

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 15th November, 2000

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.644

THEFT OF MR. OKONG'O'S TRACTOR

Mr. Deputy Speaker: Is Mr. Ojode not here? We will come back to his Question later.

Question No.204

LIVE TV COVERAGE OF CHURCH SERVICES

Mr. Murungi asked the Minister for Information, Transport and Communications:-

(a) what is the Government's position regarding live coverage of church services by Kenya Broadcasting Corporation (KBC); and,

(b) why the KBC television gave extensive coverage to a baptism ceremony at Kabarak High School on Sunday 18th October, 1999, while at the same time giving a complete blackout of the high profile mass conducted by 23 Catholic bishops at the Holy Family Basilica, Nairobi.

The Assistant Minister for Information, Transport and Communications (Mr. Lengees): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The KBC no longer broadcasts live church services on radio due to financial constraints. However, services are recorded in the studios at Broadcasting House, involving different denominations. Two programmes are aired in both the English and Kiswahili Services respectively, every Sunday, while regional services have one such recorded service per week. It is envisaged that subject to availability of funds, the KBC may reconsider live coverage of church services in future.

(b) It is true that the KBC did not cover the mass conducted by 23 Catholic bishops on Sunday, 18th October, 1999. However, that had nothing to do with any external interference. As mentioned above, the KBC cannot afford to cover live every church function taking place in the country due to financial constraints. It is not true, therefore, that the KBC gave a deliberate blackout on the subject mass at the Holy Family Basilica, Nairobi. The KBC has its own independent editorial team, like any other newspaper or broadcasting station, and they are at liberty to choose the scope of their coverage.

Mr. Murungi: Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister is still not quite honest in his answer. I watched this coverage and noticed that the KBC took about 20 minutes covering a baptism ceremony at Kabarak High School and there was not even a single minute allocated to a high mass at the Holy Family Basilica, Nairobi, by 23 Catholic bishops. The reason why this happened was because the Catholic Church was critical of the Government, and the KBC did not like the political message which was being given at the mass. I was in the IPPG and we amended the KBC Act to read as follows:

"The Corporation shall keep a fair balance in all respects in allocation of broadcasting hours as between different political view points."

It is quite clear that the KBC has been very partisan. It has favoured KANU and opinion which is pro-KANU as against all other opinions. So, in view of this fact, could the Assistant Minister consider sacking the Managing Director of the KBC for flagrant breach of this law?

Mr. Lengees: Mr. Deputy Speaker, Sir, given the fact that the KBC has its own independent editorial policy,

there is nothing wrong in giving a broad coverage to the Head of State or any other personality they may wish. The Catholic Church is not discriminated against by the KBC.

Mr. Obwocha: On a point of order, Mr. Deputy Speaker, Sir. You can see that the Assistant Minister is reading what is written on paper. He did not listen to the question that was asked. Could he sack the Managing Director? He should give a "yes" or "no" answer!

Mr. Deputy Speaker: Order! If the Assistant Minister has the ability to read before he is asked the question, and prepare an answer for it, who am I to object?

Mr. Lengees: Mr. Deputy Speaker, Sir, the KBC is a national station and it does not discriminate against anybody. It has its independent way of covering anyone. They can even cover hon. Murungi without asking for authority from the Government. This Corporation does not discriminate against the Catholic Church. As a Government, we are not there to sack the Managing Director or dictate to him what to do.

Mr. Murungi: Mr. Deputy Speaker, Sir, is it in order for the Assistant Minister to say that the KBC has its own independent policy, when as a Parliament, we have indicated what its policy will be; that it will give fair coverage to all respect in the allocation of broadcasting hours? So, the KBC does not have an independent policy; the policy is set by this House. Could the Assistant Minister ensure that the KBC follows this law, by sacking that Managing Director, who does not follow the law?

Mr. Lengees: Mr. Deputy Speaker, Sir, we will not sack the Managing Director, but we will have to follow that policy in future.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, listening to a KBC 10-minute bulletin, you will realise that normally the first eight minutes are allocated to President Moi and the remaining two minutes are allocated to MPs from somewhere congratulating the President. What hon. Murungi has just read says that KBC shall give uniform air time to divergent political views. Could the Assistant Minister tell this House how KBC measures that uniformity? How do they ensure that the Opposition is given the same air time as the Government? How do they do it?

Mr. Lengees: Mr. Deputy Speaker, Sir, recently, you have seen the KBC cover everybody, including the Government and the Opposition---

Hon. Members: Answer the question!

Mr. Lengees: Mr. Deputy Speaker, Sir, I said that the policy is there and the KBC is independent. We cannot dictate to the KBC what to cover.

Mr. Badawy: Mr. Deputy Speaker, Sir, in concurring with the sentiments expressed by the Questioner, I would like to caution the Assistant Minister that he has to realise that this is a multi-denominational, multi-religious and multi-party country. I would like to find out the policy the KBC has as far as coverage of Muslim events is concerned, including the two Idd and Maulid celebrations, which are not given any coverage. What is the policy?

Mr. Lengees: Mr. Deputy Speaker, Sir, the policy of the KBC is clear. They have even covered demonstrations organised by the Opposition in the streets of Nairobi. The Corporation is independent and it operates like any other broadcasting station.

Dr. Kulundu: Mr. Deputy Speaker, Sir, could the Assistant Minister assure this House that his Ministry will spare Kenyans the agony of watching President Moi in some church somewhere every Sunday? In fact, it is no longer news! You can predict over 90 per cent of what the Sunday news bulletin will contain!

Mr. Lengees: Mr. Deputy Speaker, Sir, I think you can rescue me here! The hon. Member should know that President Moi is the Head of State. If the hon. Member becomes the Head of State, he will be covered too!

Mr. Badawy: Mr. Deputy Speaker, Sir, I think you appreciate that the Assistant Minister has not answered my question. In fact, he referred to street demonstrations. I hope he does not regard Moslem celebrations as street demonstrations! Could he answer my question now?

Mr. Lengees: Mr. Deputy Speaker, Sir, as I said, the KBC has a very independent policy. All that is needed is to notify the KBC of the functions organised by any sector of our society. The Moslems are not discriminated against.

Question No.687

WATER SUPPLY TO LERESHWI TOWN

Mr. Githiomi asked the Minister for Water Development:-

- (a) when the residents of Lereshwa Town, Kipipiri Constituency, will be connected with water supply from the Greater Nakuru Water Project; and,
- (b) whether he could consider supplying water from the project to Miharati Divisional

Headquarters.

The Assistant Minister for Environment and Natural Resources (Mr. Kofa): Mr. Deputy Speaker, Sir, I beg to reply.

(a) There are no immediate plans to connect Lereshwa Town with water supply from the Greater Nakuru Water Project. The design of the system did not take into account the supply of water to that town.

(b) No. Miharati Divisional Headquarters is 14 kilometres away. It is at a higher altitude than the Greater Nakuru East Water Project. Supply of water to the Headquarters would entail pumping water backwards and uphill. That would be an expensive and difficult undertaking. However, the Kipipiri Self-Help Water Project is designed to serve the Miharati Centre by gravity flow.

Mr. Githiomi: Mr. Deputy Speaker, Sir, the Greater Nakuru Water Project has sourced its water from Turacha River in Lereshwa Location, Kipipiri Constituency. There is not a single person who has been served with a single drop of water! There is no Government water supply project in the whole of Kipipiri Constituency! The water supply that the Assistant Minister has mentioned is a self-help water project. The Government took over that project and failed to complete it for the last ten years. Could the Assistant Minister tell us the plans that he has to serve Lereshwa Location and the entire Kipipiri Constituency with water? He should remember that in 1996, I asked the same Question. I was promised that the Government will set aside Kshs30 million to undertake a water project in Lereshwa Location. That is total discrimination against Opposition constituencies! Could he tell us what plans he has to serve the entire Kipipiri Constituency with water?

Mr. Kofa: Mr. Deputy Speaker, Sir, there are two projects being undertaken. The hon. Member has said that Kipipiri Constituency has no water supply. That is not true. There is a system of gravity which takes water from Kianjogu Stream up to Kipipiri. The system serves, although not directly near the hon. Member's area, part of the Kipipiri Settlement Scheme.

Eng. Muriuki: Mr. Deputy Speaker, Sir, part (b) of the Question is very specific. It reads: "Could the Minister consider supplying water from the project to Miharati Divisional Headquarters?" The Nyandarua District, where Kipipiri Constituency is situated, supplies water to Nairobi and Nakuru. Both pipes pass through very important towns like Miharati, but the towns are not supplied with water. Could the Assistant Minister answer the specific question of supplying water to the headquarters? He should not bring in the self-help groups!

Mr. Kofa: Mr. Deputy Speaker, Sir, my answer was very specific. I said "no" because Miharati Headquarters is higher than the Greater Nakuru East Water Project! So, it is expensive to pump water upwards towards Miharati.

Mr. Muchiri: Mr. Deputy Speaker, Sir, part of the water that is consumed in Nairobi comes from Nyandarua District. The other portion comes from Murang'a District. Could the Assistant Minister give authority for people living in areas where those pipes pass to be supplied with water because they have no water?

Mr. Kofa: Mr. Deputy Speaker, Sir, there was a project from Gitiri River. It was to supply water to the people around the project. But it took too long to be implemented. As such, water upstream was drawn by many consumers. So, it could not come down to Miharati.

Mr. Githiomi: Mr. Deputy Speaker, Sir, the Assistant Minister has misled the House. He has said that the Government has a water project in Kipipiri Constituency. He knows very well that, that is a self-help water project. It was taken over by the Government, and up to now, it is incomplete. However, my question was not answered by the Assistant Minister. What plans does he have to serve the entire Kipipiri Constituency with water?

Mr. Kofa: Mr. Deputy Speaker, Sir, the Ministry normally creates management awareness to the consumers. It also gives technical support. It is the Ministry's policy to urge the consumers to look for funds. It gives technical advice and management tips on the projects.

Mr. Sifuna: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is not answering the question as put by hon. Githiomi, who sought to know what plans the Government has to provide clean water. If there is no plan, he should say so!

Mr. Kofa: Mr. Deputy Speaker, Sir, that is in fact, what I was telling the area Member of Parliament; that, the Government only assists in technical support and assisting the people to create management awareness. It is upon the community to look for the funds.

Mr. Githiomi: On a point of order, Mr. Deputy Speaker, Sir. It is evident that my question is not being addressed. Maybe, the Assistant Minister has not understood my question. So, I would like to put it in a way that he could probably understand. Does the Ministry have plans to supply clean water?

Mr. Kofa: Mr. Deputy Speaker, Sir, not at this moment.

Mr. Deputy Speaker: Next Question!

Question No.555

INTENSIVE CARE UNIT AT KAKAMEGA HOSPITAL

Dr. Kulundu asked the Minister for Medical Services what plans the Ministry has to establish an intensive care unit at Kakamega General Hospital.

The Assistant Minister for Health (Dr. Wako): Mr. Deputy Speaker, Sir, I beg to reply.

The Ministry has recognised the importance of having an intensive care unit at the Kakamega [**The Assistant Minister for Health**]

Provincial General Hospital and has, therefore, entered into negotiations with the Spanish Government on the keeping of the unit.

Dr. Kulundu: Mr. Deputy Speaker, Sir, I wish to thank the Assistant Minister for that answer. It seems to be the beginning of good things for Kakamega General Hospital, which has always been treated as a health centre. However, could the Assistant Minister tell us how far those negotiations have gone?

Dr. Wako: Mr. Deputy Speaker, Sir, negotiations have been finalised and it will take effect from January 2001.

Mr. Shitanda: Mr. Deputy Speaker, Sir, now that negotiations are about to be finalised, could the Ministry consider improving the other facilities for handling emergencies in Bungoma, Webuye, Butere and Malaba Hospitals?

Dr. Wako: Mr. Deputy Speaker, Sir, Butere Hospital is included in the negotiations.

Mr. N. Nyagah: Mr. Deputy Speaker, Sir, if indeed, the Government has any intention of starting the intensive care unit and has already made a provision for it in 2001, how much will the Government spend in making it a reality?

Dr. Wako: Mr. Deputy Speaker, Sir, in the first negotiations, three provincial hospitals which include, Embu, Kakamega and Kisumu are going to benefit from the Spanish Government assistance with several other district hospitals, health centres and sub-district hospitals.

Hon. Members: How much?

Dr. Wako: Mr. Deputy Speaker, Sir, it is Kshs600 million.

Mr. Deputy Speaker: Next Question!

Question No.615

REGISTRATION OF LAND PARCEL NO.296

Mr. P.K. Mwangi asked the Minister for Lands and Settlement:-

(a) whether he is aware that land parcel No.296, Location 17/Iganjo, was registered under the name of Mr. Mucheru Irungu on 9th July, 1962; and,

(b) whether he could also explain why the title was closed on sub-division on 31st December, 1980 and registered under the new numbers 1017, 1018, 1019, 1020, 1021 and 1022 of Location 17/Iganjo.

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

(a) I am aware that land parcel No.296 Loc.17/Iganjo was registered in the name of Mucheru Irungu on 9th July, 1962.

(b) The title for the land parcel No.296 Loc.17/Iganjo was cancelled following sub-division of the land into six portions, in compliance with the law. Each portion was then given its own number and title.

Mr. P.K. Mwangi: Mr. Deputy Speaker, Sir, the answer given by the Minister is quite misleading. The land in question measured 72 acres. Mucheru Irungu is now deceased. He left behind a child who never received a portion of that land. Could the Minister table the list of names of those who were issued with those title deeds?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, following the death of Mucheru Irungu, the person who inherited the land, as per the law, is one Wanjiru Mucheru. We registered it in her name on 25th November, 1976 and she proceeded to sub-divide the land with the authority of Kigumo Land Control Board on 14th March, 1978. The portion was then transferred to the following:-

Plot No.1017 - James Hugo

Plot No.1018 - Charles Kagonda Mbui

Plot No.1019 - Henry M. Gatete

Plot No.1020 - Mwangi Job

Plot No.1021 - Muregi Job

Plot No.1022 - Joice Wanjiru Mburu

Mr. P.K. Mwangi: Mr. Deputy Speaker, Sir, Wanjiru Mucheru was the second wife of Mucheru Irungu. Wanjiru Mucheru then got married to another man. By then, Mucheru Irungu had one son by the name Irungu Mucheru who did not receive even one plot. Could the Minister tell us the procedures followed to deny Irungu Mucheru a piece of land on the 72 acres, because today, he has been denied the right to inheritance by his step-mother?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, the normal procedure which we followed in this case was that Wanjiru Mucheru presented to the Land Registrar, documents proving that she had legally inherited the properties of her late husband. It was on the basis of that, that we proceeded - following the authority of the Land Control Board, Kigumo - to register that piece of land. The only option which is available to Mr. Irungu Mucheru is to go to court. He has done that, and there is a case No.922/98 pending in court, registered on 10th March, 1989.

Mr. Ndilinge: Mr. Deputy Speaker, Sir, now that the Minister has been informed that Mucheru Irungu had two wives; the first one and the *gacungwa* who grabbed all his land, could he intervene and save Mr. Irungu?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, we have done so. As soon as the case was taken to court, we put a caveat and stopped any activity on that land, until the court case is decided.

Mr. Kaindi: Mr. Deputy Speaker, Sir, the Minister is setting a very dangerous precedent. In cases where people die intestate, it is up to the courts to determine who the rightful owners are. In this case, he is explaining that Mr. Irungu's step-mother came forward to identify herself as the rightful owner. What machinery is the Ministry putting in place, to make sure that all parties concerned in a case where a person dies intestate are taken into consideration?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, once legal documents from the court, proving that the lady is legally authorised to inherit her husband's property are produced, then there is nothing we can do. But I will have to investigate this issue further, given the information provided by the hon. Member.

Mr. Muite: Mr. Deputy Speaker, Sir, the Minister keeps on harping on the fact that documents were presented and that their hands are tied. I thought the original purpose of creating the land control boards at the grassroots level was to ensure that injustices like this one do not occur. Will the Minister consider writing a letter to that particular land control board to express concern and dissatisfaction that this injustice occurred despite its existence?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, I have no reason to doubt that the land control board did its job. But I can investigate further what the hon. Member has alleged. If it turns out that there was something fraudulent, then we will take appropriate action but if it was done legally, then my hands are still tied.

Mr. Kamande: Mr. Deputy Speaker, Sir, could the Minister confirm or deny that these six numbers are nowhere to be seen in the records of his Ministry? The only existing number is No.296, which belongs to Mr. Irungu Mucheru. All the other title deeds are illegal!

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, the hon. Member is trying to force me to agree to what he is saying. I am not aware of that but I am very willing to take that information in order to solve this problem for him. But I am not aware that they are illegal. As far as I am concerned, I have a report which indicates that the person who inherited the land proceeded to divide it into six pieces.

Mr. Kamande: Mr. Deputy Speaker, Sir, if you give me up to next week, I will come here with the deed plan which was collected last week. The land to date belongs to Mr. Irungu Mucheru.

Mr. Deputy Speaker: That is the information the Minister is asking for. Just provide that information to the Minister so that he can act on it.

Mr. Kamande: Mr. Deputy Speaker, Sir, when is he going to bring that information to this House?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, I have received a lot of information from the hon. Member which will be useful in sorting out this matter. Given two weeks, I will be able to produce that information to this House.

Question No.313

TRANSFER OF MR. GICHURU'S LAND

Eng. Toro asked the Minister for Lands and Settlement:-

(a) whether he is aware that the District Land Registrar, Murang'a, transferred land

No.LOC.3/Kariua/1007, belonging to the late Titus Githambo Gichuru, to Rahab Nyambura Kinyanjui in breach of the succession Cause No.340 of 1995 dated 9th November, 1995, filed in the Senior Principle Magistrate Court Thika, and published in Gazette Notice No.2017 of 4th April, 1996 which recognised Mary Wambui as the administrator of the estate; and,

(b) what urgent steps he is taking to ensure that the widow gets her land back.

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

(a) I am not aware that District Land Registrar, Murang'a, transferred land No.LOC.3/Kariua/1007, belonging to the late Titus Githambo Gichuru, to Rahab Nyambura Kinyanjui in breach of Succession Cause No.340 of 1995, dated 9th November, 1995 filed in the Senior Principal Magistrate Court Thika, and published in Gazette No.2017 of 4th April, 1996 which recognised Mary Wambui as the administrator of the estate.

(b) The Ministry does not intend to take any action since there was no irregularity in the registration of the land in the name of Rahab Nyambura Kinyanjui.

Eng. Toro: Mr. Deputy Speaker, Sir, the Assistant Minister has said he does not intend to take any action. What does he mean? This is a case of a widow who is being chased away from her land by her step-daughter. What will the Assistant Minister do to make sure that this widow gets her land back?

Mr. Tarar: Mr. Deputy Speaker, Sir, according to the records at the land registry in Murang'a, Rahab Nyambura Kinyanjui and Titus Githambo Gichuru were registered as joint proprietors of the above land.

Eng. Toro: Mr. Deputy Speaker, Sir, the issue of joint ownership came about because the daughter had gone to court to prevent Mr. Githambo from selling his land. This was done without the knowledge of the second wife. Is the Assistant Minister saying this widow has no right to inherit her late husband's land?

Mr. Tarar: Mr. Deputy Speaker, Sir, the hon. Member should have assisted the Ministry in this matter. I have already stated that this land was jointly owned by Mr. Githambo and Rahab Nyambura Kinyanjui.

Mr. Muite: Mr. Deputy Speaker, Sir, could the Assistant Minister enlighten the House on the difference between proprietors being registered as joint owners and being registered as tenants in common?

Mr. Tarar: Mr. Deputy Speaker, Sir, I think hon. Muite has used legal language which, I hope, the Attorney-General would have understood and answered.

Mr. Deputy Speaker: Order! Mr. Assistant Minister, that is not a land dispute! Hon. Muite has asked you a question which deals with land issues and you are responsible for the Ministry of Lands and Settlement!

Mr. Tarar: Mr. Deputy Speaker, Sir, as I have already said, the two; Rahab Kinyanjui and Titus Gichuru were registered jointly in that particular land.

Eng. Toro: Mr. Deputy Speaker, Sir, is the Assistant Minister in order to mislead this House? This is because I have a copy of the Green Card and it does not show any joint registration of Mr. Titus Gichuru and Rahab Kinyanjui. So, why is he saying that they were jointly registered?

(Eng. Toro laid the document on the Table)

Mr. Tarar: Mr. Deputy Speaker, Sir, I entirely agreed with the hon. Member that he has already given me more information which I did not have. So, I would like to tell him that I will use the same information to investigate this matter further.

Mr. Mutahi: On a point of order, Mr. Deputy Speaker, Sir. We have got two contradicting answers from the Assistant Minister. He has given information on double registration or two people being registered in the same title deed. Once the Green Card was tabled, he immediately deviated from what the Green Card shows. Where did the Assistant Minister get this misleading information? Where did he get the registration of two people and not the one shown on the Green Card.

Tarar: Mr. Deputy Speaker, Sir, we got all this information from our officers on the ground, in Murang'a, and we trust them. If there is some more information which could assist the Ministry in this particular case, we will take it.

Eng. Toro: Mr. Deputy Speaker, Sir, I am surprised that the Assistant Minister is saying that he does not have the relevant information, when that document is from his Ministry! It is as if it is a surprise for him to have been given the document. That notwithstanding, I want the Assistant Minister to make sure that the widow inherits her late husband's land. I have some documents here which show that the widow went through the proper procedures; through the Assistant Chief and the Chief, in order to apply for administration of the late husband's estate. I have copies where the Chief wrote and gave the names of the interested parties. I have copies here which I am going to table. Then there was the Gazette Notice of the succession case, which I will also table here. All these documents were ignored when Rahab Kinyanjui was given the title deed for the land. Could the Assistant Minister use these documents, which I will

table, to prove that the widow was denied her right to inherit her late husband's land? Could he do whatever is necessary within his powers to make sure that this lady gets her share of her late husband's land?

(Eng. Toro laid the documents on the Table)

Mr. Tarar: Yes, I will do that, Mr. Deputy Speaker, Sir.

Question No.565

LAND ADJUDICATION IN MWINGI

Mr. Musila asked the Minister for Lands and Settlement:-

(a) how many land adjudication areas have been completed in Mwingi District since the adjudication exercise started in 1975; and,

(b) whether he could give the names of the adjudication areas which have not been completed.

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

(a) A total of five adjudication sections have been completed and registered in Mwingi District since the adjudication work started in 1975.

(b) The following 18 adjudication sections are in progress and are at various stages. The first three, Nzauni, Kanyaa and Mbondoni, are at an advanced stage and may be completed during the current financial year. The following three, Nzeluni, Winzeni, and Kyusyuni, are under what we call other objections.

The next category, Kanzanzu, Ngoo, Kivaini and Nzawa, are going through what we call checking of records. We are signing the adjudication records of the following Mwingi; Kyomo and Katalwa.

Demarcation and survey work is in progress for Waita, Mwambui, Ngiluni, Kivou and Kyomu.

Thank you.

Mr. Musila: Thank you, Mr. Deputy Speaker, Sir. I wish to thank my friend the Minister for the reply he has given. However, the Chair has heard the Minister say that, since 1975, which is 25 years ago, the Ministry has only been able to complete five adjudication sections. That is, one adjudication section for every five years. The Minister has also said that there are 18 adjudication areas in progress. At that rate, it translates to exactly 90 years from now, when the Minister will complete the other 18 adjudication sections! How many years must the people of Mwingi District wait before the Minister completes the 18 remaining adjudication sections in order to alleviate poverty which is so rampant in the district?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, one of the reasons why there has been a delay is due to the fact that, we did not have enough resources. So, what we have done as a Ministry, not only for Mwingi District, but all districts, is that we have to identify three, four or five projects per period and concentrate our limited resources on those few projects so that we can complete them. In the case of Mwingi District, we have had problems because there have been very many disputes and cases. The process of adjudication slows down where there are too many disputes. We would like to urge the residents of the area to try and reduce these disputes so that we can also assist them.

Finally, the Government has created new districts, thus bringing services closer to the people. This will definitely assist in reducing the period from 90 years to a much less period.

Thank you.

Mr. Badawy: Mr. Deputy Speaker, Sir, I would like to commend the Minister for his sincerity in admitting that the scenario in Mwingi District is also true of most districts in this country. But I would like him to confirm whether it is true or not that, lack of resources is the result of unfair distribution of resources. Priority has always been given to one province in this country and that is Rift Valley. Both the Settlement Trustee and the Adjudication Department are concentrating their attention to Rift Valley Province only. Could that inequality be rectified?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, the resources have been spread very evenly to the various provinces. One of the reasons why Rift Valley Province historically took a big chunk of the resources in terms of adjudication and sub-division of shambas was because it had big chunks of land where it had to settle many people from many provinces and that is the reason why the resources went to that particular field. However, the change is shifting to those areas like Coast Province and elsewhere which are now also beginning to get to the same stage.

Mr. Muturi: Mr. Deputy Speaker, Sir, the Minister says that part of the reasons for the delays that he has mentioned is lack of resources. Hon. Musila has just estimated that at the current rate, it would take approximately 90 years to complete the adjudication process in the 18 sections in Mwingi. Today, we know for a fact that the Government is in dire financial straits. Is he, therefore, convinced that this is the right time to give this House hope that there is a chance that adjudication in areas within the country which has slowed for the last 30 years is going to be

accelerated in light of the numerous pieces of legislations that are there encouraged by his Ministry for purposes of filing of districts, which, I believe, are the real causes of the delays and not lack of resources?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, as I said from the very beginning, there are a couple of problems. One of them is resources and the other one is the disputes that are generated. It is for those reasons among others, that we are reviewing the laws that affect this particular field. This is because a solution has to be found which speeds up the process. We are not happy as a Ministry, to be in a position where it would take the next 100 years to finish the work. That is why we are reviewing the laws, so that we can strengthen to make them easier and faster. That is one way. Two, is the limited resources and we will never have sufficient resources for this exercise, is to concentrate them to fewer areas per district. Historically, we created too many adjudication areas in the districts when we did not have the resources. We have suspended that and we are now concentrating on a few adjudication areas per district and that will help. We are not happy as a Ministry, to be unable to give people their title deeds over the next 100 years.

Mr. O.K. Mwangi: Mr. Deputy Speaker, Sir, according to the Minister, the delay in completion of adjudication is caused mainly by disputes. However, I want to ask him because there are cases where adjudication has been completed and registration has taken more than 20 years--- I can comfortably quote one scheme in Kwale District called "Kidumae" where adjudication was completed in 1981 and to-date, it has not been registered. What duration should it take and what is the problem in registration, after completion of adjudication? This is because it is taking 100 years to complete the Kitui adjudication process. How much longer is it going to take for registration? Is it another 200 years?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, I will be the first to admit that once the documents leave the field to come to the head office for processing under what the Member of Parliament is referring to as registration, we take too long. We are not happy with that. We are very uncomfortable with that particular situation. We are now in the Department of Land Adjudication and Settlement, strengthening the sections that handle registration so that when they come to Nairobi for registration purposes, we do not take too long. At the moment, it has taken too long as the Member of Parliament says and we are trying to speed it up. We will keep trying.

Mr. Musila: Mr. Deputy Speaker, Sir, earlier on, the Minister said that three adjudication sections, namely, Kanyaa, Nzauni and Mbondoni will be completed this financial year. I would like to remind him that this same Question was asked as Question No.045 and answered on the 28th April, 1999. The Minister for Lands and Settlement then said and I quote:- "Two sections, Nzauni and Kanyaa are at an advanced stage and will be completed by December this year". That was in 1999 and the Minister is telling us again that it will be completed this year. Can he precisely now tell this House when these three adjudication sections are going to be completed? Is he going to answer us the same way he did last year and it has not been done?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, I have checked this particular fact and I have been assured by my officers that we will be able to complete it before the end of June. I have triple-checked this particular fact and it will be completed this year.

Mr. Ndilinge: On a point of order, Mr. Deputy Speaker, Sir. If the Minister is serious on what hon. Musila said - that to complete the entire exercise it will take 90 years, can he give hon. Musila and the House some time off by sending a special team to that given area? This is because like in Kilome which is my constituency, this exercise was started in---

Mr. Deputy Speaker: Order! That is not a point of order and you know it. Mr. Ojode's Question for the second time.

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, I wish to apologise for coming in late. I beg to ask Question No.644 on behalf of hon. Ojode, although I have not received a written response.

Question No.644

THEFT OF MR. OKONG'O'S TRACTOR

Mr. Ochilo-Ayacko, on behalf of **Mr. Ojode**, asked the Minister of State, Office of the President:-

- (a) what happened to the tractor, registration No.KWW 171, Chassis No.15518, that was recovered belonging to Mr. Francis Obunga Okong'o of Kanyamwa Location, Ndhiwa Division, which was stolen and reported at Awendo Police Station on 15th september, 1999;
- (b) why it was necessary for the District Criminal Investigation Officer, Migori District, to confiscate the logbook instead of releasing the same to the owner; and,
- (c) when will the suspect be taken to court.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I would request

that this Question be deferred, since I do not have sufficient information to be able to answer it adequately.

Mr. Deputy Speaker: Question deferred to Tuesday afternoon. We now move to Questions by Private Notice.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

KILLING OF MR. WAFULA

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

(a) Could the Minister explain under what circumstances Mr. Ngoya Wafula was shot dead on 28th October, 2000 and Messrs Paul Kemoi and Bernard Amulyoto critically injured by policemen from Bungoma Police Station?

(b) What action has the Minister taken against the police officers involved in the shooting?

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

(a) Mr. Ngoya Wafula was shot dead on 28th October, 2000 and two others were injured in a shoot-out between police and suspected gangsters in Bungoma District. In the circumstances, police officers recovered a magazine containing three rounds of ammunition and arrested Bernard Amulyoto and Paul Kemoi who have since been charged in a court of law.

(b) No action will be taken against the police officers as they acted appropriately.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, just recently, the police in Bungoma shot a woman in Mandizini Estate and claimed she was shot by a stray bullet. On this particular date, Mr. Ngoya Wafula, a school teacher with two employees of Nzoia Sugar Company, were on their way home from a drink at Kanduyi and the policemen pumped bullets into them, killing Mr. Wafula instantly and injuring Messrs. Amulyoto and Kemoi who received bullet wounds. Mr. Amulyoto was taken to the police station where he was tortured with intent to extract information from him in the form of confessions and so on. What offences have these Nzoia Sugar Company employees been charged with?

Maj. Madoka: Mr. Deputy Speaker, Sir, those individuals were charged in court on 30th October, 2000 with the following offences:-

(a) Preparing to commit a felony, contrary to Section 308 of Penal Code.

(b) Being in possession of ammunition, contrary to Section 43 of the Firearms Act.

(c) Being in possession of a magazine, contrary to Section 43(c) of Firearms Act (Cap.114) of the Laws of Kenya.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, the two employees of Nzoia Sugar Company had hired a taxi to take them to their houses at the company's servants quarters. When the policemen realised that they had committed murder by killing Mr. Ngoya Wafula, they planted a magazine in that particular vehicle in order to cover up the murder. I would urge the Minister to order for an independent investigation so that he can establish the truth behind this matter?

Maj. Madoka: Mr. Deputy Speaker, Sir, it is true that those individuals had hired a taxi. In fact, it was the taxi driver who realised that one of them had a gun in his pocket. That was when this incident was reported to the police. After the matter was reported, there was a shoot-out which resulted into this incident.

(Several hon. Members stood up in their place)

Mr. Deputy Speaker: Order! Hon. Members, you must not be standing while another hon. Member is on the Floor!

Mr. Muchiri: Mr. Deputy Speaker, Sir, what the Minister is saying is different from what the hon. Member said. The Minister is saying that those people were in possession of a magazine and that no gun was recovered from them. The hon. Member says this was a fabricated case by the policemen after they killed Mr. Ngoya Wafula. As a matter of urgency, could the Minister order for further investigation into this case? This is because police officers have been killing innocent Kenyans and then fabricating cases against them.

Maj. Madoka: Mr. Deputy Speaker, Sir, I do not think there is any need for me to institute fresh investigations into this matter because we already have a case in court. If there is anything we want to know about this matter, it will be known in court.

Mr. Murungi: Mr. Deputy Speaker, Sir, too many Kenyans are dying from the "trigger-happy" policemen who are shooting harmless citizens on very flimsy grounds. I would like to draw the attention of the Minister to Section 28 of the Police Act, Cap. 84, which clearly states that a police officer can only use a firearm to prevent escape from lawful custody or to effect lawful arrest against a person who is resisting arrest. Even in those two circumstances, the firearm can only be used if the life of that officer or another person's life is in danger. Could the Minister issue a circular to all police officers in this country, drawing their attention to this section so that we do not have this abuse of firearms?

Maj. Madoka: Mr. Deputy Speaker, Sir, the police officers are very much aware of that section. Why is the hon. Member not asking about a police officer who was killed yesterday?

Mr. Murungi: Mr. Deputy Speaker, Sir, it is the duty of the Minister to ensure that no police officer is killed in this country; it is not for him to ask me that question. He should ask himself that question.

Dr. Kulundu: Mr. Deputy Speaker, Sir, I knew Mr. Ngoya Wafula as a very responsible teacher. I would like to agree with the sentiments expressed by hon. Murungi. What mechanism has the Government put in place to ensure that guns and other weapons are not "planted" on suspected criminals posthumously?

Maj. Madoka: Mr. Deputy Speaker, Sir, I do not agree that these guns are "planted" on these individuals posthumously. I think we have to come up with concrete evidence to prove this case.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, in his reply, the Minister alleged that those individuals were preparing to commit a felony. I would like the Minister to tell us what offences they were preparing to commit and how? Was any policeman injured during the shoot-out which the Minister alleges took place?

Maj. Madoka: Mr. Deputy Speaker, Sir, the matter is in court and, therefore, it is *sub judice*.

Mr. Wamunyinyi: On a point of order, Mr. Deputy Speaker, Sir. This is a legitimate Question because a citizen was murdered. I am asking the Minister to order for a further investigation into this matter, but he does not want to do so. Now, he is saying the matter is in court. Was any police officer injured? What felony were those people planning to commit?

Maj. Madoka: Mr. Deputy Speaker, Sir, there need not be an injury to a policeman to prove that those individuals intended to commit a felony.

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

AWARDING OF JOGOO ROAD CONTRACT

Mr. Mugeke: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Could the Minister inform the House how the contract to build the 1.5-kilometre Jogoo Road section connecting Outer Ring Road was awarded and who is the contractor?

(b) How much is the contracted sum and what was the completion date of the road?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Deputy Speaker, Sir, I wish to request you to defer this Question. This is because you may have noticed that I came late. I was trying to get the answer. I have a problem with my Permanent Secretary, who does not take this Parliament seriously. I am saying this knowing that there is collective responsibility and there are other channels through which this matter could be resolved. However, I think this House is also entitled to know that, that particular Permanent Secretary does not take his work seriously because I had to look for the answer in all offices. This has not just happened to me once, but several times. It has also happened to my other colleagues. I have discussed this matter with my Minister and I am saying this with the full knowledge and consent of my Minister.

Mr. Deputy Speaker: Order! Hon. Members, the Standing Orders hold Ministers personally responsible for the accuracy of the answers they give to this House. As to where you get that information, that is your own responsibility. I do take what you said very seriously. However, the place to report that matter is not here, but the Office of the President. The Ministers are here and they have heard you.

In addition to that, I will be taking up this matter and, if necessary, that Permanent Secretary will be the subject of an inquiry by the relevant Departmental Committee of this House. No person in this country should take this House for granted. When Questions are filed by hon. Members, they must be answered. So, take notice of my intention to follow-up this matter. I hope you would have filed a proper report to the Office of the President, evidence of which we will see when we inquire into this matter.

(Question deferred)

Mr. Deputy Speaker: Mr. Kiangoi, I take it that you cannot answer Question number three by Private Notice either.

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Deputy Speaker, Sir, I am not in a position to do so.

Mr. O. K. Mwangi: Mr. Deputy Speaker, Sir, before I ask this Question, I would like to seek guidance from the Chair in respect of the manner in which a Question should be handled. This is because the Question I submitted has been substantially altered. I take this to be a breach of Standing Order No.36(2). This is because a Question, once submitted, should go to the Speaker who determines whether it is urgent or not. I submitted this Question on 2nd November, 2000. However, it did not go to the Speaker until last Thursday. Today---

Mr. Deputy Speaker: Mr. Mwangi, I am giving you an opportunity to ask your Question.

Mr. O.K. Mwangi: I am seeking guidance about my Question because part of it is not on the Order Paper, even though "a" and "b" are relevant.

Mr. Deputy Speaker: Order! So, this is not your Question?

Mr. O.K. Mwangi: It is part of my Question, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Are you going to ask it or not?

Mr. O.K. Mwangi: That is why I am seeking your guidance?

Mr. Deputy Speaker: The Question is on the Order Paper. Are you going to ask it or not? You are now asking me to do administration from the Chair.

Mr. O.K. Mwangi: The guidance I am seeking is whether I should ask this Question and then continue asking the other bit. Who deleted part of my Question? That is a breach of the Standing Orders. I take it that nobody has got leave to breach the Standing Orders at will.

Mr. Deputy Speaker: Mr. Mwangi, you read very selectively. If you read the whole of Standing Order No.36, you will see what the Speaker needs to do before he approves a Question. So, I invite you to read that Standing Order in its entirety. Do you want to ask your Question or not?

NON-PAYMENT OF SALARIES TO MARAGWA COUNTY COUNCIL WORKERS

Mr. O.K. Mwangi: I have read that Standing Order, Mr. Deputy Speaker, Sir, but I beg, with a lot of misgivings, to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that Maragwa

County Council workers have not been paid salaries for the last eleven months and that they downed their tools as at 30th October, 2000?

(b) What action has the Minister taken to ensure the payment of salaries and that workers resume their duties?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Deputy Speaker, Sir, I am sorry I did not get what he said. Please, may it be repeated?

Mr. Deputy Speaker: He is asking Question No.3 by Private Notice.

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Deputy Speaker, Sir, I thought I had already said I do not have the answer to Question No.3.

Mr. Deputy Speaker: Order! Order, hon. Kiangoi! You could not have said that in respect of this Question before it was asked. Are you now saying you have no answer?

The Assistant Minister for Local Government (Mr. Kiangoi): Yes, Mr. Deputy Speaker, Sir, I have no answer to Question No.3 by Private Notice for the same reasons that I had given to the other Question.

Mr. O.K. Mwangi: Mr. Deputy Speaker, Sir, the Assistant Minister is aware of what is happening in Maragwa District. He himself has gone there and intervened. In fact, he claimed that Members of Parliament incited the workers to go on strike. I think that is why he is shy to answer this Question. He knows that the council has been mismanaged by people---

Mr. Deputy Speaker: Order! Order! A Question must not be the pretext for a speech.

Mr. Wamae: On a point of order, Mr. Deputy Speaker, Sir. Are we not reaching a very serious situation where we are discussing here the relationship between Permanent Secretaries and their Ministers?

Mr. Deputy Speaker: I have already ruled that this is the wrong place for the Assistant Minister to report his Permanent Secretary. The Question has been deferred.

(Question deferred)

Mr. O.K. Mwangi: On a point of order, Mr. Deputy Speaker, Sir. When will the Question be answered?

Mr. Muchiri: On a point of order, Mr. Deputy Speaker, Sir. This Question is very simple and it does not even need an answer from the Permanent Secretary. The Assistant Minister can tell us why these workers have not been paid their salaries. If he cannot, then it would appear that he does not know how the Ministry is being run. Is he in order to say that he cannot answer this Question?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Deputy Speaker, Sir, Ministers do not act from general knowledge. They act on facts and the same must be given from a particular source. That source is the one that I have disclosed.

POINT OF ORDER

RETRENCHMENT SCHEME AT AFC

Mr. Murungi: Thank you, Mr. Deputy Speaker, Sir. I rise on a point of order to seek a Ministerial Statement from the Minister for Agriculture. There are two strange things that are happening at the Agricultural Finance Corporation (AFC). One, there is an illegal, discriminatory and very inhuman retrenchment of workers in that institution. The retrenched workers are only paid a one-month salary and they are given 48 hours to leave the AFC premises. So far, the only workers who have been retrenched from the AFC come from only two communities; they are either Kikuyus or Luos. So, we need a Ministerial Statement, giving full details of this retrenchment scheme at the AFC. He should also give us a list of all the workers who have so far been retrenched from the AFC.

Secondly, the AFC has also come up with a new scheme for writing off loans. The reason given for writing off the loans is that, certain loanees suffered from tribal clashes and, therefore, cannot pay the loans. We have reliable information that huge loans to the tune of Kshs60 million have been written off. Some of these loans are owed by people who live in areas which were not affected by tribal clashes. Some of the loans were given after the end of tribal clashes. Further, the beneficiaries of these write-offs are all members of one community, the Kalenjin community. So, we need a Ministerial Statement from the Minister for Agriculture, giving us the details of this loan write-off scheme by the AFC. He should also give us a list of all the beneficiaries of this scheme.

Thank you.

Mr. Deputy Speaker: Next Order!

MOTIONS

LEAVE TO INTRODUCE ELECTORAL CODE BILL

THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled the Electoral Code to amend and consolidate the laws governing the organisation, management and conduct of elections in Kenya.

(Mr. Murungi on 8.11.2000)

(Resumption of Debate interrupted on 8.11.2000)

Mr. Muite: Mr. Deputy Speaker, Sir, I would like to urge this House to grant the leave which this Motion seeks. First and foremost, it is very important that the losers of elections should be satisfied that they have lost elections fairly and therefore, accept the victory of the winners. That has not been happening in this country from 1966. We have never had fair elections in this country. So, a Motion that seeks to promote fair elections so that even the losers can accept the results of the elections, and accept that they lost fairly, should be supported. We should grant this leave. It is very important that the victors go home happy that they have won elections, and that the losers accept that they lost elections fairly.

If you analyze the figures of the 1992 elections, for example, the total number of votes cast for the Opposition Members of Parliament - I am not talking about the presidential votes, I am talking about the votes cast for the Opposition Members of Parliament - the total percentage of the votes cast for the Opposition Members of Parliament in 1992 elections was 66 per cent of the total votes cast. However, we ended up with 88 Opposition Members of Parliament.

So, 66 per cent of this country's voters were represented by only 88 Members of Parliament. The ruling party

garnered only 34 per cent of the total votes cast in the 1992 general election, but ended up having 100 Members of Parliament. Figures for the 1997 general election show that, again, KANU improved marginally to garner 38 per cent of the total vote cast, ending up having 107 Members of Parliament. The combined Opposition had garnered 62 per cent of the total votes cast in the 1997 general election, but ended up having 103 Members of Parliament. These are examples of glaring cases of unfairness that exists in the current electoral arrangement.

Therefore, the introduction of any law that aims at bringing about equity in the electoral process, so that we can, truly, talk about one man, one vote, should be supported. So, I do not see why anybody would want to object to this House's leave being sought to introduce this legislation. We believe that if the leave being sought is granted, the Electoral Code Act that will subsequently be enacted will bring about the sort of fairness I have talked about. Earlier on, we talked about the role the Kenya Broadcasting Corporation (KBC) plays in this country's electoral process. In fact, without restructuring the existing laws, it will not be possible to have a fair election in this country. It is not enough to only hold free elections; you can have free elections which are not fair. We want elections in this country to be both free and fair.

Mr. Deputy Speaker, Sir, arguments have been advanced here that sparsely populated areas such as the North Eastern Province will be disadvantaged if we equalise the number of votes for each constituency. However, there are various ways of compensating such areas. One hopes that when we look at the Constitution, we will give thought to the creation of two Houses - the Upper House and the Lower House. The Upper House can represent regions equally, while the Lower House will, truly, uphold the rule of one person with one vote. Under this arrangement, a constituency shall have a minimum and maximum number of registered voters. The new Constitution could, for example, require that no constituency shall have less than 40,000 or more than 50,000 registered voters. We could have a tolerable margin of 10,000 registered voters; anything below 10,000 registered voters is intolerable in a democracy.

We should also look into the issues of combining constituency representation with proportional representation, so as to equalise the votes. If we were to adopt that sort of electoral arrangement, if a party loses an election in a particular constituency, as in the case of Lamu West, where I believe the Democratic Party---

With those few remarks, I very strongly support the Motion.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to respond to the debate on this Motion.

I would like to say, at the outset, that the Government is opposed to the Motion. However, I would like to assure this House that the Electoral Commission of Kenya (ECK), through my Office, and the Government as a whole, is busy working on the amendment and consolidation of laws governing the organisation, management and conduct of elections in this country. The Government will, therefore, bring to this House a Bill to that effect in due course.

Mr. Deputy Speaker, Sir, my Office, in particular, has been involved a bit in the evolution of laws relating to elections. It may be recalled that prior to 1991, although we had the ECK in place, it was more focused on the creation and delineation of constituencies and their boundaries. The ECK had, in fact, ceded its authority to conduct elections to an officer in my Chambers, called the "Supervisor of Elections". For a very long time, that particular office was occupied by none other than Mr. N.J. Montgomery, who conducted and supervised this country's elections almost single-handedly, with the help of the Provincial Administration. That was the situation prior to 1991.

In 1991 and 1992, my office recommended that the ECK must have its rightful place under the Constitution. This recommendation was accepted by the Government. Consequently, the Constitution was amended to make it clear that the ECK had the responsibility to register voters, direct and supervise the Presidential, National Assembly and Local Government elections in this country. This was effected through Act No.6 of 1992, which I had the privilege to move in this House. So, for the first time, the ECK began to take its rightful place in conducting elections, as provided for in the Constitution. The subsequent legislation that I brought to this House tied in with the Constitutional Amendment.

Mr. Deputy Speaker, Sir, subsequently, we moved to the age I would call the "comprehensive review and reform of our laws". As it is well known, my office set up a number of task forces in this regard. If I may say so, the task forces that were created by my Office have done a very commendable job. While moving this Motion, hon. Murungi commended my office for appointing the task forces, and went further to criticise it by saying that the reports of those task forces are gathering dust on bookshelves. That is not correct. The Task Force on Laws Relating to Children submitted its report. As a result, the Children's Bill is now at the Government Printer, and will be out any time now.

The Task Force on the Community Service Orders submitted its report, resulting in the Community Service Order Act that was passed by this House. As we all know, the Commissioner for the Community Service Order, its Chairman and other officials have been appointed, and have gone to all provincial offices. The impact of implementing the Community Service Orders Act has already been felt in alleviating the over-population problem in prisons today; that was a result of the task force that was appointed by my office to look into that problem.

Also, the Task Force on the Status and Management of the Kenya School of Law (KSL) submitted its report, following which this House enacted the Council for Legal Education Act, which is now managing the KSL, among other functions.

Mr. Deputy Speaker: Could you come back to the subject matter, Mr. Attorney-General?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I am coming to the subject matter. This is very important for what I am going to say.

The Task Force on Penal Laws submitted its report, and parts of its recommendations were reflected in the Inter-Party Parliamentary Group (IPPG) Constitutional Amendments of 1997. Part of the results of that task force is the Criminal Law (Amendment) Bill, which is pending before this House.

The Task Force on Laws Relating to Women submitted its final report, and, in fact, drafted two Bills which I am glad to say that they have already been published by the Government Printer. That is the Domestic Violence and Family Protection Bill and the National Commission for Gender and Development Bill. They made other recommendations which are going to be followed up. The Task Force on Auctioneers wrote its report, and this House passed the Auctioneers Act as a result of the recommendations of that task force. The Task Force on Land Laws and Tenancy has made its recommendations, and from tomorrow and Friday, a workshop is being held to finalise the recommendations of a Bill that will come to this House. I can go on and on to give examples.

Mr. Deputy Speaker, Sir, the fact of the matter is that the task forces have performed good work involving our laws, and more laws are going to come. As I said at the beginning of this year, in the first few years, we were mainly concerned with workshops, seminars, making recommendations and so on, but from the beginning of this year, I said that we have now moved into the era of publishing Bills and enacting those Bills. That is already seen. There are so many Bills now pending for this House to debate. That is as a result of the task forces.

Coming to this Motion, in the same way that the Government has been faithful in implementing the recommendations of the task forces, also on this particular matter, as the Mover of the Motion quite correctly put it--- In fact, the Task Force on Security Legislation had as one of its mandates to bring an Election Bill which will consolidate all the laws relating to elections to ensure that in this country we have a free and fair elections.

Mr. Gatabaki: On a point of order, Mr. Deputy Speaker, Sir. I hate disrupting the Attorney-General in his very important presentation. But is he not misleading this House when he says that with the formation of the task forces, which we know very well had been formed for specific purposes - for hoodwinking Kenyans - the Government does, indeed, want to change when the Government is derailing changes? Is it in order for the Attorney-General to keep misleading the House that these task forces have achieved anything when we know very well that their purposes have been to deliberately mislead and delay changes?

Mr. Deputy Speaker: Order, Mr. Gatabaki! You are arguing!

Proceed, Mr. Wako.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I will proceed. The fact of the matter is that the task forces have made recommendations and various Acts have been enacted by this august National Assembly unanimously. In fact, there is no report of the task force whose Bill has been brought to this House and there has never been a division in this House. They have all been passed unanimously. Normally, Mr. Gatabaki is in the House because he is a good attender, and he has been part of the passing of those Bills recommended by the task forces.

Now, coming to this Motion, it is true that the Task Force on Security Legislation was mandated to come up with the laws consolidating all the laws relating to elections. In fact, they, indeed, came up with such a draft way back in 1993/1994. They also came up with what was called the Registration of Political Parties Bill, and it was misunderstood. It was a good Bill and it was consistent with similar legislations throughout the Commonwealth including Seychelles, Tanzania and other areas where we have that type of Bill. It was a good Bill, but it was misunderstood and has up-to-date not been debated. So, the task force, together with the Kenya Law Reform Commission, produced the Election Bill. That particular Bill was overtaken by the events that occurred in 1997, and the amendments that we made under the Statutory Miscellaneous (Amendments) Bill of 1997 on the issues of elections reflect some of the recommendations and provisions that were in that proposed Bill. You will recall that in 1997, amendments were made to the National Assembly and Presidential Elections Act, the Election Offences Act, the Kenya Broadcasting Act and the Local Government Act. In addition, in fact, we even had the Electoral Code of Conduct which is part of our laws in this country for Commissioners and staff of the ECK. It also provided that all the political parties which were going to take part in elections must prescribe to it before they can take part in the elections. Most of the amendments that were reflected in the IPPG were taken from the Bill which had been drafted by the task force. In fact, that report facilitated the work of the task force because it showed that when it comes to elections, Kenyans can agree on the provisions that will ensure that we have a free and fair elections.

The other provisions of that particular Bill were a bit controversial, and, therefore, had to be further subjected to consultations and dialogue, particularly among the political parties. This is because political parties, as we all know,

are the basis of any democratic system. Any democratic system depends for its operations on the political parties and if the political parties understand what their true role is under democracy, then, we will not be having many of the problems that we have now in "operationalising" the multiparty democracy that we have in Kenya today.

It is essential that in discussing and coming with a consolidated Election Bill, there should be proper consultations particularly amongst the political parties. The proper organ to facilitate these consultations, which will end up in having an election Bill, is the ECK. It will be wrong for any one political party or a group of political parties to assume that they can draft a Bill and bring it to this House for enactment because the nature of elections being what they are, is sensitive. How are we to know that one or two political parties were bringing this Bill not to serve their own narrow political interests? That is why it is necessary that no single political party should be on the forefront of making recommendations and bringing such kind of Bill and bringing it to this House. The proper, neutral and objective body, which has been charged under our Constitution is the ECK. Let me remind my fellow hon. Members that under the amendment of the Constitution that was brought in force in 1997, we added two more functions to the ECK. These functions were to promote free and fair elections and also to promote voter education throughout Kenya. Today, through that constitutional amendment of 1997, the ECK is mandated to promote free and fair elections. In promoting free and fair elections they have a duty and, in fact, a mandate to initiate legislation that will promote free and fair elections. The Electoral Commission that we have now which has been discharging its responsibilities since 1991 to date has a reservoir of experience on what needs to be done to promote free and fair elections; not just within it, but from the experience born within the country in the last two or three elections that we have held. I know that the chairman, vice-chairman and the other commissioners have, in fact, visited and observed many elections in other countries. Therefore, they have the necessary experience to initiate legislation in this regard.

I am glad that on 30th October, the Electoral Commission put some of its views on paper. It is a document of 23 pages on what needs to be done by way of law to ensure that we have free and fair elections. My information is that this document is already in the hands of political parties for study. The idea is that the Electoral Commission will now engage the stakeholders - who in this case will be the political parties that will participate in the elections - in the discussions with a view of coming up with a comprehensive Election Bill which can be enacted in this House. Election laws, to me, come almost immediately after the Constitution itself. They are so important that they should not be subjected to partisan politics. I know that once the---

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. Is Mr. Deputy Speaker satisfied that the Attorney-General is in order to repeatedly insinuate improper motives on hon. Murungi in bringing this Motion to the House when he talks about partisan interests and hidden agendas?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I am not insinuating by any means that there are improper motives. In fact, I know that hon. Murungi meant well when he brought this Motion. We all know that in politics, perceptions rather than the reality control decision making. The perception is very important here. What perception does that give that this is a Bill being brought by a political party? The person bringing it will have very sincere motives, but perceptions matter very much. The Attorney-General has had very good intentions on many issues, but sometimes the perceptions are wrong and he cannot move ahead and implement those very good motives and intentions that he has. It is the same way with hon. Murungi's Motion here. That is why I am urging that leave should not be given to hon. Murungi to bring this Bill to the House because the Electoral Commission has already embarked on that exercise. I will take this opportunity to call upon all the political parties to co-operate fully with the Electoral Commission so that they can develop an Election Bill which will consolidate all the election laws that we have and that through the Attorney-General this Bill will come here and be debated. I hope that because it will have passed through good dialogue and so on, it will be passed unanimously in this august Assembly.

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

The Attorney-General (Mr. Wako): Therefore, it is for very good reasons that I am opposing this Bill. The Government itself will bring this Bill very soon, well before the next general elections.

Mr. Gatabaki: On a point of order, Mr. Deputy Speaker, Sir. Clearly, we deserve to be given the Floor to raise points of order. It is our right to raise points of order. The Attorney-General keeps on repeating over again that the Electoral Commission is an independent body when we know very well that it is not. It is a partisan institution that favours KANU in the elections.

Mr. Deputy Speaker: Order! I think we have had quite enough of this frivolous points of order. The Speaker ruled the other day that if an hon. Member wishes to stand on a point of order, he must cite the relevant Standing Order which the hon. Member on the Floor has breached. That rule will be enforced.

Proceed, hon. Murungi.

Mr. Murungi: Mr. Deputy Speaker, Sir, I had agreed to give three of my minutes to hon. Kimeto.

Mr. Kimeto: Thank you, Mr. Deputy Speaker, Sir, for the opportunity given by hon. Murungi. I would like to support this Motion in this manner: You will find that rigging was very rampant in the first Government. Due to this,

we have not come up with laws to deal with those people who rig elections. We have not come up with laws to say that if anybody is rigged in he should go to jail for seven years if he is finally discovered. We have never known that people spend their own money in trying to get to Parliament or county councils. We must support this Motion by bringing laws which will ensure the prosecution of those who rig elections. Charging a fee of Kshs500,000 for an appeal is a straightforward way of preventing people who had been rigged out from coming back to this House. The figure is too high. I would like to support this Motion and suggest that that figure be lowered to Kshs100,000. We must punish those people who rig elections.

When somebody files a case in the Court of Appeal, as soon as it is found out that that person had been rigged out, he should be declared the winner straightaway. We do not need to hold elections. Why go again for elections after somebody was found to have been rigged out? Are you not making this person suffer again? Why do you not bring an amendment to effect this change immediately?

Thank you, Mr. Deputy Speaker, Sir.

Mr. Murungi: Mr. Deputy Speaker, Sir, I would like to thank all those hon. Members who have spoken in support of this Motion. I would also like to thank the Attorney-General for recognising the need to have a new Electoral Code to govern the management of elections in this country. It is unfortunate that some Members like hon. Sankori saw this as a code to oppress small tribes. The contents of this code are not yet known so, I do not know where hon. Sankori got this idea from that the code was meant to oppress small tribes. I have only one concern. With our own experience with the Attorney-General in regard to constitutional reform and other legal reforms in this country, can we really trust him to bring this Electoral Code before the next elections? The task force which he appointed has already drafted this law presented its report way back in 1996, which is four years ago. What has the Attorney-General been doing? It is our duty, as hon. Members, to make law. One of the duties of an hon. Member of Parliament is to legislate laws. We should not be seen as people who do something wrong when we do what we are supposed to do. So, I would like to ask hon. Members to support this Motion to grant leave so that this Bill can be drafted. I promise to work very closely with the Attorney-General in making sure that this Bill contains the interests of all the political parties. As a matter of fact, we will sit down after leave has been granted, look at the draft which had been prepared by the task force and the ones which we have prepared and come up with a Bill which is acceptable to all the parties. So, the question of partisanship will not be there.

Mr. Deputy Speaker, Sir, as for all the hon. Members who have said that we have had elections since 1963 and, therefore, we do not need a new law, my answer is simple: The fact that we have had elections since 1963 does not mean that we had genuine, free and fair elections all those years. We have had dictatorship and totalitarian governments. Even Stalin's Government in Russia held elections, but they were not democratic. We have had elections, and one Presidential candidate and people were supposed to vote "yes" or "no" for him. Although those could be called elections, they are not genuine, free and fair. What we need in this country is a law which will permit free, genuine and fair elections within the context of a multi-party democracy. The laws which governed the elections under the one party regime are outdated and cannot be trusted to give us credible elections during the multi-party era. I promise that there will be consultations. All the political parties will be involved in discussing the contents of the Bill that we will introduce.

In the past, the Attorney-General has worked with this House in drafting Bills after leave has been granted. I would like to state that granting of leave does not in any way prevent the Attorney-General from taking over the initiative from us. We saw it with the Parliamentary Service Commission (PSC), which we introduced through hon. Oloo-Aringo, and we had no objections to the Attorney-General taking over the Bill, once it was drafted, and even introducing it in the House. So, we would like to request that this House do grant leave. After we have drafted the Bill, we have no problems with the Attorney-General taking it over and introducing it in the House so long as it satisfies the interests of all the parties. I do not think I need to belabour this point any more. The need for the law has clearly been identified both by the Attorney-General, the Electoral Commission of Kenya (ECK) and the political parties, and the need is urgent. The Attorney-General has not told us when he will bring this Bill. He has not told us the month when he will bring this Bill to the House.

The Attorney-General (Mr. Wako): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to say that I have not told this House when I will bring the Bill, when I clearly stated, and the HANSARD Report will reflect this, that it will be well before the next general elections.

Hon. Members: No!

Mr. Murungi: Mr. Deputy Speaker, Sir, you can see that the Attorney-General has continued to fool us around. He is not telling this House that he will bring the Bill to the House a month or two months from now. We do not know when he will bring the Bill. That is why we need to have this Motion passed by this House, so that if the Attorney-General continues dragging his feet, we can bring the Bill and pass it, as a House.

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

(Question put and negated)

Hon. Members: No! Division! Division!

DIVISION

Mr. Deputy Speaker: Order, hon. Members! The tellers for the AYES are hon. Eric T. Morogo and Ms. Martha Karua. The tellers for the NOES are hon. Suleiman Kamolleh and Mwangi Kiunjuri. We will proceed as follows:

I will put the question again and after that, the AYES will proceed to the lobby on my right. The NOES will proceed to the lobby on my left. The doors to the lobby will be locked ten minutes after I put the question. You will be allowed to go in and vote. Those who do not wish to vote should record their names with the Clerk at the Table. It is imperative that they do so, in order to get our figures right.

(Question put and the House divided)

You may now proceed to the lobbies.

(Question defeated by 57 votes to 42)

AYES: Messrs. Achola, Angwenyi, Gatabaki, Gitonga, Kamanda, Kamau, Ms. Karua, Messrs. Kimeto, Kirwa, Dr. Kituyi; Messrs. Kiunjuri, Kombo, Kones; Dr. Kulundu, Messrs. Maitha, Mboko, Michuki, Muchiri, Muite, Murungi, Eng. Muriuki, Messrs. Mutahi, Mwakiringo, Mwangi P.K., Mwiraria, Ndicho, Ndwiga, Mrs. Ngilu, Messrs. Ngunjiri, Obwocha, Dr. Ochuodho, Messrs. Omamba, Opore, Orengo, Parpai, Shitanda, Eng. Toro; Messrs. Wafula, Waithaka, Wamae, Wanjala and Dr. Wekesa.

Tellers of the Ayes: Ms. Karua and Mr. E.T. Morogo

NOES: Dr. Anangwe, Messrs. Arap-Kirui, Awori, Badawy, Chanzu, Choge, Dr. Godana, Messrs. Gumo, Kalweo, Kamolleh, Col. Kiluta, Messrs. Kimani, Kitur, Kochalle, Kofa, Kosgey, Lagat, Lenges, Leting, Lotodo J.D., Maj. Madoka; Mr. Maizs, Eng. Manga, Messrs. Marrirmoi, Mkalla, Mohamed, Mohamud, Morogo E.T., Morogo W.C., Mukangu, Musila, Musyoka, Ms. Mwachai, Messrs. Nassir, Ndambuki, Ndilinge, Ngala, Ng'eny, Ntimama, Nyang'wara, Nyenze, Kiangoi, Osundwa, Eng. Rotich, Prof. Saitoti, Messrs. Hashim, Sambu, Sang, Sankori, Sasura, Shidiye, Sumbeiywo, Dr. Wako, Dr. Wamukoya, Messrs. Weyrah, Haji and Too

Tellers of the Noes: Messrs. Kamolleh and Kiunjuri

[Mr. Deputy Speaker left the Chair]

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

RESETTLEMENT OF DISPLACED KENYANS

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

THAT, in view of the fact that many Kenyans were displaced from their farms at Miteitei, Kamalelo, Simotwo and others from their farms in Rift Valley Province and other parts of Kenya during the 1991/92 land clashes; and considering that their current social and economic status are in pathetic condition, this House resolves that the Government resettles them in their former farms with immediate effect.

Mr. Temporary Deputy Speaker, Sir, I brought this Motion, bearing in mind what happened in this country between 1990 and 1991. During the struggle for multipartyism, those in authority believed that they were going to lose political power. So, the only way they could cling onto power was to instigate clashes in this country so that people who were going to support the multiparty crusade would not do it. We know that a Parliamentary Committee went round the country trying to find out the causes of ethnic clashes. When the report came to this House, many of its Members were intimidated and they ended up not supporting their own report. Kenyans would like to know who was behind these clashes.

Mr. Temporary Deputy Speaker, Sir, Section 70 of the Constitution of Kenya states very clearly that a person shall be entitled to "the protection of life, liberty, security of the person and the protection of the law." It goes on to state that "there shall be protection of the privacy of his home and other property and from deprivation of property without compensation." This means that the State will protect the properties of its citizens. Why should a person go against the supreme law of the land?

Mr. Temporary Deputy Speaker, Sir, in bringing this Motion, a number of people brought to me memoranda containing the names of people who were displaced in various parts of the country for instance, Molo, Narok, Olenguruone, Kamara, the whole of Uasin Gishu, Trans Nzoia and other parts of Western Province, Mombasa and other parts of Coast Province and parts of Maasailand. These are people who bought their pieces of land way back in 1960s. The communities settled in those areas are mainly Kalenjins, Kikuyus, Kisii, Kamba, Luos, Luhya amongst others, and they had engaged in progressive farming activities.

Mr. Temporary Deputy Speaker, Sir, the settlers at Miteitei, Kitochi, Kamalelo, Simotwo farms in Rift Valley Province had established schools in those areas for their children. Our greatest question is, how much was lost in these clashes? Children lost the opportunity to continue with their education and Kenyans who had settled there lost their property. So, when you work it out wholly, one asks himself: How much was lost in the process?

Mr. Temporary Deputy Speaker, Sir, the role of the Provincial Administration in these clashes is questionable because, even up to now, with statements being made that these people should be resettled, the Provincial Administration is not moving even an inch. So, what is happening with the Provincial Administration? Are they getting different instructions? Why are they not moving? We were told that the UNDP had come forward with a resettlement programme; having given money to the Kenya Government.

(Loud consultations)

Dr. Kituyi: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Sijui kama umemuona Bw. Too na wenzake katika ile kona wasanababisha mayowe, hata hatuwezi kusikiza yale yanayosemwa juu ya Hoja ambayo tunazungumzia.

QUORUM

The Assistant Minister for Labour and Human Resource Development (Mr. Maizs): On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House!

The Temporary Deputy Speaker (Mr. Musila): Mhe. Maizs, nilikwaambia kwamba---

The Assistant Minister for Labour and Human Resource Development (Mr. Maizs): Mr. Temporary Deputy Speaker, Sir, Mzungu killed many Nandis, and so I do not see the need to---

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Mr. Maizs! You will have an opportunity to contribute and then you will express your opinion.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, he knows how to raise those issues. Let me continue, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Mr. Obwocha! My attention has still been drawn to the fact that there is no quorum.

Mr. Obwocha: No, he did not draw your attention properly. You can ignore that!

The Temporary Deputy Speaker (Mr. Musila): Therefore, it is obvious that there is no quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Musila): Order! Hon. Members, we have a quorum now. Proceed, Mr. Obwocha.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I do not want my Motion to be misunderstood. These names appearing in this Motion are merely some of the names from the areas where these clashes occurred. I do not mind them being deleted. All I am asking in this Motion is that, where tribal clashes occurred, people should be resettled. Basically, that is the intent and purpose of my Motion. Therefore, somebody is going to bring an amendment to delete the names. I have no quarrel with my brothers in Nandi. All these names are there to indicate where problems were concentrated. So, somebody is going to do it.

An hon. Member: Ondoa!

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Mark Too!

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I have no problem with those names being deleted. All I am saying is that, where tribal clashes occurred, let the Government be specific in resettling these people and be serious about it.

Let me come to the substantive issue that I wanted to raise here. The Government, in trying to convince the people of Kenya that it is serious about resettlement, came up with the Akiwumi Judicial Commission which spent public money. The views of Kenyans have been heard and we are wondering what has happened to the findings of that Commission. Why are the findings not being made public? Are we going as Kenyans to institute commissions, spend public money and in the end, not give Kenyans the findings so that they know, at least, what happened? I would believe that if the Government was serious about sorting this issue out, the first thing it would have done was to give Kenyans what views the Akiwumi Judicial Commission came up with. I believe that is what it should give us.

These tribal clashes left many people in very bad state. There were people who had loans and are unable to repay them. They had mortgaged part of their properties elsewhere, which have been auctioned. Now, how will these people be compensated? How will they pay for them? Those are fundamental questions. Now,

let us put this thing into perspective. Kenyans are one nation. Many things may have happened in this country which we may not have been done rightly, but we need to look at them and say: "Look, such-and-such a thing has happened and if it is so, do we destroy our country?" It is now time for Kenyans to look at this issue soberly and say: "This is a thing that we went wrong on, we slipped here and thus, let us correct it so that Kenyans can continue to live together". This is something which, I believe, made a situation like the Truth and Reconciliation Commission be set up in South Africa. Such a situation should come into play in Kenya, so that the truth is known and, people forgive one another. Those who wronged Kenyans should be punished and then we proceed as a nation. If we do not do that, we know there are people who are waiting for an opportunity to revenge and that will not help this country at all.

The Assistant Minister for Labour and Human Resource Development (Mr. Maizs): On a point of order, Mr. Temporary Deputy Speaker, Sir. One, there is no quorum here. Secondly, hon. Obwocha---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Maizs! May we have some decorum in this House. You stood on a point of order. You did not stand to address the House. Can you now tell us what your point of order is?

QUORUM

The Assistant Minister for Labour and Human Resource Development (Mr. Maizs): On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House.

The Temporary Deputy Speaker (Mr. Musila): You have just drawn the attention of the Chair that there is no quorum in the House and that is what you should do. You do not say one, two and three. Now, we do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members. Since there is still no quorum, we have to interrupt of business. The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 11.50 a.m.