekezo na tutagawa sehemu ile baada ya makadirio ya pesa ya mwaka ujao.

Question No.627

ELECTRICITY PROJECTS IN KITUTU CHACHE

Mr. Angwenyi asked the Minister for Energy:-

- (a) how much money, if any, has been set aside for rural electrification in Central Kisii District for the last three years, and how much of that was spent and on which projects;
- (b) how much of that money was intended for projects within Kitutu Chache Constituency; and,
- (c) how much money the Ministry plans to set aside for projects within Kitutu Chache Constituency in each of the years 2001/2002, 2002/2003 and 2003/2004.

The Minister for Energy (Mr. Raila): Mr. Speaker, Sir, there is some kind of mix-up here because there are two Questions; one is Question No.627, and the other one Question No.687. There was confusion in the Kenya Power and Lighting Company (KPLC), therefore, they have confused the two Questions and the names. I want to ask the Chair to defer this Question.

Mr. Speaker: To be deferred to when?

Mr. Raila: To tomorrow, Mr. Speaker, Sir.

Mr. Speaker: Is that okay with you, Mr. Angwenyi?

Mr. Angwenyi: No, it is not okay with me, Mr. Speaker, Sir. This is because I will be involved in the burial of my Parish Priest back home, tomorrow.

Mr. Speaker: How about on Thursday?

Mr. Angwenyi: It will be okay on Thursday.

Mr. Speaker: All right, the Question is deferred to Thursday.

(Question deferred)

Next Question, Eng. Muriuki!

Question No.687

COMMUNITY BASED NGOS IN NYANDARUA

Eng. Muriuki asked the Minister for Energy:-

- (a) whether he could table a list of all community-based organisations, including self-help groups and schools who have applied to be supplied with electricity in Nyandarua District since 1990;
- (b) which of the applicants have paid money to Kenya Power and Lighting Company Limited, pursuant to their applications for power; and
- (c) which applicants have actually been supplied with electricity.

The Minister for Energy (Mr. Raila): Mr. Speaker, Sir, these are the two Questions that I said had a confusion. This one, and the one already deferred.

Eng. Muriuki: Mr. Speaker, Sir, I have a complete written reply and I do not see any confusion. The Minister should answer the Question.

Mr. Speaker: Eng. Muriuki, I do not know whether you have a complete written reply.

Eng. Muriuki: The written reply is here and it is correct, and I can see the names. I do not understand where the problem is.

Mr. Speaker: Let me be fair. Of course, we do not do these things as if they are compelling. Eng. Muriuki, do you want an answer or not?

Eng. Muriuki: Yes, I do.

Mr. Speaker: It is one of the very few occasions that I have seen Mr. Raila being mixed up. I will give him the benefit of doubt. I will defer the Question to Thursday. I hope Question No. 691 is not the same.

(Question deferred)

Next Question, Mr. Maitha!

Question No. 691

INCREASED POWER DEPOSITS FOR HOTELS

Mr. Maitha asked the Minister for Energy:-

- (a) whether he is aware that by increasing payment of deposit account of power consumption by hotels, the tourism industry has been badly hit, and that it may soon collapse;
- (b) whether he is further aware that Diana Properties and Carslake Nominees Limited, who own Beach Hotels, are being forced to pay Kshs1.2 million and Kshs1.3 million respectively, as an additional deposit of power they consume in the hotels; and,
- (c) what urgent measures he is taking to reduce the deposit.

The Assistant Minister for Energy (Mr. Sasuara): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that those few customers are routinely required to top up the account deposits commensurate to their consumption, but it does not warrant wholesale collapse of the tourist industry.

(b) Yes, I am aware that the tourist hotels have been asked to top up their account deposits to Kshs1.2 million and Kshs1.4 million, which is equivalent to an average of one month's consumption. The hotels have the option of providing security through cash or banker's guarantee.

(c) No action by the Minister is warranted. The course of action taken by KPLC is legal and it is within the framework of prudent business practice.

Mr. Maitha: Mr. Speaker, Sir, the Chair is very much aware that the tourism industry in Kenya tops up Government revenue, and everything has to be done to safeguard this industry. Is the Assistant Minister aware that this increase in deposits by the KPLC has actually cost business for over 25 hotels, and they are faced with imminent closure? Could the Assistant Minister waive this increase so that the hotels can do their business?

Mr. Sasuara: Mr. Speaker, Sir, the KPLC has to do business and, therefore, waiving of these increased deposits is like digging one hole to fill up another. So, it is very difficult for the Ministry to waive that amount.

Mr. Kamolleh: Mr. Speaker, Sir, I think we do not need to go very far to see that the tourism industry is

declining. We, hon. Members in this House, are trying to do something to make sure tourism is revived. When the tourists have just started coming to this country and when the hoteliers have started doing some small renovations here and there, so that their hotels look good, the Assistant Minister and the KPLC are placing another hurdle before them. Is it because most of the tourists hotel are in the Coast Province? If they were in Nyanza, could we have had the same problem? I am wondering about that!

Mr. Speaker: How does Nyanza come into this issue?

Mr. Kamolleh: The Minister for Energy is from Nyanza, and that is why I am wondering.

Mr. Speaker: Order! Order!

Mr. Kamolleh: Could the Assistant Minister waive this increase in deposit? If he cannot waive that increase, then the consumer should be given time to top up that amount slowly. Let him give them six months to pay, rather than tell them to pay Kshs1.2 million in only one day. This is not possible! Could the Assistant Minister alter his decision?

Mr. Speaker: Order! The Assistant Minister will answer the Question, but I would like to caution you; do not look at the Ministers from the point of view of their localities. They are Ministers of Government and that is all!

Very well. Proceed, Mr. Sasura!

Mr. Sasura: Mr. Speaker, Sir, these two companies, Diana Properties and Carlake Nominees Limited were given a notice on 11th of June, 2001, and the KPLC was willing to negotiate payments in part. But, unfortunately, for reasons best known to them, these companies did not respond to this notice. It is very unfair to use the slump in the tourism industry as an excuse for not paying the KPLC deposits.

Mr. Maitha: Mr. Speaker, Sir, this Government has got a Minister for Tourism and Information who usually comes to the Coast Province to assure people in the hotel business that the industry will always survive. However, the same Government, in conjunction with the KPLC, is giving a big burden to the hoteliers. Could the Assistant Minister tell this House what is its commitment to the hotel industry in this country?

Mr. Sasura: Mr. Speaker, Sir, the KPLC or the Ministry of Energy is not giving these hotels any burden. If anything, it is the hoteliers who are overburdening themselves by overusing electricity.

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

Mr. Speaker: What is it?

Mr. Maitha: My point of order is that the Assistant Minister is trying to evade answering my question by saying that the KPLC is not giving the hotels a burden, while they are forcing them to pay an amount of Kshs1.2 million to top up what they are supposed to pay.

Mr. Speaker: Mr. Maitha, that is your argument; the Assistant Minister is entitled to his own! Mr. Sasura, will you finish answering the question?

Mr. Sasura: Mr. Speaker, Sir, again I am saying that the Government is not burdening these hotels, but it is merely dealing with them like any other consumers. Even a domestic consumer has to pay a deposit commensurate to his rate of consumption. These hotels have no alternative but to pay this deposit.

Question No.660

NON-PAYMENT OF BENEFITS TO MR. HALAKE

Dr. Ali asked the Minister for Labour:-

(a) whether he is aware that Mr. Omar Ibrahim Halake, Membership No.030256054, has not been paid his withdrawal benefits by NSSF;

(b) whether he is further aware that Mr. Halake was supposedly paid Kshs29,444.90 against cheque No.1858 of 31st May, 1999, which became stale; and,

(c) when he will be paid his benefits.

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

(a) I am aware.

(b) I am aware that Mr. Omar Ibrahim Halake was paid withdrawal benefits amounting to Kshs29,444.90 through cheque No.185858 dated 31st May, 1999. The cheque became "stale" and was returned as unclaimed payment.

(c) The Fund has prepared another cheque, No.01-100, dated 14th November, 2001, for Kshs29,444.90. Mr. Halake is advised to collect it from the Garissa NSSF branch office.

Dr. Ali: Thank you, Mr. Speaker, Sir. While I appreciate and thank the Minister for the answer he has given, I would like to request him to send the cheque to the DC's office, Wajir, before it expires because roads are impassable. People cannot reach Garissa at the moment because of poor roads.

Mr. Ngutu: Mr. Speaker, Sir, I can make arrangements for the cheque to be delivered to the DC's office,

Wajir, so that Mr. Halake can collect it from there.

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

Mr. Achola: Mr. Speaker, Sir, I would like to ask---

Mr. Speaker: Mr. Achola, are you unhappy when Dr. Ali is happy?

Mr. Achola: Mr. Speaker, Sir, Dr. Ali should not be happy because there is something amiss.

Mr. Speaker: Mr. Achola, what are you not happy about?

Mr. Achola: Mr. Speaker, Sir, first, could the Minister explain to the House why it took two years to replace this cheque? Secondly, could he consider paying interest on this money because it was due two years ago? Let him pay interest on this amount of money to the contributor!

Mr. Ngutu: Mr. Speaker, Sir, the first payment was made on 28th March, 1990, through cheque No.130266, which was for Kshs9,959.65. This covered the period between 1969 to 1970 and 1974 to 1978. This payment was based on the statement of contributions reflected at that time. Mr. Speaker, Sir, secondly, when further information was obtained from the former employer, a second payment was made on 31st May, 1999, through cheque No.1858580 for Kshs29,444.90. This covered the period between 1979 to 1980, and 1986 to 1988. The above cheque was returned unclaimed and replaced by cheque No.236876 dated 6th April, 2000. The claimant for the second time failed to collect it from the Garissa NSSF's office. So, this was the reason why this cheque was returned, and it was not the Ministry or the NSSF's failure to deliver it.

Question No.587

POOR STATE OF ROADS IN SIRISIA

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

(a) whether he is aware that Bisunu-Bukokholo and Bisunu-Butonge Roads are impassable; and,

(b) what immediate plans he has to grade these roads to render them motorable.

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

(a) I am aware that this particular road is not passable.

(b) It is the responsibility of the Bungoma District Roads Committee to prioritize and grade the road. I would like to point out that money has been availed to this Committee for this purpose.

Mr. Munyasia: Mr. Speaker, Sir, you can see that the Assistant Minister does not know what I am talking about. I am talking in plural about "two roads" while he is talking in singular about "a road". He has said that "this road is impassable" when it should be "these roads are impassable".

(Laughter)

When a bridge on a road collapses, like the bridge on Bisunu-Butonge Road, does it require the District Roads Committee to prioritize its repair? Is the Assistant Minister aware that, that bridge has collapsed? What action will he take to make sure that it is repaired?

Eng. Rotich: Mr. Speaker, Sir, in fact, it is a combination of two roads which make a road. I am not aware that the bridge has collapsed, but we shall take action immediately, if I am made aware.

Mr. Munyasia: Mr. Speaker, Sir, the assumption the Assistant Minister has given us is that the District Roads Committees have received the money, but work has not started. Work on the roads has not started because the District Roads Engineer has not received money yet. When will the District Roads Committee, Bungoma, get the money to repair the roads that the constituencies have prioritized?

(A mobile phone rang in the Chamber)

Mr. Speaker: Order! Again, what is that? Who is having that gadget? Switch it off! Very well, have you finished answering that Question?

Eng. Rotich: Mr. Speaker, Sir, we have already released Kshs2 million to every district, and I am surprised that Bungoma District has not received it. As far as the bridge is concerned, the money for its repair has not been released. We will contact the District Roads Engineer, Bungoma, to give us the cost of repairing this particular bridge so that we can release the money.

Question No.639

ISSUANCE OF TITLE DEED TO RIGENA
PRIMARY SCHOOL

Mr. Speaker: The Question by Mr. Omingo is deferred to next week!

(Question deferred)

Let us move on to Mr. Kihoro's Question!

Question No.685

BANNED ORGANISATIONS IN KENYA

Mr. Kihoro asked the Attorney-General:-

(a) which organisations or societies are banned in Kenya today and what the respective reasons for the ban on each are; and,

(b) whether he could lift the ban where there is no good reason to continue the ban.

Mr. Speaker: Is the Attorney-General not here? Well, he is not here! Could I defer the Question to Thursday? There is only one Attorney-General!

Mr. Kihoro: Mr. Speaker, Sir, there are groups which would like to operate but they cannot because the Attorney-General is harassing them.

Mr. Speaker: Mr. Kihoro, I think you will have to wait for one more day! Eight months is bad enough, but one day is an improvement!

Mr. Kihoro: Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well, this Question is deferred until Thursday!

(Question deferred)

QUESTIONS BY PRIVATE NOTICE.

IMPORTATION OF GUN BY
BRITISH OXYGEN COMPANY

(Mr. Muite) to ask the Minister of State, Office of the President:-

(a) Is the Minister aware that British Oxygen Company (BOC) has imported a gun from South Africa?

(b) Is he further aware that BOC and Global Gases Limited are in court over a criminal charge against the Managing Director of British Oxygen Company?

(c) What action has the Minister taken to ensure that the same gun is not used to injure anybody from Global Gases Limited?

Mr. Speaker: Mr. Muite's Question should not be on the Order Paper in the first place because it was answered!

Mr. Kamolleh: On a point of order, Mr. Speaker, Sir. Mr. Muite's Question by Private Notice was not answered satisfactorily and it was deferred. It is the property of the House and not Mr. Muite's. This Question was not answered satisfactorily and even the HANSARD shows that it was deferred!

Mr. Speaker: Order, Mr. Kamolleh! No Question is ever the property of the House twice. Secondly, even if it is the property of the House once, it cannot be the property of the House until it is asked. So, until this Question is asked, it is not before the Chair and neither is it before the House.

Mr. Kamolleh: But Mr. Speaker, Sir---

Mr. Speaker: Forget about it!

(Question dropped)

So, let us move on to the next Question by Mrs. Mugo!

SHORTAGE OF TEACHERS IN DAGORETTI

(Mrs. Mugo) to ask the Minister for Education:-

- (a) Is the Minister aware of an acute shortage of teachers in Dagoretti public schools?
- (b) What is the Minister doing to ensure that the schools are adequately staffed?

Mr. Speaker: Is Mrs. Mugo not here? Her Question is dropped!

(Question dropped)

REINSTATEMENT OF THIKA
MUNICIPAL WORKERS

(Mr. Ndicho) to ask the Minister for Local Government:-

- (a) Is the Minister aware of the Collective Bargaining Agreement (CBA) signed on 7th August, 1993, which reviewed the salaries of all local authorities' employees throughout the country?
- (b) Is he further aware that Thika Municipal Council was part and parcel of this CBA, where its employees were awarded the salary increment since 1993?
- (c) Why then did the current council decide to deduct all the monies earned by the employees in Thika since 1993 and further sacked over 50 employees who protested over the deductions?
- (d) Could the Minister order for reinstatement of these workers and pay back their deducted monies?

Mr. Speaker: Is Mr. Ndicho not here? His Question is dropped!

(Question dropped)

ISSUANCE OF IRREGULAR LEASES
IN NYANDARUA

Mr. Waitthaka: Mr. 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 District Lands Registry, Nyandarua, has been issuing certificates of lease to people without lease documents being granted by the Government?

(b) Who is or are the allottees of all that leasehold interests referred to as:-

- (i) Nyandarua/Njabini Township/108
- (ii) Nyandarua/Njabini Township/115
- (iii) Nyandarua/Njabini Township/118
- (iv) Nyandarua/Njabini Township/119
- (v) Nyandarua/Njabini Township/123
- (vi) Nyandarua/Njabini Township/338
- (vii) Nyandarua/Njabini Township/263
- (viii) Nyandarua/Njabini Township/266
- (ix) Nyandarua/Njabini Township/268
- (x) Nyandarua/Njabini Township/267.

(b) Could the Minister table the copies of the leasehold documents of all the pieces of land mentioned in (b) above?

Mr. Speaker: Where is the Minister for Lands and Settlement?

The Assistant Minister for Lands and Settlement (Mr. Tarar): Mr. Speaker, Sir, the Minister has the answer to the Question. I have the answer to the Question by hon. Omingo.

Mr. Speaker: Mr. Tarar, what are you saying? Would you kindly repeat what you have just said?

The Assistant Minister for Lands and Settlement (Mr. Tarar): Mr. Speaker, Sir, I said the answer to this Question is with the Minister.

Mr. Speaker: So, what are you doing here?

The Assistant Minister for Lands and Settlement (Mr. Tarar): Mr. Speaker, Sir, I have the answer to the Question by hon. Omingo. The Minister has the answer to this Question.

Mr. Waitthaka: Mr. Speaker, Sir, this is a Question by Private Notice. The Assistant Minister says that the Minister has the answer to the Question.

Mr. Speaker: Well, the Minister will answer the Question tomorrow morning.

Mr. Waithaka: Mr. Speaker, Sir, I can even give the Assistant Minister the written reply because I have it here with me.

Mr. Speaker: Order! The Question is deferred to tomorrow morning.

(Question deferred)

Mr. Speaker: That brings us to the end of Question Time. Next Order!

Mr. Samoei, do you have Ministerial Statements to make?

The Assistant Minister, Office of the President (Mr. Samoei): Yes, Mr. Speaker, Sir.

Mr. Speaker: Proceed!

MINISTERIAL STATEMENTS

KILLING OF CATTLE BY KWS AIRCRAFT

The Assistant Minister, Office of the President (Mr. Samoei): I beg to make the following Ministerial Statement on the killing of cattle by a KWS aircraft, registration number 5YFOC. It is true that a KWS 63 two-seater aeroplane killed five cattle instantly inside Tsavo West National Park on 21st November, 2001. The incident occurred when the pilot, Mr. Robert Obien, and the KWS field force company commander were attempting to drive out a large herd of cattle that was grazing in the park illegally. It is a normal practice to use aircraft to herd livestock out of the park.

Mr. Speaker, Sir, in this particular incident, the aircraft was flying low when the pilot suddenly tried to avoid a bushy tree by pulling up the aircraft. Unfortunately, as he tried to climb up, the right-hand wing of the aircraft hit the bushy trees and the pilot lost control of the aircraft. The aircraft rammed through the herd of cattle, killing five instantly. The aircraft was completely damaged. Fortunately, the pilot and the company commander were not seriously injured.

The incident was duly reported to the Directorate of Civil Aviation, who sent their officers to the scene of accident. The KWS is awaiting their findings. I am not aware of the herdsman alleged to have been shot with an arrow at Ziwani Estate in Taita-Taveta District.

Mr. Speaker: Do you have another Ministerial Statement?

The Assistant Minister, Office of the President (Mr. Samoei): Yes, Mr. Speaker, Sir.

Mr. Speaker: Make all those Ministerial Statements.

SECURITY SITUATION IN TANA RIVER DISTRICT

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Speaker, Sir, in response to another Ministerial Statement requested by this House on the security situation in Tana River District, I want to state as follows:

On 22nd October, 2001, hon. Mohamed Abdi Galgalo requested for a Ministerial Statement regarding the security situation in Tana River District. In this connection, the security situation in Tana River District has been volatile since March, 2001, when skirmishes erupted between the Pokomo tribesmen on the one hand, and Orma and Wardei tribesmen on the other. The skirmishes were sparked off by an attack on a Wardei herdsboy who had grazed his animals on a farm belonging to a Pokomo. The Wardeis responded by attacking Pokomo tribesmen. As a result, sporadic retaliatory attacks between the farming Pokomo community, and the pastoral Wardei and Orma communities have been taking place. Since the March skirmishes to date, a total of 53 persons have been killed; 40 of them Pokomos, eight Ormas and five Wardeis. Fifty-five persons have been injured, including 33 Pokomos, 16 Ormas and six Wardeis. In addition, 510 people have been displaced, among them 272 Pokomos, 238 Ormas and Wardeis.

The latest incident of ethnic clashes between the Pokomos and Orma tribesmen began around 16th November, 2001. As in the past, the clashes are a culmination of hostilities arising from differences in land use and watering points. The Pokomo practice agricultural farming, while the Ormas and Wardei practice livestock-keeping. The Pokomos claim that the pastoralists are destroying their crops as they roam the area looking for pasture and water for their livestock. On the other hand, the Wardeis and Ormas claim that Pokomos are blocking their animals from accessing pasture and water. Tension has been heightened by the imminent land adjudication aimed at facilitating

individual ownership of land, which the pastoralists very vehemently oppose in favour of group ownership. The matter is further complicated by local leaders and politicians who, at the slightest provocation, make inflammatory statements which incite the tribesmen to take up arms, instead of seeking peaceful means of resolution of the grievances.

Mr. Speaker, Sir, following the latest conflict, the Government has deployed additional security officers, including GSU personnel, in the affected areas. In addition, the Tana River District Security Committee has held various security barazas aimed at pacifying all the affected communities and encouraging harmonious co-existence.

Lastly, Mr. Speaker, Sir, committees of elders from all the affected areas have been formed and mandated to hold talks with a view to finding a sustainable solution to the thorny issues that create divisions. The Government is facilitating the meetings by giving logistical support. With the identification and intensification of these efforts, calm is slowly returning to the affected areas. I hope that the collective efforts which are being made to address the root cause of these conflicts will succeed in ensuring that permanent peace is achieved.

Mr. Speaker: Have you got any more Ministerial Statements to make?

The Assistant Minister, Office of the President (Mr. Samoei): No, Mr. Speaker, Sir.

Mr. Speaker: Very well. I will allow Mr. Parpai to seek clarification on the very first Ministerial Statement.

Mr. Parpai: Mr. Speaker, Sir, the first statement that was read by the Assistant Minister, Office of the President, in charge of internal security, is not satisfactory and it is meant to cover up some notorious farm managers of a given farm. I rose here to ask for a Ministerial Statement because the management of--

Mr. Speaker: Order! Mr. Parpai, you are not debating. You are seeking clarification for what the Assistant Minister has said. You seek clarification by asking questions.

Proceed, Mr. Parpai.

Mr. Parpai: Mr. Speaker, Sir, I am very annoyed. Could the Assistant Minister tell this House why he is not aware that a herdsman was shot with an arrow, while the DO, on that very day, took that man in his Land Rover to a hospital?

Mr. Speaker, Sir, could he further tell us how an aircraft can be used to drive away animals in whatever farm? What is the justification of using aircraft to drive away animals? Does he know that if they use aircraft to drive away animals, they can fall into ditches and rivers?

Mr. Speaker: And abort!

Mr. Parpai: And abort! Is this Government really considerate---

Mr. Speaker: Order! Mr. Parpai, cool down! You will be able to communicate properly when you are composed.

Mr. Samoei, would you like to respond to his question?

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Speaker, Sir, I agree with Mr. Parpai's feelings. But the cattle in question were in the National Park and, indeed, the Kenya Wildlife Service occasionally use aircraft to drive away animals from our national parks. This was not an exception, and it was not the intention of Kenya Wildlife Service personnel to kill those animals. It was done in good faith in order to drive the animals away. Maybe, it would help if the hon. Member could ask the farming community and the pastoralists around this area to be in charge of their animals, then we will not have incidents like the one we have in question.

Mr. Speaker: Mr. Parpai, do you have any further question?

Mr. Parpai: Mr. Speaker, Sir, the Assistant Minister has avoided to inform the House and Maasais at large, what he is going to do to this notorious farmer or the human being who shot the herdsman.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Speaker, Sir, in my statement, I said that I do not have any information to the effect that somebody was shot with an arrow in Ziwani Estate, Taita-Taveta District. However, since the hon. Member has insisted, I will find out and take the necessary action.

Mr. Speaker: Very well! On the second Ministerial Statement, is there any clarification sought?

Mr. Shambaro: Mr. Speaker, Sir, since the clashes broke out in Tana River District, could the Assistant Minister clarify how many people have been charged in a court of law and what charges were preferred against them?

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Speaker, Sir, our efforts to try and apprehend the perpetrators of this crime have not borne any fruits. Therefore, I cannot give to this House a list or figures of the people who have been arrested. However, we now have enough personnel on the ground to make sure that the skirmishes do not recur.

Mr. Speaker: Very well! Next Order!

MOTION

AMENDMENT TO EAST AFRICAN LEGISLATIVE
ASSEMBLY ELECTION RULES

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 "fulfilled" to the end thereof.

(The Minister for Trade and Industry on 22.11.2001)

(Resumption of Debate interrupted on 22.11.2001)

Mr. Anyona: On a point of order, Mr. Speaker, Sir. I would like to raise a matter of procedure with regard to the Motion before the House. The Motion seeks to amend the rules that were passed in this House. Those rules were made by the House on the basis of the provisions of Section 34, Sub-section 2 of Interpretation and General Provisions Act, Cap.2, which requires that the Minister lays before the House a draft copy of the rules, then he gives notice of the Motion asking the House to adopt the rules. After that, those rules are exempted from the provisions of Section 34, Sub-section 1 of the Act, including publication and all the rest.

Mr. Speaker, Sir, indeed, the rules were made in accordance with that provision, and in addition, the procedure used was one which enabled the House to go into the Committee Stage to be able to amend the rules or do anything that the House felt was necessary. Indeed, if you remember, that is what happened under the Motion "That, Mr. Speaker do now leave the Chair", which is the only route the House can use in this manner to get to the Committee Stage. Then, of course, at the end of that, the House made a resolution. Now, that is fine.

Mr. Speaker, Sir, if you want to introduce an amendment to those rules, in my understanding of the law, the requirement is that, under Section 31, Paragraph (c), the rules may be amended by the same authority, which is this Parliament, in the same manner as the original rules were made. My understanding is that when you introduce amendments to rules like these, the Minister will then have to lay on the Table of the House, either the new rules he wants to make or an amendment of the rules. Then, we will ask the House to debate the amendments, and the House will have an opportunity to go into the Committee Stage and be able to introduce amendments, if they so wish. It is only after that, that those rules are then properly made as amendments to the rules that are in place.

Mr. Speaker, Sir, the Motion before the House does not comply with that procedure. Therefore, I am submitting that this Motion is, procedurally, not properly before the House because it puts the cart before the horse. We are asking that the Motion be withdrawn and the correct procedure be followed, so that we can make these rules.

Thank you.

Mr. Speaker: Order! I have heard what Mr. Anyona has said, and I am mindful of the provisions of Section 31, Cap.2 of the Interpretations Act, particularly Sub-section 3. I would like to request hon. Members that, any time they would like to take issue with a procedural matter that is before the House, it is prudent that you consult the Chair. Do not ambush the Chair!

The rules that were made before this House - not Committee - were made through a resolution of this House; that this House adopts the rules for nominations to the East African Legislative Assembly. So, it was through a resolution of this House that those rules came to pass. How they came to be considered by the Committee of the House is a totally different matter because the Committee does not make rules for the House; it considers those rules, reports to the House, and only the House can make the rules. So, it was this House, in accordance with Section 31(c), that made the rules. Now, the means upon which the rules were made was by way of a resolution. I am satisfied that the method sought to amend those rules is clearly within Section 31(c), Cap.2, in that, a resolution of this House is being sought to amend those rules which were passed by this House through a resolution. Therefore, the matter is properly before the House.

Who was on the Floor?

Mr. Mwenje: Mr. Speaker, Sir, I was on the Floor! As I proceed, I was also of the opinion that Standing Order No.42, is quite clear. I even quoted it. It states:-

"No Motion may be moved which is the same in substance as any question which has been resolved (in affirmative or negative) during the preceding six months in the same Session".

Mr. Speaker, Sir, we are being asked to rescind what we actually passed. The Standing Order is very clear. It goes on to state:-

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

Before that, there is no Motion to rescind the decision we made less than six months ago.

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

Mr. Mwenje: Mr. Speaker, Sir, I am on a point of order!

Mr. Speaker: I thought you were contributing!

Mr. Mwenje: Okay, Mr. Speaker, Sir.

Mr. Kiunjuri: On a point of order, Mr. Speaker, Sir. Standing Order No.70(2) states as follows:-
"It shall be out of order to anticipate the discussion of a Motion of which notice has been given by discussion upon a substantive Motion or an amendment, or by raising the same subject matter upon a Motion of the adjournment of the House".

Mr. Speaker: What Standing Order are you referring to?

Mr. Kiunjuri: Mr. Speaker, Sir, Standing Order No.70(2). One hon. Member of this Parliament from Baringo Central discussed a matter before the House yesterday, outside this Parliament. He even said clearly that he does not support the affirmative action and ordered Ministers and Assistant Ministers to come and vote against this Motion. I am now requesting that the hon. Member be named.

Mr. Speaker: Order! Order! Let us be serious! I would like every hon. Member to be serious! I do not think Mr. Kiunjuri is serious!

Hon. Members: No, he is!

Mr. Speaker: Order! Order! One thing that must be in this House is order, because that is the only reason why I am paid; to maintain order in this House. There is no other reason why I get paid. So, there must be order! First of all, Mr. Kiunjuri, there is no matter pending before any Sub-committee or any Committee of this House as envisaged by Standing Order No.72.

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

Mr. Speaker: Order! If you stand before I give you permission, sorry, you will go out. Not when I am on my feet!

Hon. Members: It is Standing Order No.70(2)!

Mr. Speaker: Order! If that be the case, if any one of you were to call a Parliamentary Group meeting to discuss how you are going to vote before this House, you are going to be contemptuous of this House. I am afraid that all of you are committing the sin every week. It is perfectly lawful for political parties to caucus themselves and whip themselves and decide how they will vote on an issue before the House. That is why we have what we call Parliamentary Groups. We will get to the bottom of this issue one way or another.

Mr. Mwenje, you were on the Floor; proceed to debate the Motion. If you do not like it, throw it through the window, but the Chair will not be called upon to make your own decision. The Chair will not make a decision for the House, you will make your own decision yourself.

Proceed, Mr. Mwenje!

(Several hon. Members walked into the Chamber amid applause)

Mr. Mwenje: Mr. Speaker, Sir, I take the opportunity to welcome our football team of hon. Members who had gone to represent us in Arusha. I am sure they will vote with us.

Mr. Speaker: Order, hon. Members! For the avoidance of doubt, I think Mr. Mwenje is referring to a wrong issue on a wrong Motion. Standing Order No.40 refers to ordinary Motions; it does not refer to legislative Acts of Parliament. You can actually pass a Bill today and amend it tomorrow. To the best of my knowledge, there is no such limitation. It is only Motions. So, please, go to the substance of the issue.

Mr. Mwenje: Mr. Speaker, Sir, while I am with you, the Standing Order is specific and clear. It clearly states: "No Motion"; it does not state the way the Chair has explained.

Mr. Speaker, Sir, if we are to go by this Standing Order, this Motion was brought to the House in the wrong manner. However, with due respect to your ruling, we will debate it, but at the back of our minds we will question why it was brought to this House. We know the truth of the matter. What has transpired from the beginning of the week has now made it even more clearer. At least, we now know that KANU had already made their decision before it was brought to this House. They would like to use the House to change the rules so that their wishes can be accommodated. It is a very sad day for this House to be misused by a certain faction of the ruling party so that they can get their way by nominating a lady to the East African Legislative Assembly, while the regulations are clear that we have to nominate three women.

Mr. Speaker, Sir, last week, I was in Uganda, and they have nominated four women to the East African Legislative Assembly, while Tanzania has nominated three women. Why is it only in Kenya that we always have problems with matters pertaining to the East African Community? We travelled as the Defence and Foreign Affairs Departmental Committee of the House, and every time we attended meetings, Kenyan representatives had to be waited for in order to form a quorum in the Committee. Sometimes, we had to wait for Mr. Biwott to come from London to join the Community meeting in Tanzania.

It was believed that Kenya was dragging behind the Community, and just before the Community is inaugurated, Kenya is again dragging behind the two other countries because KANU, or a faction of KANU, does not want to nominate a second woman to the Assembly.

A lot was said last week and KANU cannot justify that the only woman they can nominate to the Assembly is the Minister's wife, while he, himself, is a member of the Assembly. What picture are we showing to the East African Assembly? Even His Excellency the President---

Mr. Speaker: Order! Order!

Mr. Anyona: On a point of order, Mr. Speaker, Sir. For a matter as important as this, I do not think there should be any doubt in the minds of everybody whether or not we have complied with the procedure. Mr. Mwenje has raised the question of Standing Order No.42. You have made some ruling, but quite frankly, I do not understand what the ruling is. Standing Order No.42 says:-

"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.

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

But there is a proviso which gives the Chair the authority to allow such a Motion to be brought. In which case, the Chair must be satisfied that the spirit of that Standing Order is not being negated. I would like clarification from the Chair so that the country is clear. As far as Standing Order No.42 is concerned, are we talking about all Motions as Motions, because even a Motion that says: "Let us adopt the Vote of the Ministry of Education" is a Motion, like in these rules? Are we saying that there is a difference between that Motion and other ordinary Motions?

Secondly, Mr. Speaker, Sir, according to your ruling, and with due respect, I have some difference; the House made a resolution by passing a Motion that the House doth adopt the rules after they had gone through the Committee Stage. This amendment is not seeking even to amend that Motion, or to bring that Motion back. I thought some clarification is required on those two issues.

Mr. Speaker: Order! Order! First of all, I think it is wrong, Mr. Anyona, to revisit an issue on which the Speaker has already made a ruling. I have already made a ruling on that, but I want to be clear for the avoidance of doubt and for record purposes. What the House did by passing the rules for the nomination of Members to the East African Assembly was what you did yourself say; making subsidiary legislation under Section 31 of Cap. 1 as read with the Treaty for East African Corporation Act, 2000. So, you made a law, although only subsidiary to the main legislation, to govern the election of Kenya's representatives to the East African Parliament. This is the Treaty for East African Corporation Act, 2000. So, you acted in your legislative capacity to make a law.

I would like Mr. Anyona to tell me what law stops this Parliament from passing a Bill today, see it is bad and amend it tomorrow. Indeed, we can do that. Standing Order No.40 downwards regulates Motions brought to this House in their various shapes and forms. You will find that in part (x) of our Standing Orders, headlined "Motions and amendments." In Motions, we do not make laws; we make recommendations. Separate and distinct from that, hon. Members will find sections of the law governing how we make Bills in the form of private or public Bills. Those are parts on their own and they regulate themselves.

My understanding of what Mr. Mwenje was raising, or what Mr. Anyona is saying, is that no Motion in similar terms will be brought to the House within six months or within the same Session, whichever comes first. That, to my understanding, does not apply to the legislative function of this House. Even if it does, and you correctly said that it does give the Speaker a discretion; I do not believe at all that my discretion was being sought under Standing Order No.40. I believe that this, being a subsidiary legislation covered by Section 30 of Cap.2, does not require the discretion of the Speaker for it to be amended.

If you look at Section 30, it does not bring the Speaker anywhere within sight of the intended amendments. That is my understanding of the law, and that is what I truly believe to be the case, as a lawyer and as your Speaker. This resolution of the House being sought under Section 31 of Cap.2, as you, yourself, pointed out is to amend the existing law, which is a subsidiary legislation, to remove certain words from what is already in place. But, if you truly think that it is under Standing Order No.40, which I do not, and that my discretion is sought, which has not been done.

I do not think I need to give the discretion. I think Section 30 of Cap.2 is clear. There is nothing on its way to stop it and I do not think legislation comes under Standing Order No.40. But even if you are right, which I do not think you are, then my discretion is hereby given.

Proceed, Mr. Mwenje!

(Applause)

Mr. Mwenje: Mr. Speaker, Sir, Mr. Anyona is trying to bring the issue here, but I do not want to argue about it. The Chair should remain neutral as he is required to be.

Mr. Speaker: Order! Would the Chair be left out of your quarrels from now on? That is an order. You can quarrel amongst yourselves.

Mr. Mwenje: Mr. Speaker, Sir, I am saying that last time, the Chair was not neutral and that is why we refused to stand.

Mr. Speaker: Order! I have said consistently, and I will repeat it today, that it is in the interests of this House and the nation that the Speaker be kept out of your debate. I will listen and call a vote when the time comes. You, and you alone, will vote and make your decisions. Keep the Chair completely out of the debate.

Mr. Mwenje: Thank you, Mr. Speaker, Sir, for assuring us of the neutrality of the Chair. We also have regulations that a debate before the House shall not be carried outside the House. Today, we read newspaper headlines where this debate which is on the Floor was carried out by an hon. Member of this House. This is serious. We are hon. Members who have been elected by the people of this country, and since we have their mandate, we should debate the issue here and not outside there. Others should not give instructions to other Members on how they should vote or what should happen in this House. We feel betrayed by the KANU Government when it starts giving instructions in public rallies on how we should vote in this House.

The rules and regulations of this House must be observed by all Members of this House. Regardless of whatever positions they hold or the power they wield, they should realise that this is a supreme organ in this country. The rules of this House should be honoured. We now know that the KANU Government has no respect for the women of this country. I would be surprised to see a woman in this country voting for a KANU Member during elections. It is high time we told the women of this country that they should never vote for the KANU Government now that they know where it places them. I hope KANU will never receive a single vote from the women of this country.

I was even surprised to see the lady who is supposed to be the Chairperson of Maendeleo ya Wanawake opposing the nomination of a woman to the East African Assembly.

Hon. Members: Shame! Shame!

Mr. Mwenje: She should resign from that women's organisation immediately. The KANU Government should stop pretending that they love women and children because we now know that they do not. The only women that they love are their wives because these are the only people who can get an opportunity to be nominated to the East African Community. They should not confuse women and wives.

Mr. Kamolleh: On a point of order, Mr. Speaker, Sir. Is Mr. Mwenje in order to say that there is a difference between wives and women? They are all the same. You cannot be a wife if you are not a woman. Why is he misleading the House?

(Loud consultations)

Mr. Speaker: Order, Members! I hope we will not use this debate to cause trouble on very honourable people called ladies. So, let us all be mindful of their interests. Let us say whatever we want, but be careful. I think the Kenyan woman is a very important person.

Mr. Mwenje: Mr. Speaker, Sir, you have said that the Kenyan women should be honoured, but the KANU Government does not want to honour them even for a minute. They have reduced them to nothing and they despise them. They have shown them that they have no respect for them, and yet stand up and say in the country: "We love women; we love children". We now know that, that is not true. They do not love women or children except their wives.

Mr. Speaker, Sir, when the East African Community is put in place, Kenyan representatives will be very much ashamed. They will always be asked why they reduced the number of women representatives, unlike the other nations. How can we pretend to be brothers with Uganda and Tanzania, countries which respect women, while we do not want to do the same? If Members of the Cabinet are men enough, they should resign today. How can they take instructions to the effect that they should not nominate women and yet none of them is speaking up against the issue? I pray to God that they should all be voted out. I wonder whether they are married or who and what they are. I wonder whether they---

Mr. Speaker: Order, Mr. Mwenje! Contributions are welcome, but not threats and insults. I will make sure that this debate proceeds in a dignified manner. Will you proceed with dignity?

Mr. Mwenje: Mr. Speaker, Sir, the biggest dignity is to respect women. That is the way I will follow. If we are going to follow trends, then we are not in the same boat; we are lost. It is time Kenyans realised the kind of Government that is leading us. Today, I would like to appeal to Kenyans never to elect anybody who is in KANU, to the forthcoming Government. Women in particular should not vote for KANU because they now know that they will

never respect them or give them a chance.

Thank you, Mr. Speaker, Sir.

Mr. Kamolleh: Asante sana, Bw. Spika. Ninashukuru kwa kunipa nafasi hii. Inaonekana kuwa, watu wengine wanafikiri eti kwa kuwa chama kimeweza kuwa na msimamo fulani, hiyo inaonyesha kuwa sisi hatupendi wanawake wa Kenya. Ningependa kusema hivi: Mkuu wa Serikali ni mwanamke na amechaguliwa na chama hiki. Mkuu wa Itifaki katika Wizara ya Mambo ya Nchi za Kigeni ni mwanamke. Hiyo inaonyesha kuwa sisi tunaangalia maslahi ya wanawake. Tuna mabalozi wanawake kama wale wa Uingereza, Afrika Kusini na Japan. Hawa wote walichaguliwa na chama chetu. Wakuu wa mikoa na wilaya ni wanawake. Hata Majaji wakubwa katika Korti Kuu ni wanawake. Kuna makosa gani ikiwa tunataka kubadilisha kitu kimoja tu, mpaka inakuwa kama ulimwengu mzima unabadilika?

Sisi katika chama cha KANU tumeonelea kwamba tukiwacha mambo yawe vile tulivyofanya, tutakuwa tunawawezesha wanawake watatu tu waweze kwenda. Leo tunabadilisha kanuni hii ili wakati mwingine, hata wanawake wawe 20 wataweza kwenda. Hatutaki kuwabadilisha, lakini tukiwacha kanuni hizi ziwe vile zilivyo, tutachagua wanawake watatu tu. Hatutaki kufanya hivyo. Tunasema kanuni hii inafaa iwe wazi ili waende wengi iwezekanavyo. Lakini kwa wakati huu, hatutafanya hivyo.

(Loud consultations)

Mr. Speaker: Order! We must hear arguments. If he does not convince you, vote against it. If you have a contrary opinion, I am here and will put on my glasses to see you. The only thing I want in this Chamber today is that there should be dignity, decorum and order so that we can transact business and proceed to vote and then you will decide the outcome. So, give everybody a chance so that you are convinced or otherwise.

Mr. Waitthaka: On a point of order, Mr. Speaker, Sir. Is it in order for the Member to continue misleading this House and the nation that the rules, as they stand today, can only allow nomination of three Members to the East African Legislative Assembly, whereas they state "at least three Members?" They can nominate up to nine Members. That is totally misleading the House!

Mr. Speaker: I think you are right. Proceed!

(Applause)

Mr. Kamolleh: Asante sana, Bw. Spika. Sisi tunasema hatutaki kama ni watatu. Tunataka waende wengi ikiwezekana. Lakini kwa sasa, chama chetu kimeonelea wakati umefika tuondoe hicho kifungu, ili tufungue mlango wanawake waingie wengi, hapo mebeleni.

(Applause)

Kwa sasa, chama hiki cha KANU kimechagua machifu, manaibu wa machifu, maofisa wakuu wa wilaya, makamishina wa wilaya na wakuu wa wilaya wanawake. Tufanye nini hasa, ndio ionekane tumefanya kitu kwa wanawake? Tunajaribu tuwezavyo. Hapa Bunge, tumeleta Mwenyekiti wa Maendeleo ya Wanawake na Mama Mwewa.

(Applause)

Tumewachagua wote kama wanawake. Tufanye nini ndio ionekane tumefanya kitu? Tunajaribu tuwezavyo, ndio tukaona wakati umefika sasa tujaribu tuwezavyo tufungue mlango kwa hilo Bunge la Afrika Mashariki. Kwa wale wasiokubali, maoni yetu ni hivyo na tunapenda bibi zetu kama mnavyoona tumempeleka bibi wetu mmoja pia huko.

(Laughter)

Kwa wale wasiokubali, tunapenda wote.

Kwa hayo machache nashukuru.

Mr. Wamalwa: Thank you, Mr. Speaker, Sir, for giving me the opportunity to make a few observations on this extremely important Motion. When this matter came up in the House Business Committee and there was a deadlock, I prayed to God that the KANU side would see reason and exercise magnanimity. If they were not willing to accept the women's rights, at least, they should be magnanimous to give two women places out of the five places the party had. I do not think that, that would have "killed" KANU.

Mr. Speaker, Sir, I have been thinking and trying to find out or to come to a conclusion as to the real reason why KANU found it so difficult to include more than one lady in their selection to go to the East African Legislative Assembly. We, in FORD(K), were given one slot and the rule itself is very clear. It says:- "You shall include at least one-third women." In other words, the rule that we are trying to amend, surely, contemplates more men and then one-third women. We could not produce one-third woman and, therefore, we produced a man. But for a party which has five slots, why can it not produce more than one woman or one wife for that matter?

(Laughter)

Mr. Speaker, Sir, is it because the four men who have already been nominated are so powerful and awesome that they dare not drop one of them? Secondly, what would be the reason why one individual would scare the Government to the extent where it would offend the international community and everybody else, instead of dropping him? Or is it because KANU is incapable of finding more than one woman?

An hon. Member: One wife!

Mr. Wamalwa: More than one wife?

(Laughter)

I do not think so. I think KANU can find many fit women and many fit wives too. Why KANU wants to restrict it to one woman, I will never be able to understand. Is it the sheer defiance of the international trend in the world today? The whole world is moving in a certain direction - greater gender. The crowning of the efforts of the women since the suffrage age up to now has been that women be given a bigger voice and the world is moving that way. It breaks my heart to see the people who broke the original community trying to frustrate the establishment of the current community.

(Applause)

Mr. Speaker, Sir, I think it behoves this country that we give leadership in the East African Community. It is expected of us. We are the bigger partner. Our economy is the Tanzanian, Ugandan, Malawian and Zambian economies put together. We are the leaders and for that reason, we ought to be the ones carrying the shining torch to greater gender participation in all our affairs in this part of the world.

(Applause)

Mr. Speaker, Sir, I do not see that KANU stands to gain anything by being obstinate on a matter like this, with five positions, choosing four men and only one wife.

(Laughter)

The Minister for Tourism and Information (Mr. Musyoka): On a point of information, Mr. Speaker, Sir. Much as I hate to interrupt my learned friend, is he really in order to insinuate that this country broke the original East African Community, when he knows that at that particular time, there was a military dictatorship in Kampala and there were ideological differences in the region?

Hon. Members: That is not a point of order!

Mr. Speaker: Order! Mr. Minister, I hope you will know when to stand next; otherwise, you will see the wrong side of my character. I have said in the past---

Mr. Wanjala: Throw him out!

Mr. Speaker: Order, Mr. "Budalangi"!

(Laughter)

Sorry! Mr. Wanjala, better keep your peace. I have said, let us not unnecessarily interrupt Members because it disrupts their train of thought. Let us give the Members on the Floor the time and opportunity to introduce what they have to say.

Proceed!

Mr. Anyona: On a point of order, Mr. Speaker, Sir. Something is worrying me. This Parliament is trying to pass the buck. Are we in order, as a Parliament, to castigate individuals; Kenyans, whether they be wives, women or

whoever they are, who through a faulty process of Parliament have been nominated, and use them to create ridicule on the Floor? I do not think we are acting rightly to castigate any Member who may have been nominated through a faulty process!

Mr. Speaker: Order! I hope Members will share that sentiment and whoever is a wife must of necessity be a woman.

So, proceed!

(Applause)

Mr. Wamalwa: Thank you, Mr. Speaker, Sir. I hope hon. Anyona was not referring to me. I have the greatest respect for women. I went to the right schools and if I had an opportunity, I would choose more women than men. That is for sure.

(Applause)

Mr. Speaker, Sir, what happened last Thursday was a shame to our nation and also to this House, where there was acrimonious debate on a matter of tremendous regional importance. In the process, the position of the Chair was, in a manner, besmirched.

(Applause)

Mr. Speaker, Sir, this is highly regrettable and we would like to go back to the Parliament that we know, where the Chair is honourable and everybody befalls to the Chair. However, what happened that Thursday is not as despicable as what happened yesterday. Yesterday, through the pronouncement of the highest authority in this country, the whole world heard that Kenyans do not respect affirmative action. Perhaps they do not understand affirmative action.

(Applause)

Affirmative action is the most natural reaction of any natural phenomenon to make up for something that has not been done for a very long time. It is a natural reaction; it is a stimulus in some instances. For somebody to say that he does not respect affirmative action, I think, really, is just a way of saying that he does not understand affirmative action.

(Applause)

Affirmative action has been with us since time immemorial. I mentioned the suffragettes of the women struggling to gain a parliamentary seat. How can anybody fail to see the struggle women have waged for equality? How can anybody not see the need for affirmative action?

An hon. Member: Taliban!

Mr. Wamalwa: Mr. Speaker, Sir, the world will be justified to call us Kenyans today as a society of chauvinists, who are busy trekking back to the dark ages. This is because that is where we are going to. If we start ignoring the voice of women, we are trooping back to the dark ages where women were not even just slaves, but they were objects that the men used. We are coming out of that and I do not think that, as a progressing and civilised state, we can accept to carry that label. We are for affirmative action, and we are here to see more women getting involved in the management of our affairs.

An hon. Member who talked before me said that we have a woman who is the Head of the Public Service and Secretary to the Cabinet, Dr. Sally Kosgey, and a woman PC and women DCs. But if you look at the ratio of the female PCs against male PCs; and if you also look at the ratio of female DCs to male DCs, in fact, it is about one-thirtieth female to male. That is no record to be proud of. Certainly, we are not proud of that record. We would like to do more. I would like to urge the side opposite that they still have time to change their minds.

The Assistant Minister for Local Government (Mr. Hashim): On a point of order, Mr. Speaker, Sir.

Hon. Members: Sit down!

Mr. Speaker: Order, Mr. Hashim.

Proceed, Mr. Wamalwa.

Mr. Wamalwa: Mr. Speaker, Sir, thank you for protecting me. I would like to urge the side opposite that they still have time to change their minds, like all wise people do, and save their faces.

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

(Mr. Hashim stood up in his place)

Mr. Speaker: Mr. Hashim, what did you want to say?

The Assistant Minister for Local Government (Mr. Hashim): Mr. Speaker, Sir, should I raise the point of order, or should I contribute to the Motion?

Mr. Speaker: Overruled! You cannot now raise your point of order!

The Assistant Minister for Local Government (Mr. Hashim): Asante sana, Bw. Spika, kwa kunipa nafasi hii ili nami niungane na wenzangu Wabunge katika kujadili Hoja hii. Kwa hakika, mtu yeyote atakubaliana na mimi ya kwamba kitu kibaya sana kwa jamii yoyote ni ubaguzi. Ikiwa kuna ubaguzi wa aina yoyote, lazima watu wajitokeze kwa wima kwa kuupinga ubaguzi huo. Hoja hii ya kutaka mabadiliko hayo yafanyike ili wanawake wapewe nafasi zaidi ni ubaguzi kwa wanawake. Hiyo ni kubagua wanawake na wanaume. Kwa hivyo, kifungo chochote ambacho kiko katika sheria na kinataja kuwa wanawake fulani tu ndio wanafaa wapewe sehemu fulani ya uongozi huleta ubaguzi katika jamii. Sisi tunataka kupinga kila aina ya ubaguzi. Kama alivyosema mwenzangu aliyetangulia, madhumuni makubwa ya kuleta mabadiliko haya ni kutaka nafasi zote zichukuliwe na wanawake. Hatutaki tuwe na wanawake watatu katika wanawake kumi. Haya ni makosa na tunataka kuutilia nguvu ubaguzi kwa kiasi hicho.

Kama ilivyosemakana, chama cha KANU kimewapa wanawake wengi nafasi. Mmoja wa Wabunge alisema hapa ya kwamba "ratio" ya wanawake ni kidogo kuliko ile ya wanaume tukiangalia wale ambao wako uongozini katika Serikali. "Ratio" ya Mkuu wa Utumishi wa Umma, aliye pia Katibu wa Baraza la Mawaziri, ni moja, na anayeshikilia hivi sasa ni mwanamke.

(Applause)

Mambo ambayo yanatakiwa kuzingatiwa ni kwamba wanawake ni lazima wapewe elimu sawa na wanaume, lakini ni makosa kusema ya kwamba nafasi fulani ni za wanawake au zingine ni za wanaumme pekee. Yafaa mtu achaguliwe kulingana na uwezo wake na mamlaka fulani na apewe cheo fulani kwa sababu yeye sio mwanamke wala mwanamume, bali kwa sababu anastahili kupewa kazi hiyo.

Mmoja wa Wabunge alisema ya kwamba itakuwa ni aibu kwa Bunge hili leo lilete sheria na kesho liibadilishe. Nafikiri ya kwamba Hoja sio ile iliyozingatiwa kwa sababu kazi yetu kama Wabunge ni kubadilisha sheria na kuleta sheria zingine kila siku. Watu wengi wanasema ya kwamba tumekwenda kinyume na Mkataba wa East African Community, lakini hiyo si kweli. Hivi sasa, watu wanasema ya kwamba Wakenya wale ambao wamechaguliwa wakienda Arusha kama Wabunge, watawakilisha Kenya na sio vyama vyao kama DP, FORD(K) au chama kingine. Wakati watakapokuwa kule, watakuwa Wabunge wa East African Legislative Assembly; hawatakuwa tena Wakenya.

Hivi sasa, tuna Wabunge tisa ambao wanawakilisha Kenya katika East African Legislative Assembly kama ilivyotajwa katika Treaty. Tuna wanawake wanne kutoka Uganda, watatu kutoka Tanzania na wawili kutoka Kenya. Kwa hivyo, hawa ni tisa na tumeweza kutimiza mahitaji. Nafikiri ni makosa kwa Wabunge wengine kuchukua nafasi kama hii kwa kulaumu vyama ambavyo si vyao. Hii ni nafasi ya chama cha KANU na ingeachiwa watu wa KANU peke yao kujadili mambo hayo kwa sababu si haki sisi kuingiliwa na chama kisichokuwa cha KANU.

Kwa hayo machache, ningependa kuunga mkono Hoja hii.

Mrs. Mugo: Thank you, Mr. Speaker, Sir, for giving me this moment to oppose this Motion, and very strongly so. This is a very sad moment for the history of this country; that, this House should waste two precious sittings in discussing how the KANU side will send the women of Kenya to the "guillotine." This is because we have been discussing this Motion for the last two days, because KANU is trying to take the rights of women, which rightly belong to them.

Let me start by saying that the women of Kenya do not want to be given token positions because we are capable and able. We are not asking for any favours whatsoever. It is the right of women to be appointed to the East African Legislative Assembly.

(Loud consultations)

Mr. Speaker, Sir, probably, hon. Members are consulting a bit too loudly and I am not being heard. That is the much value that they put on women.

Mr. Speaker: Order, hon. Members!

Mrs. Mugo: Mr. Speaker, Sir, one side does not want to hear about women issues. Yesterday was a very sad day. We heard the Head of State of this country saying that he does not support affirmative action and that those men who show any mercy to women will live to regret, as they will swim in confusion. What a shame! I do not know about the other women of Kenya, but I did not get enough sleep. This is because the very person, the Head of State, who is supposed to look after the welfare of the citizens of this country was quite clear; that, he does not have any regard for women.

Many of us - the women of Kenya - have been wondering why there is no woman, or wife in State House. We now understand that it is because of the deep hate for women. He has deep hate for women! We do not know of any Head of State who does not have a wife other than the President of Kenya. We now know why he does not have a wife. We would like to ask him to keep that hate within his household and not spread it all over in Kenya. By saying that he has no regard for affirmative action, the President has shown clearly that he does not know, or understand, what government is all about.

The Vice-President and Minister for Home Affairs (Prof. Saitoti): On a point of order, Mr. Speaker, Sir. We all have respect for the gracious lady, but we must abide by our Standing Orders. I think it is out of order for her to discuss the conduct of the President.

Hon. Members: Aah! Under what Standing Order is that provided for?

Mr. Speaker: Order! Order! I have not followed what was going on; I should have followed.

But you may proceed, Mrs. Mugo. Let your contribution fall within the provisions of the Standing Orders.

Mrs. Mugo: Mr. Speaker, Sir, I was just repeating what the Head of State said yesterday. Prof. Saitoti's point of order has nothing to do with what I have said here. The fact that the Head of State has gone to the extent of discussing affirmative action gives me the right, as the Mover of a Motion on affirmative action in this House, to refer to his words. I am the Member of Member for Dagoretti just as His Excellency the President is the Member of Parliament for Baringo Central. So, I also have to speak.

Mr. Speaker, Sir, it is quite clear that the President does not even support the international documents on gender, which have been signed by his Government. Affirmative action, as laid down in the Beijing Platform for Action, stipulates that one-third of decision-making positions in the Government should be given to women. Former Minister, Mrs. Nyiva Mwendwa, signed the Beijing Platform for Action document on behalf of the Kenya Government. What a shame! I call upon the women of this country to send a message to the United Nations Commission on the Status of Women, saying that the President of Kenya has no regard for affirmative action, and that he does not even intend to implement the Beijing Platform for Action.

The Minister for Tourism and Information (Mr. Musyoka): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it Mr. Minister?

The Minister for Tourism and Information (Mr. Musyoka): Mr. Speaker, Sir, Standing Order No.73 forbids hon. Members from referring adversely to the personal conduct of the President and members of the Judiciary. I would seek your interpretation as to whether the gracious lady is really in order to continue misleading this House, contrary to Standing Order No.73.

Mrs. Mugo: Mr. Speaker, Sir, if the Head of State does not want to be discussed in this House, he should not comment on matters discussed in this House.

(Applause)

Mr. Speaker: Order! Order! Hon. Members, I have been listening very carefully to the contribution by Mrs. Mugo. You must understand the difference between speech and conduct. I will know when the gracious lady breaches the rule.

Mrs. Mugo: Thank you, Mr. Speaker, Sir.

Mr. Speaker: You make reference to the President's speech, but do not discuss the conduct of the President.

Mrs. Mugo: Mr. Speaker, Sir, I am not discussing the conduct of the President. I am just trying to bring into focus what the Head of State said, and the contents of the Beijing Platform for Affirmative Action, which his Government has signed. There is no other way of putting this across. So, as the women of Kenya, we would like to know whether this Government will stand by the international statutes it has signed or whether it has thrown them out through the window. In this country, when the Head of State says something, it is not a joke.

Mr. Speaker, Sir, we are not soliciting for sympathy. In fact, we, the women of this country, do not want sympathy. All we want are our rights. Women's rights were recognised as human rights by fora on human rights in Vienna. Women in Kenya will not stand by while being trampled on by insensitive men, who may be used to trampling on their wives in their households. We say "no". I feel very encouraged when some hon. Members of this House speak

in defence of Kenyan women. Hon. Members from both sides of this House have spoken in support of this country's women. It also saddens me when I see the Cabinet, which is entrusted with the responsibility of running the affairs of this country, stoop so low and spend so much time trying to remove a provision in order to deny women their rights.

The Cabinet now has many *dot.com* generation hon. Members, who should definitely understand equality issues. I thought that young Members of the Cabinet would convince the KANU hawks to accept gender issues. The Minister for Trade and Industry, who has brought this Motion here, is the one who seconded the Motion on affirmative action when it was moved here. He is the one who stood up before a Cabinet meeting and said: "Yes, women deserve their rights." We can now see the change of heart in him. I am not sure whether the *dot.com* generation Members of the Cabinet will agree to be drawn backwards.

Mr. Speaker: What do the *dot.com* generation Members of the Cabinet have to do with this Motion, Mrs. Mugo?

Mrs. Mugo: Mr. Speaker, Sir, the affirmative action policy we are talking about here is subscribed to all over the world today. The old men in the Cabinet may not be aware of this fact. So, their young colleagues can, at least, inform them.

Mr. Speaker, Sir, the Minister for Trade and Industry has not told us the exact reasons for changing these rules. Is it because he has failed to identify qualified women in KANU?

Dr. Anangwe: On a point of order, Mr. Speaker, Sir. I have been listening to this debate keenly; hon. Members are now repeating themselves. So, would I be in order to move that the Mover be now called upon to reply?

Hon. Members: No!

Mr. Speaker: Order! Order, all of you! A lady hon. Member is contributing to debate touching on women. So, I am totally disinclined to end this debate.

Proceed, Mrs. Mugo!

(Applause)

Mrs. Mugo: Mr. Speaker, Sir, I thank you very much for your sensitivity to women issues.

Could the Minister tell the House the exact reasons for amending these rules? Looking at the qualifications of the men who have been nominated to the East African Legislative Assembly, I find that women can produce ten times more qualified women. There are actually many qualified women even in KANU. Hon. Nyiva Mwendwa has applied for nomination. She is in KANU, and a former Minister of President Moi's Government. Does she qualify any less than the men who have been nominated to the regional Assembly? Other prominent women who have applied for the jobs included Prof. Albula?, Dr. Julia Ojiambo, Hon. Grace Ogot, and Mrs. Nyamato from Kisii, among others. All these are highly-qualified women. What do the men who have been nominated have that supersedes the qualifications of these women? What we are trying to tell the Government is that we [Mrs. Mugo] would like to be represented by women. All those in the Cabinet were born of women. Today is a sad day for those women, if they are still alive, to see the Government doing what it is trying to do in this House today; they will regret ever having given birth to you! Members of this Cabinet are fathers of daughters and brothers to brilliant women, who will do Kenya proud if they are nominated to the regional Assembly. So, I appeal to the Cabinet to give them a chance. It is naive and sad for anybody to think that women can run the same political race as men. We have been given the reason why women are left behind; it is not because they are stupid, but it is an historical accident. That is what we are asking you to correct.

Mr. Kamolleh: On a point of order, Mr. Speaker, Sir. I have heard the hon. lady use unspeakable terms such as "stupid". This is unparliamentary. She used the term "stupid" which I think is unparliamentary. We are not supposed to use such words in this House. Could she please retract and apologise?

Mrs. Mugo: Mr. Speaker, Sir, I apologise! I do not even remember using that term, but I apologise.

Mr. Speaker: Apology accepted!

Mrs. Mugo: Mr. Speaker, Sir, it is so despicable and sad that we should stand here to say why women should be given their rights.

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

Mr. Speaker: Order! Will you sit down? I can understand when it is a breach of order. But I can also understand when there is an intention to disrupt and disruptions are not part of the proceedings of the House. Proceed!

Mrs. Mugo: Mr. Speaker, Sir, I would just ask the hon. Members who are speaking in support of this Motion not to try to confuse Kenyans that this clause provides for the nomination of only three women. It provides for at least three women to be nominated to the East African Legislative Assembly because even those who prepared the Treaty for East African Co-operation knew that some countries, especially Kenya, have no intention of sending women to the

Assembly. Uganda and Tanzania have sent four and three women respectively to the Assembly without any debate. They provided for at least three women because they have watched the Kenyan Parliament and have seen that we do not have even a single woman Minister. We have one woman Assistant Minister who even cannot get her words across when she sits with these men. So, they put in this clause actually to safeguard the women of Kenya because the Kenya Government has failed to do so. What a sad day!

I am normally very proud of being a Kenyan. But this time I dread being out there; I dread going to any foreign country and being told that my President in one minute says that women have small minds and in the next minute he says that you should not be sympathetic to women because you will live to regret it, and in the third moment he says he does not support affirmative action. I believe that the document on affirmative action, the Beijing Platform, to which we are signatory, should be interpreted in all the languages that this Cabinet can understand so that it can read it for itself.

Mr. Speaker, Sir, I am just so upset to think that in the 21st Century this debate is necessary. We are not seeking to have 100 women nominated to the East African Legislative Assembly, but are seeking to have only three women nominated. This has become a big deal. While there are nine women in this Parliament, there are 75 women in the Ugandan Parliament and 60 women in the Tanzanian Parliament. There are 40 women in the Ethiopian Parliament and even countries that are coming out of war have women in their Parliaments. What will it take for this country to appreciate its women?

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. I hate to interrupt the gracious lady. But is it in order for her to mislead this House about the President's comment about women having small minds? She knows very well that it is the democratic right of the President to hate women.

Mrs. Mugo: Mr. Speaker, Sir, I had forgotten that.

The Minister for Tourism and Information (Mr. Musyoka): On a point of order, Mr. Speaker, Sir. Are you satisfied that what both the gracious lady and Mr. Gatabaki have said is really parliamentary? Is it not derogatory? Does it not refer negatively and adversely to the conduct of the President? When the President addressed this issue, he was in an official function. Are you satisfied that trying to demean the image of the Head of State is in order?

Mr. Speaker: Order! How many times do I have to tell this honourable House to keep the Chair out of its debate? Do not bring me into it. Just debate! Hon. Members, discuss the issues that are before the House and do not discuss any individual hon. Member without bringing a substantive Motion. I am listening to that.

So, can you proceed!

Mrs. Mugo: Mr. Speaker, Sir, I will just---

Mr. Kajembe: On a point of order, Mr. Speaker, Sir. This Motion has been discussed exhaustively. So, I think it would be in order to call upon the Mover to reply.

Mr. Speaker: Order! As I had said, I want the lady to finish. I am mindful, as the Chair, that this issue of calling upon the Mover to respond began on Thursday, last week. I will listen to one or two more hon. Members and then I will listen to calls for the closure of the debate. But there is no way we will discuss this issue endlessly. There is no way I will close my ears to calls for closure of debate on the Motion. But please, all of you, at least, give the lady the chance to speak her mind.

Proceed!

The Minister for Tourism and Information (Mr. Musyoka): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Mr. Musyoka, I am going to throw you out of the House!

Hon. Members: Throw him out now!

(Mr. Musyoka stood up in his place)

Mr. Speaker: Order! Mr. Musyoka, are you, by any chance, policing the Chair? Try again! Proceed!

Mrs. Mugo: Thank you, Mr. Speaker, Sir. I know you are very intelligent and you are listening. So, you do not need help.

To end my remarks, so that the other hon. Members can contribute, my prayer is that we do need affirmative action, we do not need these three women to go to the East African Legislative Assembly. We do not need, as women of Kenya, tokenism, and we are not asking for any favours. We are asking for our rights. Our right at this moment is to send three women to the East African Legislative Assembly. I hope that KANU Front-benchers will honour that. I also hope that the KANU Back-benchers are still with us and that they were not swayed away from us over the weekend because they are independent hon. Members.

Affirmative action is a right to women and we must have it. Kenya cannot be right and the rest of Africa and the world be wrong, because all the other countries have embraced affirmative action.

With those few remarks, I beg to oppose.

Dr. Omamo: Thank you, Mr. Speaker, Sir. I will use only a few words to convey what I want to say.

In 1990, in a meeting, I learnt something very important from a gracious lady, Dr. Eddah Gachukia, who was attending that same meeting. At that time, we were talking about employment opportunities for men and women. The gracious lady did something which touched me very much. For the first time, she convinced me that men and women are different. This is something which I had never realised before. I was convinced that men and women are different and the Almighty God, in distributing labour, gave the woman one function, which only the woman can perform and not the man. It is only the woman who can increase the population!

(Applause)

Mr. Speaker, Sir, because of these differences, there are occasions when we must consider the lady to be different from the gentleman. The Almighty God has bestowed upon the lady less strength and slightly different type of muscles, and a different type of body to make her the "better-half" of the man. Due to these differences, the lady has tended to be denied certain things by the male partner. The fact that, occasionally, the lady is left behind, has taken time in history to be realised and corrected by different nations at different times.

Mr. Speaker, Sir, I remember rightly that, in 1985, when the Women's Decade Meeting was held here in Nairobi, we were there at the last meeting, as Members of the Cabinet. We were all sitting there and people were very happy. Then the Chairlady, on winding up, stood up and said the following words:

"From now onwards, as far as human rights are concerned, let the men get all their rights, but nothing more and let all the women get their rights, but nothing less."

This august House has indicated, in broad daylight the way they want ladies to go forward in the representation of women at the East African Legislative Assembly. They had indicated it and that was the mind of Kenya; when they put it down as an Act, it was the mind of Kenya.

(Applause)

They went further to use an arithmetical formula that, let the women form one-third of those representing Kenya. One-third is an interesting formula these days. FORD(K) must have used this formula because it was allocated one position. One-third of one position, is just a third. It is very difficult to create a human being only from a third! The National Development Party had only one position, one-third of that position gives you only one-third. It is difficult to make a human being from one-third. The Democratic Party of Kenya was given two positions and one-third of two is two-thirds. It is relatively easy to create a person from two-thirds, so they moved ahead and elected one lady.

Mr. Speaker, Sir, I have a lot of respect for KANU. I have a lot of respect for our own President, the Chairman of KANU. As you are aware, I am on this side of the House because I am ready for a merger with KANU. The Kenya African National Union had an opportunity to select five representatives. All right, one-third of five is one and two-thirds. It is easier to make a full unit out of the two-thirds. So, any one with an understanding in mathematics, would have expected KANU to produce two women representatives.

(Applause)

(An hon. Member whistled)

Mr. Speaker: Order! Order! Who is that hon. Member turning this House into a matatu terminus? Be careful! It is terrible!

Proceed, Dr. Omamo!

Dr. Omamo: Mr. Speaker, Sir, I would have expected KANU to produce two women representatives to help us move forward as a nation to the East African Legislative Assembly.

Mr. Speaker, Sir, the point is that our country has done well in education. Our education policy has benefited both boys and girls. It is His Excellency the President's legacy. He will be remembered for promoting secondary school education in the country. We have got to give His Excellency the credit for promoting both secondary and university education. If you want one educated Kenyan woman today, from North Eastern Province, Nyanza Province, Rift Valley, *et cetera*, it is easy to get her. We salute His Excellency the President for this achievement. What then is forcing us to change our mind?

Hon. Members: Ask them because you are with them there!

Dr. Omamo: I am not going to ask anybody, but the Chair. What is forcing us to change our minds when the circumstances and opportunities are so good? The opportunity and the time is prodigious and the atmosphere is conducive for Kenya to move forward and lead in East Africa. What is making us develop cold feet?

*(Several hon. Members stood up
in their places)*

Mr. Speaker: Which party have I not given a chance to? I have given too many chances to DP. I think the most unrepresented party on that side is SAFINA.

Mr. Muite: Thank you, Mr. Speaker, Sir. I would like to begin my contribution by paying tribute to my colleagues on the other side of the House who have stood up and spoken against this Motion. I would like to appeal to the House that, as we debate this Motion, we debate it as the National Assembly; let us not debate it on partisan lines. This is not an issue about antagonism between KANU and the Opposition, but one to do with the dignity and sovereignty of this House. So, let us do that as hon. Members of this august House. Particularly, this is important in view of the fact that the Chair said on Thursday that there were many calls that the debate should be ended. That is true but there has been an important intervening event, which I am sure the Chair will bear in mind. This is the reason why we would like to have this opportunity to try and persuade our fellow hon. Members, particularly on the other side of the House, to remain firm because of the public call by the President that this Motion should be passed.

As the hon. Member for Githunguri has said, we should accord the opportunity to the President, as well, to express his mind; he should give his views. There is nothing wrong when the President publicly gives his views, but there is an important issue here. This Motion, in addition to promoting the interests of women - affirmative action - the fact that the Head of State has now come out publicly to say that the Motion should be passed or the law should be amended, makes the issue very important. It shows the independence or supremacy of this House.

Mr. Speaker, Sir, I would like to urge the hon. Members that, when it comes to voting, let us bear in mind that this is not just the issue of affirmative action nor is it the issue of sending three women to the East African Legislative Assembly. We will also be asserting our sovereignty and supremacy as the National Assembly of Kenya. That is an important issue. Therefore, I would like to pay tribute to the hon. Members from the other side of the House who spoke against this Motion, and express confidence that none of them will change his position when it comes to voting.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Osundwa): On a point of order, Mr. Speaker, Sir. Since all that we are hearing is just repetition of what has been said here, I would like to call upon the Mover to respond.

Hon. Members: Who are you?

Mr. Speaker: Order! Mr. Osundwa, Mr. Muite has hardly spoken. I will listen to you after he has had his chance. You can renew your application!

Proceed, Mr. Muite!

Mr. Muite: Mr. Speaker, Sir, you will notice that I have even refrained from saying that we told you that-- The Chair will remember that when we were debating these rules, Mr. Anyona, Dr. Kituyi, Mrs. Mugo and myself were at pain to point out some of the pitfalls that we might fall into, and that is what we have exactly done.

I agree entirely with what the Chair said earlier on when a point of order regarding the legality of amending these rules was raised. The Chair referred to Section 31, Cap 2---

(Loud consultations)

Mr. Speaker: Order! Order, hon. Members! Proceed, Mr. Muite!

Mr. Muite: Mr. Speaker, Sir, Section 31(1)(c) of Cap. 2 specifically says: "No subsidiary legislation will contravene the contents of the Act." We started off by contravening Article 50, which we pointed out. If you read the section you were referring to carefully, you will realise that it requires amendments of subsidiary legislation to be in line with the manner in which the subsidiary legislation was enacted. To me, what should have happened was that the amendments should have been drafted, taken to the House Business Committee and tabled here for debate. The only way we can amend that law is to---

Mr. Speaker: Mr. Muite, you said that you will refrain from revisiting an issue upon which I have made a ruling!

Mr. Muite: Mr. Speaker, Sir, I am not saying that we re-do it neither am I disagreeing with you because this is the only opportunity I have to place my opinion on the permanent record of the HANSARD. I do not intend to take

a long time. I rose to very strongly oppose this Motion and appeal to the hon. Members, on both sides of House, to vote as Members of the National Assembly.

When we talk about affirmative action, we are trying to correct the imbalances that have accumulated because of prejudices that are meted out on women every year. Let us remember our daughters; let us remember how much we want our daughters to be treated with respect---

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Osundwa): On a point of order, Mr. Speaker, Sir. I am now renewing my application that we have heard enough and I call upon the Mover to reply.

Mr. Speaker: Order! I am now inclined to accede to the request by Mr. Osundwa.

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

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, having seen the course the debate has taken, it has made me realise that the issue before the House is being hijacked and made political.

Mr. Kihoro: On a point of order, Mr. Speaker, Sir. I rise under Standing Order No.75 with regard to the hon. Member on the Floor declaring a personal interest. I am aware that the wife of the hon. Member has been nominated to go to Arusha, and Standing Order No.75 requires him to declare that personal interest.

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, I think you will agree that the hon. Member is being mischievous.

Hon. Members: No! No!

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, what is before the House is an amendment of the laws which we enacted in this House pursuant to the provisions made under Article 50 of the East African Community Treaty.

For the House and the entire nation to know exactly what that section says, let me just read it out. That provision talks about---

Mr. Kihoro: On a point of order, Mr. Speaker, Sir. I raised a point of order under Standing Order No.75 and I did not hear your ruling at all!

Mr. Speaker: But can you read the Standing Order?

Mr. Kihoro: Mr. Speaker, Sir, the Standing Order says:-

" A Member who wishes to speak on any matter in which he has a personal interest shall first declare that interest unless it is obvious."

Mr. Speaker: Proceed, Mr. Biwott!

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, as I said last week---

An hon. Member: Declare your interest!

The Minister for Trade and Industry (Mr. Biwott): As far as I am concerned, I do not have any personal interest other than to see to it that nine members from Kenya are elected by this National Assembly to go to the East African Legislative Assembly.

As I was saying---

Mr. Anyona: On a point of order, Mr. Speaker, Sir. The procedure is that when a debate is over, the Minister is supposed to reply to the points raised by hon. Members and not open a debate on the same issue. We want to know why the Minister wants this House to change the rules to cut down on the number of women from three. That is all we want to know.

Mr. Speaker: Order! I gave the hon. Minister an opportunity to respond. Therefore, debate on this issue will not be re-opened.

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, I am responding to the points raised by hon. Members. I have been asked to explain to the House why we have brought this amendment. The reason for doing so lies within the Article itself which stipulates how many members will be elected, who those members will be, who should elect them and what procedures will be used. For the purpose of this House and the entire nation, I would like us to really understand the basis upon which we are deliberating on these issues.

Mr. Speaker, Sir, I just want to read the provisions of Article 50(1) for the sake of the entire nation, including my constituents. It says:-

"The National Assembly of each partner State shall elect - not from among its own members - nine members of the Assembly who shall represent as much as it is feasible the various political parties represented in the National Assembly, shades of opinion, gender and other special interest groups in

that partner state, in accordance with such procedures as the National Assembly of each partner state may determine."

Mr. Speaker, Sir, I would like this House, and the country at large, to remind itself of the fact that we are required to elect nine members, among which gender, political parties and other interest issues shall be reflected, which in this particular case were not taken care of. When we made our rules, because we were required to do so, we introduced an element of one-third. It is that one-third rule which is impracticable now. When electing the nine members, we did not meet the required one-third. Why should we equate our women to one-third? They are not one-third. They are equal to men because they are born at random. There is no provision which said that there shall be one-third of women and two-thirds of men. Otherwise, the entire nation will be populated by men and that job which hon. Omamo talked about will not be fulfilled.

Mr. Speaker, Sir, I think the hon. Member, who spoke on behalf of his own party and was proud to do so, said that there is no one-third of a woman and, therefore, they had to get one man. Why must it be a man to have one position and not a woman?

The hon. Member from Lamu mentioned very clearly that we have one slot for the Head of the Civil Service which, initially, was occupied by men. But time came when a woman was the right candidate to occupy it. Does she occupy that position because of the one-third rule? Let us not---

Mr. Anyona: On a point of order, Mr. Speaker, Sir. The debate before this House is about the nomination of our members to the East African Legislative Assembly. It is not about the Head of the Civil Service and PCs. Could the Minister tell us why he wants us to change these rules?

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, I want us to change the rules because KANU is number one in putting the interests of women above everything else. That is why we have a woman as the Head of the Civil Service. I talked with the UK Ministers and they acknowledged that we are ahead of many countries because we appointed a woman as the Head of the Civil Service.

The question---

(Loud consultations)

Mr. Speaker: Order! Can we finish this debate in a dignified manner. Personally, I think the Head of the Civil Service should be given a rest now. I think we have "flogged" her too much.

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, the other issue which has been raised here is that we will be a laughing stock at the East African Community if we do not nominate three women to East African Legislative Assembly. When we drafted these rules, we made them flexible, so that any state could elect in any manner, the nine members. Let me remind hon. Members that we are not under anybody. We are a sovereign country. We are not under obligation to do this and that. We are not being supervised by anybody or being directed on what to do. At the moment, what we are trying to do is to allow flexibility so that more women can be elected to the East African Legislative Assembly. There could be four, five or six women. They could even be nine women members. Flexibility is the right thing to do.

Mrs. Mugo: On a point of order, Mr. Speaker, Sir. Is the hon. Minister in order to mislead this House that they are opening up opportunity so as to elect more women, while they are really reducing the little opportunity that is there for women? Is the Minister not playing with our minds and thinking that we cannot argue effectively?

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, I think the President put it very well yesterday when he congratulated ladies who were awarded the Phd degrees. He said that they got those degrees because they deserved them. Our women are very clever. They are equal to men. That is why we are giving them that equal opportunity unlike you who are relegating them to the periphery---

(Loud consultations)

Mr. Speaker: Order! Mr. Biwott, I hope you are winding up!

The Minister for Trade and Industry (Mr. Biwott): Mr. Speaker, Sir, what I would like to appeal to this House---

*(Several hon. Members stood up
in their places)*

Mr. Speaker: Order! Will you all, please, sit down? Mr. Biwott, finish what you are saying.

The Minister for Trade and Industry (Mr. Biwott): I would also like to appeal to the House to respect women. Let us treat them as equal to men.

That is equality. We do not have to reduce them to a subordinate proportion. Let us treat them on a 50-50 basis so that we can be proud of them because we love our women.

Mr. Speaker, Sir, with those few remarks, I beg to move.

Mr. Speaker: Order! I will now put the question.

(Question put and agreed to)

Hon. Members: Division! Division!

*(Several hon. Members stood up
in their places)*

Mr. Speaker: Order! I do not have to ask the Clerk whether we have attained the requisite number. It speaks for itself. I, therefore, order the Division Bell to be rung.

(The Division Bell was rung)

Mr. Speaker: Order! Order, hon. Members! Time for the Division Bell is now over, and I, therefore, order that the Bar be drawn. Before I announce the names of the Tellers, I would like the House to know the order for Division. The procedure is as contained in Standing Order No.53.

Now that the Bar has been drawn, I will announce the names of the Tellers as follows: The tellers for the Ayes, who will proceed to the lobby on my right, are Mr. Mwenje and Mr. Kamolleh. The tellers for the Noes, who will proceed to the lobby on my left, are Mr. Keriri and Mr. E. Morogo.

I would also like to let you know that when I put the Question, you will proceed to vote. Those for the Ayes will proceed to my right and those for the Noes will proceed to my left. I wish also to remind you that you are not obligated to vote either way; you may abstain. If you choose to abstain, you will neither go to the right nor to the left, but you will proceed to the Table and register your name with the Clerk-at-the Table. That will be your voting booth.

Now, once I have directed you to proceed to vote, you will have 15 minutes between moving from here to the lobbies. If the 15 minutes lapse and you are not within the lobby, you will forfeit your right to vote. So, when the 25 minutes for voting are up, I will call the House to order.

DIVISION

(Question put and the House divided)

(Question carried by 89 votes to 78)

AYES: Messrs. Affey, Dr. Anangwe, Dr. Awiti; Messrs. Awori, Biwott, Chanzu, Choge, Ekirapa, Ethuro, Dr. Galgalo G.B., Dr. Godana. Messrs. Gumo, Haji, Hashim, Jirongo, Kajembe, Kalulu, Kalweo, Kamotho, Kamolleh, Kanyauchi, Karauri, Keah, Kenyatta, Khaniri, Kiangoi, Col. Kiluta, Mr. Kimani, Kimkung, Arap-Kirui, Kitur, Kochalle, Kofa, Kosgey, Koske, Lagat, Lengees, Leshore, Leting, Lomada, Lotodo, Maj. Madoka, Mr. Marrirmoi, Mkalla, Mohamed, Mohamud, Morogo E.T., Morogo W.C., Moroto, Muchilwa, Mudavadi, Mukangu, Musyoka, Ms. Mwachai, Mr. Mwakalu, Nassir, Ndambuki, Ngala, Ng'eny, Ngutu, Nooru, ole Ntimama, Ntutu, J. Nyagah, Nyangwara, Nyenze, Obure, Odongo, Odoyo, Ojode, Okemo, Osundwa, Otula, Poghisiyo, Raila, Eng. Rotich, Ruto I.K., Prof. Saitoti, Messrs. Sambu, Samoei, Sasura, Shambaro, Sirma, Sudi, Sumbeiywo, Sunkuli, Dr. Wako, Dr. Wamukoya, and Mutiso.

Tellers of the Ayes: Messrs. Mwenje and Kamolleh.

NOES: Mr. Angwenyi, Anyona, Prof. Anyang'-Nyong'o, Messrs. Donde, Gatabaki, Githiomi, Gitonga, Imanyara, Kaindi, Kajwang, Kamanda, Kamau, Kariuki, Ms. Karua, Messrs. Karume, Kathangu, Katuku, Keriri, Khamasi, Kibaki, Kibicho, Kihara P.A., Kihoro, Kitonga, Kikuyu, Kirwa, Dr. Kituyi, Messrs. Kiunjuri, Kombo, Dr.

Kulundu, Messrs. Maina, Maitha, Manyara, Maore, Michuki, Muchiri, Mugeke, Mrs. Mugo, Messrs. Muihia, Muiruri, Muite, Munyao, Munyasia, Munyes, Murathe, Dr. Murungaru, Messrs. Murungi, Eng. Muriuki, Messrs. Mutahi, Muya, Mwalulu, O.K. Mwangi, P.K. Mwangi, Mwenje, Mwiraria, Nderitu, Mrs. Ngilu, Messrs. Ngure, Obwocha, Ochilo-Ayacko, Dr. Ochuodho, Dr. Omamo, Opore, Orengo, Parpai, Mrs. Seii, Messrs. Shitanda, Sifuna, Eng. Toro, Messrs. Waithaka, Wamae, Wamalwa, Wamunyinyi, Wanjala and Dr. Wekesa.

Tellers of the Noes: Messrs. Keriri and E. Morogo.

MINISTERIAL STATEMENT

APPOINTMENT OF EA LEGISLATIVE ASSEMBLY MEMBERS

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Speaker, Sir, I do beg to make the following Ministerial Statement:-

That, pursuant to the Treaty for the establishment of the East African Community Act, 2002 and in accordance with Rule 6, Sub-rule 4 of the elections of Members to the East African Legislative Assembly, the House Business Committee has appointed the following nine Members to the Assembly: Mrs. Rose W. Waruhiu; Mr. Callisto Andrew Mwatela; Mr. Maxwell Shamalla; Mr. Gilbert Ochieng Mbeo; Mr. Mohammed Abdalla Zubedi; Prof. Margaret Jepkoech Kamar; Mr. Abdulrahim Hyther Haji Abdi; Mr. Adam Abdullahi and Mr. Jared Benson Kangwana.

The Members fully qualify to be elected as Members of the East African Legislative Assembly, in accordance with the Treaty for the establishment of the East African Community.

Mr. Speaker, Sir, I wish to thank all the Members of Parliament for having effected the vote and hope that the Members now elected can be able to proceed to Arusha.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. It is now that the names are reaching the Floor of the House and we would like the procedure that follows to be prescribed. I just wanted to find out some guidance on this matter. If the House wishes to debate these names in order to be able to give positive resolution to their appointment, is there anything that stops the House from doing that? Secondly, if there is nothing to stop the House, what would be the procedure to be followed?

Mr. Speaker: Order! Mr. Anyona, I think, again, you are asking the Chair about things that are totally out of the Chair. You remember the rules that were made and initially tabled in this House, that allowed the general Membership of the House to participate in the voting of the final people to go to Arusha and you yourselves rejected them. You accepted to go this route and the route has been followed to the letter. There is nothing the Chair can do. It is out of my hands. Sorry about it!

Ms. Karua: On a point of order, Mr. Speaker, Sir. Rule No.8 of the rules for the establishment of the rules of the elections of Members of the Assembly; that is for electing the names that have just been tabled, provides that:-

"If any matter arises which is not specifically provided for in these rules, the Speaker shall make a ruling directing what is to be done in accordance with the Standing Orders of the National Assembly."

Mr. Speaker, Sir, following the point of order raised by hon. Anyona, it is obvious that Members would like to discuss those names. We are, therefore, calling upon you to make a ruling on the manner in which debate should proceed. Although Rule No.7 says "they will be deemed to have been elected", that does not preclude the Members from ventilating and expressing their views for record and posterity. It will be a sad day if Members were to be gagged upon the tabling of the names. We, are, therefore urging your direction on the manner in which debate will be conducted. Quite a number of Members, I included, have a few words which we would like to go on record.

Mr. Speaker: Order! I am meant to understand that among the drafters of these rule, included you, hon. Ms. Karua. In your wisdom, and the House in agreement with your wisdom, put specifically Clause No.7 which states:-

"Upon being satisfied that the requirement of Rule No.6 has been complied with, the House Business Committee shall cause the names of the nine nominees of the parties to be tabled before the National Assembly and such nominees shall be deemed to have been elected as Members of the East African Legislative Assembly in accordance with Article 50 of the Treaty."

So, the House decided and the Speaker agrees with the House. I have nothing further to add. That is the end of the matter.

(Applause)

Next Order!

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

Mr. Speaker: Hon. Ms. Karua, I will get you out! You made the rules!

Ms. Karua: What about Rule No.8?

Mr. Speaker: Order! The Speaker will not get into the business upon which he was not assigned.

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

Mr. Speaker: Order! I will get you out!

(Mr. Muite stood up in his place)

Mr. Speaker: Order, Mr. Muite! Could you sit down? The hon. Members made the rules. They never consulted the Chair. I am satisfied with the decision of the House Business Committee and the House. I have nothing further to add. In fact, I have nothing to say as Speaker.

Next Order!

(Loud consultations)

Mr. Muite: On a point of order, Mr. Speaker, Sir. The consultations are too loud. The rule which you have just read says that the names will go to the House Business Committee and if the House Business Committee is satisfied, it will cause the names to be laid on the Table of the House. Now, when the Leader of the Official Opposition was making his contribution here, he said that the rules that we are debating here had been brought here not by the House Business Committee, but by KANU. It is not the House Business Committee that brought them.

Mr. Speaker: Order!

Mr. Kibaki: Mr. Speaker, Sir, I never used any such words. What I said, and I can repeat very precisely, is that the names which were being proposed by KANU were not debated by the House Business Committee. The amendment itself had not been approved by the House Business Committee as such. That is a different story from what is now being said.

Mr. Speaker, Sir, I am sure that you are right when you say that we have finished the business now, and we can go and dispose of the Coffee Bill.

Mr. Speaker: Very well! Next Order!

BILL

Second Reading

THE COFFEE BILL

(The Minister for Agriculture on 21.11.2001)

(Resumption of Debate interrupted on 21.11.2001)

Mr. Wamae: Mr. Speaker, Sir, I would like to contribute to the Coffee Bill. This is a very important Bill because it will create the environment under which the coffee industry will operate. This is a matter which we have discussed for a long time in this House, in the Departmental Committee and outside. We consider that it is important that we put the coffee industry on its right footing.

The coffee industry has gone through very rough time during the last two years. The farmers have not received income commensurate with the investments which we have made. In fact, the coffee industry has been losing money and most of the farmers have been very seriously discouraged. We know that this is because of the international prices which have made the coffee industry unprofitable and, therefore, not able to support the farmers.

Mr. Speaker, Sir, in fact, farmers from the coffee-growing areas have become very poor. They are moving in tattered clothes and they cannot educate their children. They are completely ridden with debts from the Co-operative Bank of Kenya and other financial institutions, and it is important that the Government comes to their aid.

I am going to suggest some ways in which we expect the Government to move in and assist the coffee industry. The Act, as now proposed, will go along way in reducing particularly the very many deductions which are made on the coffee proceeds. By so doing, we hope that the coffee farmer will realise substantial high percentage of

the income realised from the sales of his or her coffee. It is important that we do remove, as much as possible, the numerous middlemen who are in the coffee industry. But, surprisingly, part of the Act, in fact, increases the middlemen. There are brokers, agents and many others. Any one of those bodies will be required to be financed by the farmer. We do not, in fact, intend to do so.

Therefore, I like the idea proposed by the Departmental Committee, where these deductions are considerably reduced. I particularly like the way they have framed it; that, it will not exceed 6.7 per cent. That the 6.7 per cent deduction will be the maximum. It can be lower but not above 6.7 per cent.

In realising these deductions, we are saying that the marketing agency fees do not exceed 1 per cent, and I think that it is right. The *ad varolem* Coffee Research Foundation (CRF) levy should not exceed 2 per cent. We expect the marketing agency to be aggressive, which can go out into the world and find how we can market our coffee better. We expect them to go and see what is the fair trade in America and other countries and sell our coffee there in a specialised market. We do not expect to have a marketing team which just sits here and waits for the auction at Nairobi Coffee Exchange.

We have been disappointed to learn that usually, at the Coffee Exchange, the people who go there to bid are between four to six people or companies. Also, usually, they sometimes meet in Norfolk Hotel and, after coffee, maybe, they decide what price they want to give to our coffee. We do not want to hide in the net. Let us have more people moving into the market and bidding for coffee so that we can have a lively and active competition.

As far as the CRF is concerned, we like the idea that one has to carry out research, if the coffee industry is to be improved. But we have been disappointed because farmers finance the research to produce Ruiru 11. But the farmers from the areas which finance Ruiru 11 cannot get the seedlings for Ruiru 11. Ruiru 11 has now been taken by people who are not even in the coffee industry. The people who finance the Ruiru 11, which is immune from coffee berry disease, cannot get the seedlings. This is a very worrying thing because they should be the people who should benefit and anybody else who comes later should buy the seedlings after those who are financing it have had enough of the Ruiru 11. I think, in as far as that is concerned, the CRF has failed because it has been politicised. It was a political decision to give those seedlings to certain people from certain areas who will never finance the research on Ruiru 11. That is most unfortunate because the people in the coffee-growing areas have been crying for Ruiru 11 and cannot get it. This is because it is booked forward and it has gone to other areas and to Kenyans, but they have not financed it. Those people who have been deducted money and, therefore, finance the CRF should have been given the first preference.

We like the idea that the Coffee Board of Kenya (CBK) should become purely statutory. It should just give licences. It should have no business in marketing or doing anything else with coffee. Let it become a regulatory body because we do require a body which will finance all the different stages of the coffee process. I think even 0.5 per cent is more than enough for them because you do not expect them to do very much. You have good people there who can give licences and make sure that the rules are followed. If you want to be a miller, or a producer or you want to pulp, you should get a licence from the CBK. But we do not want them to handle any coffee or to get involved in marketing or in other stages of coffee processing. In fact, they have not done very well up to now in all the stages, and they should get out of that market.

The other area where we need to be careful is the coffee cess which is now being proposed, not exceeding 1 per cent. It should be given to the growers themselves to provide for their own access roads. The present system may not be satisfactory. I have been to some coffee factories even in my own constituency who are not satisfied that the cess is being used properly. They cannot say what has been done with their cess in their own areas, particularly, the Iriaini Co-operative Society. I was with them yesterday and they told me that they do not know what is happening with their cess money for roads because no road has been constructed or rehabilitated in their own areas. Let the cess money go directly to the growers who should decide where the road should be constructed.

I like very much the idea of having the Coffee Development Fund (CDF) Levy. This is the beginning of building a fund which will be financed by the coffee industry. I would also like the money which we are now calling STABEX funds and SCIP II to be the seed money for the CDF levy. It should be put there at 5 per cent interest and the farmers should continue borrowing the money from a revolving fund. This is because the European Union, which provided these funds, are not expected to be paid. Therefore, it is better that it becomes a permanent revolving fund for the coffee industry.

The Nairobi Coffee Exchange is something which we all want because it is above board and it is something which everybody can check on, but the farmer should have a say. The farmer should be able to have a reserve price on his or her coffee. If he or she does not reach the reserve price, he or she should withdraw from auction. Let the farmer be the owner of the coffee and not what has been there before.

Regarding milling charges, I also feel that it should not exceed 1 per cent and let anybody who wants to have a mill, if they can put a mill and be able to do the colour sorting and other things, be licensed by the CBK. One thing

which has remained unclear is whether we are going to create an agency, as we did for the tea sector, or whether we are going to leave it open for any agent to be appointed. There is no clear-cut provision in the Bill on this, as it is now. The Bill provides for the appointment of an agent for marketing, but does not specify who the agent should be.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, there has been a lot of canvassing and lobbying, particularly by the Kenya Planters Co-operative Union (KPCU). Members of the KPCU have been canvassing even in this House day and night to be given the responsibility of becoming the marketing agency. I really do not think that we should give KPCU monopoly to become the only marketing agency for coffee. I believe that the KPCU can, if it fulfils the conditions stipulated in this Bill, including the deposit that is required, become one of the agents for marketing coffee. Any other miller interested in becoming a marketing agent should fulfil the stipulated conditions. But we do not want a monopoly in the name of KPCU in this regard. Everybody is not necessarily a member of the KPCU; everybody has a right to remain a non-member of the KPCU. So, why should it be made compulsory for everybody to market his coffee through the KPCU?

In the case of tea, it is a requirement that everybody uses the Kenya Tea Development Agency (KTDA) to market his tea. In the case of coffee, not everybody is a member of the KPCU. So, we cannot really give the KPCU the monopoly of marketing all the coffee in the country. However, coffee producers who wish to make the KPCU their marketing agency, should have the right to do so. Those who wish to make anybody else, or organisation their agent, should also do so provided that, that person, or organisation, fulfils the conditions stipulated in this Bill. I like the idea because by creating a coffee marketing agency we will be creating another body, which will, again, have to be financed by the farmer. That is what we are trying to avoid - having too many middlemen to be financed by the farmer. But let there be as many agents as they feel that they have business to do, as long as they can provide the deposit provided for in this Bill, which is substantial, and which is less than one-and-a-half times the value of the coffee, to make sure that once they sell the farmers' coffee, they will have money with which to pay for it within seven days. It will be very serious if coffee is sold but the farmer is not paid within a reasonable period of time.

Mr. Temporary Deputy Speaker, Sir, we have, for a very long time, talked about the STABEX funds. I would like to say that we are very disappointed by the way in which the Co-operative Bank of Kenya is handling these funds, which are meant for the co-operative sector. The amount involved is only Kshs315 million. We know that another Kshs500 million will come under the STABEX Fund. This amount was promised after the audit. There is still Kshs4 billion of STABEX funds which we would like allocated to the coffee sector, because the sector has suffered most. However, after it was agreed that the money should be allocated to the coffee sector, everybody in Kenya, including fishmongers, cotton growers, nomads and cattle breeders, want a share of the STABEX. If players in these sectors feel that they should also be financed, they should seek audience with the European Union (EU) and negotiate for funding.

According to the protocol that was signed by the Government of Kenya, the STABEX funds are meant to finance the coffee and tea sectors. We are not opposed to the financing of these other sectors; we are only saying that its players should go and negotiate with the EU for funding. Tea is not fairing as badly as coffee. So, we are not putting a case for tea. We would like all the available STABEX funds to go to coffee growers, because these are the ones who have suffered most, and are still suffering. I think they need a boost. The coffee industry has helped the Government for many years. At one time, it was the country's major foreign exchange earner. For many years, the coffee sector bore the burden of meeting this country's needs. Now that the sector is on its knees, why can the Government not come to its aid by using all the available resources to support the coffee farmer? Why should the coffee farmer be ignored now that international coffee prices have fallen? The Government should, in fact, put in more resources to boost the farmer and help the coffee sector to survive because players in this sector put in so much effort in the past, to keep this country afloat for many years when coffee was the major foreign exchange earner.

Mr. Temporary Deputy Speaker, Sir, one of our quarrels with the Co-operative Bank of Kenya is that whereas the bank says that it is going to loan out 40 per cent of the STABEX funds at 5 per cent interest, it wants to loan out the remaining 60 per cent of these funds at 15 per cent interest. Co-operative societies are very unhappy with this decision. The 15 per cent interest rate the bank wants to charge on these funds is really the current commercial interest rate. Why should co-operative societies be forced to borrow 40 per cent of the STABEX funds at 5 per cent and the remaining 60 per cent at commercial interest rates? Co-operative societies would like to borrow whatever amount of the STABEX funds they can get at 5 per cent and it should be optional for them to borrow any additional sum at commercial interest

rate. After taking the STABEX funds loan at 5 per cent, co-operative societies should not be forced to take 60 per cent of the money at 15 per cent. Many farmers are not willing to enter into such a deal. This condition by the bank is not warranted. Let co-operative societies have whatever amount of the STABEX funds is available. If they are going to get Kshs2 or Kshs3 per kilogramme at 5 per cent, let them receive that money. If they want to borrow from the Co-operative Bank of Kenya, or any other bank, at commercial interest rates, let this be optional to co-operative societies or individual coffee farmers. But let them not be forced to borrow the money at 15 per cent interest.

The coffee industry is the mainstay for millions of Kenyans. Coffee is a major crop in Central and Eastern Provinces, and parts of Western Province. I believe that coffee is a mainstay for many families. It will be a pity if we allow this industry to collapse. The industry has almost collapsed, but there is still time for us to revive it. In some areas, coffee bushes have almost dried up because nobody is tending them; no fertilizers or any other chemicals are being applied to them. The trees have become very weak. There are now very few coffee bushes in the farms. Even large-scale coffee farmers are unable to pay for electricity. They cannot irrigate their crop because the cost of electricity is too high while the proceeds from coffee sales are too low. So, we need a special programme, so that we can assist the coffee farmer to survive. Whatever can be done, including the passage of this Bill, which I think will go a long way in giving coffee management powers to coffee growers, is important.

Mr. Temporary Deputy Speaker, Sir, Kenyans do not take coffee. Even coffee growers themselves do not take any coffee. If you visit their homes, they ask you whether you would like to have some tea; they never ask you whether you would like some coffee. So, I think we need to promote coffee taking in Kenya. It would also help if we had a reasonable market of about 15 or 20 per cent of our coffee being consumed by Kenyans. This would help coffee farmers when international market prices fall.

It has been stated here, and I would like to repeat it, that the passage of this Bill alone will not help co-operative societies to solve their management problems unless we also substantially amend the Co-operative Societies Act. The Co-operative Societies Act liberalised the sector too soon, and farmers have not benefitted from that liberalisation. There is a lot of infighting in co-operative societies today. Co-operative officers have walked away and left farmers on their own, without even training them. There was no proper preparation to hand over the co-operative movement to the farmers.

So, after the passage of this Bill, we should amend the Co-operative Societies Act, so that it can be consistent with the proposals contained in this Bill. Farmers will also be able to run co-operative societies in a responsible manner. We should also provide for indemnity so that if committee members of any co-operative society steal farmers' money, farmers can access their assets and recoup whatever loss they may have incurred. We should also provide for fairly heavy penalties, and people who steal farmers' money should be taken to court like anybody else. We should provide for a way of carrying out quick audits, so that any irregularities can be detected early enough. If farmers should have confidence in growing coffee, co-operative societies must also be managed above board. We need to amend substantially the Co-operative Societies Act. The officers at the Co-operative Department have also become corrupt. We need to re-train them and put good and responsible officers there. They share the money they loot with the committee members and, therefore, they are not interested in reporting to the members what is happening. We need to ensure that we remove all the corrupt officers from the co-operative movement, so that the management committee, being a supervisory body of the co-operative movement, can be responsible and assist the farmer in the areas where we expect it to do so.

Mr. Temporary Deputy Speaker, Sir, we will need a lot of other details to decide on the apportionment of assets of the Coffee Board of Kenya (CBK). These are assets of the farmers. It is the farmers who have financed the CBK. So, whatever assets the CBK has are assets of the farmer and not of the Government. Sometimes, when we hear about the CBK's assets, we think it is Government money. There is no Government money in the CBK. So, those assets belong to the farmer and we must know what happens to them.

Also, the Coffee Research Foundation is also a property of the farmer. We must know how all these assets will be split. The CBK, as a regulatory body, will not require many assets. It will only require a few nice offices and then do the regulatory work. It does not require many assets to do that job. Whatever fee it will charge will give it enough income to meet its administrative overheads.

Mr. Temporary Deputy Speaker, Sir, with those few words, I beg to support very much the proposed Coffee Bill.

Mr. P.K. Mwangi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to support this very important Coffee Bill.

You will agree with me that the state of the coffee farmer today is pathetic. I represent an area which depends on coffee 100 per cent. This is a pathetic case. Today, more than 70 per cent of school-going children in my constituency are not attending school, just because the coffee farmer cannot afford to pay school fees. It is pathetic that it has taken the Government of Kenya many years to bring this Bill to this House. It could have been brought before

the House a long time ago. But I thank the new Minister for Agriculture for having come up with this Bill this year as a Christmas gift to the coffee farmer. Let the coffee farmer rest assured that, by 1st January, 2002, he will have a new coffee law in place. Let him rest assured that by next year he will reap benefits from his coffee.

But it is illogical to come up with a very good law today because the farmer cannot produce. He should be given money in order for him to produce. There is nothing else which can make him produce anything. There is nothing in his farm. The Government should come out very quickly and see how it can salvage coffee farming. We cannot say that we shall redeem the coffee sector without money. After we conclude this Bill, we will expect the Government to sit down, the way it did with the National Bank of Kenya, and determine the fate of the coffee farmer. We need a lot of money, in fact, more than Kshs20 billion to redeem the coffee crop. We cannot say that we have a very good law in this country when we cannot protect the coffee farmer. For the farmer to go back to the land in order to produce enough coffee, he needs money. That is what I am telling the Minister!

Mr. Temporary Deputy Speaker, Sir, deductions from coffee payments is one of the things which has demoralised our farmers. It is good that this Bill has addressed this problem. Let us look at this Bill with all the courtesy that it deserves, otherwise, it will be used by other people to return us to where we were.

There is the issue of the Central Coffee Auction. I have talked to many farmers and we have come to an agreement that we should retain the Central Coffee Auction, and at the same time open our doors so that if the farmer finds that the Central Coffee Auction is not offering good prices, he should be free to go to another market, so that he can have an alternative way of disposing of his coffee.

Mr. Temporary Deputy Speaker, Sir, there is this issue of KPCU and KCMA. We cannot give unscrupulous people a leeway to get away with coffee farmers' money. Those people who owed the KPCU should be made to pay and not be left to run away scot-free. The only way we can do this is to give the KPCU a leeway to market its coffee. This is because we know the KPCU is owed a lot of money by some of the farmers. But if we just leave it like that, some of these people will look for a way through which they can get away with the money because they have not offered any security. The security for this money was the farmer's produce, and that is a fact. We would like to see that the KPCU, as the farmers' body, is not just destroyed by allowing some people to get away with unpaid loans.

Mr. Temporary Deputy Speaker, Sir, the issue of research has taken a very long time. The coffee farmer has been left alone to do everything for himself, unlike other farmers. The coffee farmer is the only person who finances his own research activities. What does the Government do for him? If the coffee crop helps the Government, then it is the responsibility of the Government to get funds from the taxation it gets from coffee to support research activities in the coffee sector. We cannot agree that the coffee farmer should be paying tax now and again! If we were to fight for quality produce, let every farmer do so. Let every farmer fight for quality of his produce, not only the coffee farmer. The tea farmer is not contributing anything towards research activities! If they are contributing, let it be done without discrimination. Let the coffee farmer contribute something small and also the other farmers to do so. But at the same time, let us have a substantial amount, as much as 50 per cent, from the Government, because at the end of it all, foreign exchange earned from the export of these crops will help this country and the Government will achieve more.

Mr. Temporary Deputy Speaker, Sir, there is this issue of the farmers' bank. It took a long time before the Government agreed to give a permit for it to continue. More than Kshs240 million, including accrued interest, is lying somewhere, while the coffee farmer is languishing in poverty.

Mr. Temporary Deputy Speaker, Sir, it is high time whoever is retaining this money released it because the coffee farmer is poor and does not need a bank at the moment. That money should be released immediately to the coffee farmer. We shall think of a bank when things normalise. At the moment, we do not need one!

Before I conclude my contribution, so as to give other hon. Members a chance to contribute, I would like to request the Minister to do one thing. For quite some time now, our societies, though they have been mismanaged, have not been able to repay the money they owe the Co-operative Bank of Kenya. Before we pass the new Coffee Act, I would like to appeal to the hon. Minister to ensure that our coffee societies are active again. I would also like to urge him to write off these debts because if he does not do that, he will be giving the Co-operative Bank of Kenya leeway to go ahead and auction farms belonging to these societies. We cannot allow management committees to collude with the Provincial Administration to take away from farmers what they owe just because they would like to enrich themselves at the expense of the shareholders.

There is an incident where a certain management committee and the Provincial Administration requested the Co-operative Bank of Kenya, without approval by way of minutes, to allow them to sell a 400-acre farm which is owned by 5,000 farmers so that they could pay the money. I have never heard of a case where the Co-operative Bank of Kenya, which is owed Kshs241 million, can sell a farm at Kshs28 million, which is less than the market value. Is this what we call a private treaty? There is no single day, we, the people of Maragwa will agree to such an agreement. That is illegal and we should follow the laws of this country. We cannot allow such things to take place. I would like to urge the Minister, once more, to assist the people of Maragwa to get back their land, which has been sold by the Co-

operative Bank of Kenya because they cannot repay the loan due to some problems.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I support the Motion.

(Mr. Mwenje stood up in his place)

The Minister for Agriculture (Dr. Godana): Wewe huna kahawa!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me this opportunity to contribute to this very important Bill. It appears the Minister is not aware that I am one of the biggest coffee growers in this country.

An hon. Member: Where?

Mr. Mwenje: It is not necessarily in Embakasi Constituency, but in my original home; Kandara. The hon. Member for Kandara Constituency will bear me witness. I would like to invite the Minister to my home in Kandara to see

how much coffee I grow. I would also like to invite the Minister to see for himself precisely what is going on in the KPCU coffee stores in Dandora, Embakasi Constituency.

Mr. Temporary Deputy Speaker, Sir, in any case, I am one of the most experienced people as far as growing of coffee is concerned. I started growing coffee trees as early as 1960 possibly before the Minister was born.

I can see that we do not have much time remaining before we adjourn, but I think this Bill needs to be given a lot of thought and consideration. Many farmers will be affected by this Bill. I must say that farmers have cried, complained and wondered what happened to the coffee industry in this country. When I was a small boy, we used to get a lot of money from coffee. Every three months, my father used to be paid a lot of money from the sale of coffee. It is sad that we have the same number of coffee trees today, yet, my father is getting poorer and poorer.

An hon. Member: Is he still alive?

Mr. Mwenje: Yes, he still alive. He is 82 years old!

Mr. Temporary Deputy Speaker, Sir, I wonder what went wrong in the coffee industry. I am glad we are now discussing ways of improving this sector so that farmers can get their money.

Mr. Temporary Deputy Speaker, Sir, it does not matter who will be hurt by the enactment of this Bill, but the farmer must be given first consideration by this House, irrespective of whatever hullabaloo is going on around the country. I am aware that a lot of hullabaloo has been going on over the liberalisation of this sector. But we must consider the farmer. How does he get money? Liberalisation in this sector is now inevitable; it must be done. Anybody who is against it will be carried away by the wind which has already blown. It is quite important that we accept liberalisation in the coffee sector. Those people in the farming sector, Coffee Board of Kenya and KPCU should accept that liberalisation of

the coffee sector is the best way a farmer will get his money. How does he get his money? This Bill attempts to do exactly that. There are so many areas that we need to point out and rectify.

I am glad that the Government, after so much cry, has now come up with this Bill, which is quite urgent. We need to complete discussing this Bill so that the farmer can start enjoying the fruits of his labour. The fruits of his labour are actually "eaten" by the middlemen. These middlemen have messed up the farmer.

Mr. Temporary Deputy Speaker, Sir, it is time we looked into areas that matter. Many people have now become interested in this affair. Yesterday, I was reading a copy of the *People Daily* and there was an article on the amendments to the Coffee Bill before the House. Many people have sat down to discuss this Bill. The KPCU went round the whole country to listen to the views of farmers. What did they come up with? What is the role of the farmer in this sector? That is the most important thing if we have to support farmers. We have to agree on how a farmer can be supported so that he or she gets his or her money.

That is why all these considerations are necessary. I have read the proposals by the KPCU, the Coffee Board of Kenya, farmers and the Agriculture, Lands and Natural Resources Committee of this House. All these proposals are important and should be taken into consideration.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Mwenje, you will finish your contribution tomorrow afternoon. It is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, 28th November, 2001, at 9.00 a.m.

The House rose at 6.30 p.m.