

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 23rd April, 2002

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

NOTICE OF MOTION FOR ADJOURNMENT TO DISCUSS EU/ACP COTONOU AGREEMENT

Mr. Speaker: Order, hon. Members! Hon. Members, I have received a written notice from the hon. Member for Webuye, hon. Muskari Kombo, of his intention to move a Motion of Adjournment under Standing Order No.18(2); end of a normal sitting day. This Motion is based on a matter contained in a reply to Question No.149 of 17th February, 2002, afternoon sitting, concerning the Cotonou Agreement between EU and ACP countries.

I have considered and acceded to the request of the hon. Member and I will, therefore, call upon the hon. Member, to move the Motion of Adjournment at the interruption of business on Wednesday, 24th April, 2002, afternoon sitting.

Thank you.

PAPER LAID

The following Paper was laid on the Table:-

The Report of the Public Accounts Committee on the Government of Kenya Accounts for the year 1997/98, Volumes I and II.

(By Mr. Mwiraria)

NOTICE OF MOTION

ADOPTION OF THE 1997/98 PAC REPORT

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

THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya Accounts for the year 1997/98, laid on the Table of the House, on Tuesday, 23rd April, 2002.

ORAL ANSWERS TO QUESTIONS

Mr. Speaker: Hon. Members, this Order should take one hour!

Question No.145

MANAGEMENT OF REFUGEE AFFAIRS

Dr. Kulundu asked the Vice-President and Minister for Home Affairs, under what law this country manages the affairs of refugees.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Osundwa): Mr. Speaker, Sir, I beg to reply.

Kenya applies the Aliens Restriction Act, Cap.173, Laws of Kenya, alongside the international and regional instruments in managing and handling refugees.

Kenya is a signatory to three international and regional instruments relating to the status of refugees. The relevant instruments include the 1951 United Nations Geneva Convention and its protocol of 1967. The other instrument relates to the 1969 OAU Convention governing the specific aspects of refugee problems in Africa.

The Government in collaboration with the United Nations High Commissioner for Refugees, applies these instruments in handling refugee issues.

Dr. Kulundu: Mr. Speaker, Sir, the Assistant Minister should differentiate between aliens and refugees. But that notwithstanding, the Aliens Restriction Act, Cap.173, is basically a catalogue of punitive actions that the Assistant Minister for Home Affairs, Heritage and Sports can take against aliens whose countries are at war with Kenya.

It is true that Kenya is a signatory to the UN Convention on refugees and the OAU Convention on refugees and so forth. But why has Kenya not domesticated these various conventions on refugees?

Mr. Osundwa: Mr. Speaker, Sir, the Ministry of Home Affairs has drafted the Refugee Bill and it is awaiting approval by the Cabinet. Once that approval is given, the Bill will be brought to the House for discussion.

Mr. Maitha: Mr. Speaker, Sir, recently, we had a symposium on the law of refugees, and we found that Kenya is the only country, apart from Uganda and Tanzania, which has not enacted any law concerning refugees. Could the Assistant Minister tell this House what made this Government withhold the draft Bill on Refugees for so long? When will the draft Bill be brought to this House for enactment so that we can move together with the other countries which are taking care of refugees? What led to the Government delay in enactment of this Act?

Mr. Osundwa: Mr. Speaker, Sir, first all, I want to tell the hon. Member that Kenya is not the only country which has not enacted the refugee laws. For example, Uganda has not enacted the law. Last week, I was in a seminar on refugees with the hon. Member, and he knows that. I mentioned that the Ministry of Home Affairs has already drafted this Bill and the discussions that were going on in Mombasa between Kenyan Members of Parliament and their counterparts from Uganda were aimed at strengthening this Bill. I can assure the hon. Member that whatever we agreed on in Mombasa is meant to strengthen this Bill.

Mr. Imanyara: Mr. Speaker, Sir, last week we were together in Mombasa with the hon. Assistant Minister who is answering this Question; plus other Government officials, including Members of Parliament from Uganda. What emerged, contrary to what the Assistant Minister is saying, is that, in Uganda, in fact, they have published the Bill on refugees. In Kenya, we only hear of recommendations made to the Ministry of Home Affairs. I would like to know from the Assistant Minister how soon the Bill on refugees will be published?

Mr. Osundwa: Mr. Speaker, Sir, I have no control over the Cabinet! I said that once the Cabinet approves whatever we have given it, we will lay the same on the Table of the House for discussion.

Question No.033

DESTRUCTION OF CROPS BY MONKEYS

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

(a) whether he is aware that baboons and monkeys are destroying food crops in Got Nyabondo area of Winam Division;

(b) whether he is further aware that the said animals are protected by Kenya Wildlife Service rangers, and that farmers are forced to guard their *shambas* on a 24-hour basis; and,

(c) what urgent measures he is taking to avert the situation and pay compensation to the farmers.

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

(a) I am aware that baboons and monkeys have been destroying food crops in Got Nyabondo area of Winam Division.

(b) However, I am not aware that the said animals are protected by the KWS rangers and that the farmers are forced to guard their *shambas* on a 24-hour basis. As a normal routine, the KWS, in collaboration with local community through the village elders and Provincial Administration, continues to offer services to the community at Got Nyabondo area through a programme of animal management activities by scaring away the animals. Hence, the Member for Kisumu Town East is requested to inform his constituents to report any animal case to the nearest KWS station.

(c) The KWS rangers have already attended to the current problem in the area. Under the Wildlife Conservation Act, Cap.376 of the Laws of Kenya, there are no provisions for compensation of crops.

Mr. Sungu: Thank you, Mr. Speaker, Sir. I would like to thank the Minister for giving us a very good answer. However, I disagree with him on the issue of offering services to the community at Got Nyabondo because this has never happened. One of the services normally offered to communities in such areas is the construction of roads using funds given by the KWS. Could the Minister now undertake to deliver the same services to the people of

Got Nyabondo?

Mr. Nassir: Mr. Speaker, Sir, the problem of baboons and monkeys in Got Nyabondo which has been brought to the attention of KWS has been entered into the occurrence book. This case was reported by a Mr. Joshua Omondi and the rangers went to the area on 14th July, 2001, and killed two baboons.

Mr. Kamolleh: Thank you, Mr. Speaker, Sir. The Minister has given a good answer to this House, but he is forgetting that it is not only the baboons which are causing havoc to crops. We have elephants and other wild animals which we are not supposed to "touch". These animals are better than human beings! I would like to say that these animals destroy our crops and when we ask for compensation, we are told that we cannot be compensated. What measures has the Minister taken to ensure that elephants, either in Matuga or in Kasipul Kabondo, do not destroy crops? If these animals destroy crops, could we be compensated? What measures is the Minister taking to tame these animals?

Mr. Nassir: Mr. Speaker, Sir, the Ministry is doing all that it can to prevent these animals from causing havoc to crops. We have put up a fence in Kwale to prevent wild animals from causing havoc to crops. We are doing our best to ensure that these animals do not destroy crops and injure or kill people. But it is dangerous for us, human beings, to shoot and kill these animals. This makes the animals run around for their safety.

(Laughter)

Mr. Kamolleh: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead this House by saying that the animals wander because they are scared of being shot, when we know very well that the fences they have put up in Kwale and other regions do not have enough current? What will the Minister do to alleviate this problem? Is he in order to mislead the House?

Mr. Speaker: Well, that is a supplementary question! Are you suggesting that there are refugee elephants?

(Laughter)

Anyway, let us move on to the next Question!

Question No.084

STUDENT RIOTS AT KENYATTA UNIVERSITY

Mr. Muchiri asked the Minister for Education:-

- (a) whether he could explain the causes of the student riots at Kenyatta University in the year 2000;
- (b) what the value of the damaged property is; and,
- (c) what measures he has taken to curb student riots in public universities.

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

- (a) The students rioted because the university introduced E-Mail service for which any student wishing to learn paid a cost-sharing fee of Kshs500 in order to register.
- (b) The value of the damaged property was Kshs6 million.
- (c) The Ministry has advised all university vice-chancellors to open up channels of dialogue between them and the students, to ensure that students' grievances are addressed as soon as they arise.

Mr. Muchiri: Thank you, Mr. Speaker, Sir. One of the reasons why students in public universities riot is because these universities have stationed policemen there under the cover that they are students. The vice-chancellors and deputies are guarded by security personnel, especially from Recce Company. Could the Assistant Minister withdraw all those policemen who are stationed in public universities and let the students have freedom so that they can learn?

Mr. Poghisio: Mr. Speaker, Sir, I hope I am not supposed to answer that question.

Mr. Speaker: Why?

Mr. Poghisio: Mr. Speaker, Sir, because the Minister for Education does not post nor remove security personnel in public universities.

Mr. Koske: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister really in order not to answer that question, and yet we know that any time there is a students riot in any public university, it is only the policemen who are called to disperse the students? Why should he mislead the House?

Mr. Speaker: Mr. Koske, I have not understood what you have said!

Mr. Koske: Mr. Speaker, Sir, the Assistant Minister is misleading the House because despite the fact that the Ministry does not post security men to public universities, the people who are normally sent to disperse the students

when they riot are policemen.

Mr. Speaker: Mr. Koske, are you suggesting that universities are in a different Republic from the one we live in, and they do not require the police?

Mr. Koske: Mr. Speaker, Sir, but the students do not really need to be bashed by policemen; do they?

Mr. Speaker: What would you like to say, Mr. Poghiso?

Mr. Poghiso: Mr. Speaker, Sir, the question which was asked by Mr. Muchiri was simply that the Minister explains the causes of students riots in Kenyatta University in the year 2000, which as you know, I have mentioned. On the question of policemen, I would like to point out that the universities require police posts and stations like any other place. The police do their work, and I think they fall under a different Ministry.

Hon. Member: Speak loud!

Mr. Poghiso: Mr. Speaker, Sir, I am saying that I do not know how the policemen are posted or removed from the universities. There is a relevant Ministry that can answer that question.

Mr. Anyona: Mr. Speaker, Sir, it is a very serious matter if the universities of this Republic are being run by security guards. I understood the hon. Member to be querying the presence of security guards and not regular policemen because universities do require security. So, could the Assistant Minister confirm or deny that there are private security guards in our universities?

Mr. Poghiso: Mr. Speaker, Sir, are we looking for the truth of the matter or what? How can there be private security guards in our universities? We know that what the hon. Member has talked about are policemen. He said that there are policemen in our public universities and not private security guards.

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

Mr. Speaker: Mr. Muchiri, ask the last question!

Mr. Muchiri: Mr. Speaker, Sir, I am not talking about the uniformed policemen. I am talking about the plainclothes policemen stationed in the universities, masquerading as students. They even attend classes, but their job is to investigate on the activities of students. My question is, and it is a repetition: Will the Assistant Minister withdraw those plainclothes policemen?

Mr. Poghiso: Mr. Speaker, Sir, I am not aware of the presence of plainclothes policemen in the universities. It is not fair for the hon. Member to ask a question as a pretext for reaching a pre-conceived answer. I think I have satisfactorily answered the Question I was asked.

Mr. Speaker: Order! Mr. Muchiri, instead of asking a supplementary question, you have actually made a statement that can cause unrest in our universities. What evidence do you have that there are police officers in the universities masquerading as students?

Mr. Muchiri: Mr. Speaker, Sir, it is not a question of bringing evidence; it is obvious. I know this because I have been a policeman. So, the Assistant Minister is misleading the House that those policemen are not stationed at Kenyatta University.

Mr. Wanjala: On a point of order, Mr. Speaker, Sir. You have clearly heard the hon. Member alleging that there are plainclothes policemen in Kenyatta University. He says that he was a policeman. Could he clear the air as to whether he was one of the police officers in our public universities who raped students during riots?

Mr. Muchiri: Mr. Speaker, Sir, I was not even stationed in that university. But I know that several of my colleagues were in the public universities, including Kenyatta University, which is in my constituency. I know there are plainclothes policemen stationed there. So, the Assistant Minister is misleading the House by denying that there are no such police officers in that university.

Mr. Poghiso: Mr. Speaker, Sir, I know there are some politicians who have been behind some of these riots. Since he is an insider, maybe, the hon. Member can help us.

Mr. Speaker: Order! I hope, in all honesty, that this does not aggravate matters at the universities.

Next Question.

Question No.103

NON-PAYMENT OF DUES TO
MBOONI COFFEE FARMERS

Bw. Kalulu alimuuliza Waziri wa Kilimo:-

- (a) ikiwa anafahamu kuwa wakulima wa kahawa wa Mbooni na Tulimani hawajalipwa pesa ya mazao yao kwa muda wa miaka miwili; na,
- (b) ikiwa anaweza kuchunguza kwa nini malipo hayo hayakutekelezwa.

The Assistant Minister for Agriculture and Rural Development (Col. Kiluta): Mr. Speaker, Sir, I have discussed the answer I have here with the hon. Member, and together, we have agreed that in view of this answer, this Question be deferred to Thursday this week.

Mr. Kalulu: Bw. Spika, sina ubishi wowote.

Mr. Speaker: The Question is, therefore, deferred to Thursday, this week.

(Question deferred)

Question No.031

REPAIR OF KINAMBA-SIPILI-RUMURUTI ROAD

Mr. Kiunjuri asked the Minister for Roads and Public Works when the road between Kinamba-Sipili-Rumuruti, which is currently impassable, will be repaired and maintained.

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

The Kinamba-Sipili-Rumuruti Road is passable. The repair works on this road were carried out between January and March, 2002.

Mr. Kiunjuri: Mr. Speaker, Sir, it is true that some repair works were done between January and March, this year. However, I asked this Question because that road is still impassable during the rainy season. Could the Assistant Minister tell this House which permanent steps he is taking to make this road is passable during both rainy and dry seasons, considering that this road passes through a security area where people are being terrorised and it is the only escape route for thugs?

Mr. Mokku: Mr. Speaker, Sir, first of all, I would like to thank the hon. Member for agreeing that this road is now passable. This Kinamba-Sipili-Rumuruti Road is classified as D372 and it is 32 kilometres in length. This particular road falls under the District Roads Committee (DRC) category. The Ministry will release money, to the DRC committee of which hon. Kiunjuri is a member. They can decide what to do with that money, to ensure that the road is permanently passable during both rainy and dry seasons.

Mr. P.K. Mwangi: Mr. Speaker, Sir, could the Assistant Minister tell us how much they have disbursed to various DRCs in the country?

Mr. Mokku: Mr. Speaker, Sir, I have the information about this particular road. I do not have the information for other roads in the country. For this particular road, my Ministry has already disbursed Kshs4 million.

Mr. Kiunjuri: Mr. Speaker, Sir, Kshs4 million released to Laikipia District Roads Engineer is not enough. The Ministry has allocated Kshs2 million for Laikipia East Constituency and Kshs2 million for Laikipia West Constituency, respectively. Even if the Ministry released Kshs10 million during this financial year, it will not be enough to gravel this road. Could the Assistant Minister tell us how much is required to gravel one kilometre of a road? How much is required to gravel 30 kilometres of a road?

Mr. Mokku: Mr. Speaker, Sir, I would like to correct the hon. Member; the Kshs4 million is not meant to rehabilitate roads in the two constituencies. It is not true. My Ministry has already released Kshs4 million to Laikipia District Roads Engineer which is specifically earmarked for Laikipia East Constituency.

Mr. Kiunjuri: Mr. Speaker, Sir, could the Assistant Minister state clearly, and table evidence before the House, to show that they have already released Kshs4 million for roads in Laikipia East Constituency? The fact of the matter is that they have released Kshs4 million for the whole district. Could he table evidence to show that they have released Kshs4 million for only one constituency?

Mr. Mokku: Mr. Speaker, Sir, I do not have documents to table now, but I can avail that information. This amount of money is only meant to rehabilitate roads in Laikipia East Constituency, where the hon. Member comes from, and not the two constituencies. We have already released Kshs4 million. An additional Kshs1 million will be released soon.

Question No.091

LAND OWNERSHIP BY ABSENTEE LANDLORDS

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

(a) whether he is aware that the following land is owned by absentee landlords in Kisauni Constituency: Plot No.754 MN, 6223 MN, 807, 803 MN, 93/11/MN, 86 MN, 76 MN, 222 MN, 23/24 MN, 95 MN, 49 MN, 170 MN, 80/79 MN, 655 MN, 830 MN, 78 MN.116, 85 MN, 211 MN, 99 MN, 47 MN and 133/11/MN;

(b) whether he is further aware that the same land is inhabited by squatters who pay monthly land rents to agents;

(c) what action he is taking to solve the problem; and,

(d) what is the Ministry's position on land owned by absentee landlords.

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

(a) I am not aware that the following Plot Nos.: 754 MN, 6223 MN, 6223 MN.807, 803, MN.93/11/MN, 86 MN, 76 MN 222, MN.23/24, 95 MN, 49 MN, 170 MN, 80/79 MN, 655 MN, 830 MN, 78 MN.116, 85 MN, 211 MN, 47 MN and 133/11/MN are owned by absentee landlords.

I am aware that those parcels of land are registered and privately owned.

(b) I am not also aware that the same parcels of land are inhabited by squatters who pay monthly land rents to agents. If such arrangements exist, it is between the squatters and registered owners of the land. My Ministry has no role in such arrangements.

(c) The Ministry is already addressing the squatter problem in Coast Province under the Squatter Settlement Programme. The Ministry has also constituted a working group consisting of senior officers to look into problems of encroachment into privately owned farms by squatters, and recommended appropriate remedial measures.

(d) The question of absentee landlords is a policy issue, and is being addressed by the Commission of Inquiry into the Land Laws System which will come up with the necessary policy guidelines on the matter for consideration and action by my Ministry.

Mr. Maitha: Mr. Speaker, Sir, when President Moi reshuffled the Cabinet, the Coastal people were very lucky to get four key positions of Ministers and Permanent Secretaries to make sure that the squatter problem at the region is wiped out. I am surprised to hear that the Assistant Minister is not aware of this problem.

There are two types of lands in the Coast region, which I would like the Assistant Minister to understand. In the Ordinance Act of 1908, Africans were not allowed to own any land, and so they never had any land up to 1963.

Mr. Speaker: What is your question?

Mr. Maitha: Mr. Speaker, Sir, if the Assistant Minister is not aware, I have a Report of the Mwangi Mathai Committee of Parliament, of which the father of the Minister for Lands and Settlement, Mr. Ngala, was a member in 1972, and which recommended that the absentee landlord cases in the Coast Province should be wiped out. For that reason, Mr. Nassir who is seated in this House, benefited from this report when His Excellency the President used Cap.302, Section 23, to order that all those who were paying land rates to the absentee landlords should not pay. I will lay this document on the Table of the House, plus evidence to show that my people are paying the rates.

Could the Assistant Minister now use the same section to order the absentee landlords to relieve my people from the bondage of paying rents every month?

(Mr. Maitha laid the document on the Table)

Mr. Sudi: Mr. Speaker, Sir, as I said earlier, my Ministry is addressing the squatter problem in the Coast Province under the Squatter Settlement Programme. However, I am not aware of what my colleague, Mr. Maitha is talking about.

The land being referred to as belonging to absentee landlords is private land. Whether they are absentee landlords or not, that is their private arrangement.

Mr. Maitha: On a point of order, Mr. Speaker, Sir. If the Assistant Minister is doubting what I have said, I have all the searches here to prove that these people are absentee landlords. If he so wishes, I can still lay this document on the Table to prove myself right. Is he in order to---

Mr. Speaker: Order! Order! We should not be emotional here. We should deal with the matter the way it is. In any case, those documents will never waive the law. You know what it is. If Section 82 of the Constitution guarantees you a right to your property, I think the best thing to do is to proceed to court and have it declared in your favour that you have held it adversely.

Mr. Muite: Mr. Speaker, Sir, given the sensitivity of land in this country and matters relating to land, and given that Mr. Maitha is laying documents here showing many plots with absentee landlords on which Kenyans who do not have land are squatting, could the Assistant Minister consider taking up this matter as a Government, and not tell us that it is a matter of private arrangement with the absentee landlords?

Could he also consider taking up this matter and coming up with a solution, in order to give this land to Kenyans? He should take it away from those absentee landlords. Is the Government prepared to do that?

Mr. Sudi: Mr. Speaker, Sir, there is no question of absentee landlords, because the owners of these plots are listed here. I beg to lay the document on the Table.

(Mr. Sudi laid the document on the Table)

Mr. Speaker: How do we even know whether those documents both of you are laying on the Table are actually there or somewhere in Outer Mongolia?

Mr. Sudi: Mr. Speaker, Sir, they have been registered in my office.

Mr. Twaha: Mr. Speaker, Sir, is it not time the Assistant Minister brought a Bill to this House to classify

who an absentee landlord is? I do not know whether the law differentiates between an absentee landlord and an existing one. At what point does one become an absentee landlord? Is it when he has gone away for a holiday for ten years or a 100 years?

Mr. Sudi: Mr. Speaker, Sir, that is possible. We are waiting for the Njonjo Commission on Land Reforms to classify this issue.

Mr. Maitha: Mr. Speaker, Sir, now that the Assistant Minister is ignorant about this Question, I would like to remind him that this House, on the basis of this Report which I have laid on the Table, brought a Bill to cancel the Mazrui land agreement after the Government proved that this land was owned by absentee landlords. There is a law in this House which says that the Mazruis are no longer in Kenya. That land has already been sub-divided. Could the Assistant Minister deny that his Ministry was a cause of the Mazrui land problem, and they cannot order my people not to pay?

Mr. Sudi: Mr. Speaker, Sir, I think Mr. Maitha is repeating himself. The Mazrui land agreement was found to be favouring one section of the community. I think it was cancelled and I do not think it is now valid as far as we are concerned, because Kenya is an independent country and everybody has an equal right to land.

Mr. Speaker: Next Question!

Mr. Obwocha: Mr. Speaker, Sir, I do not have the benefit of a written answer.

Question No.006

LIQUIDATION OF NYAYO BUS CORPORATION

Mr. Obwocha asked the Attorney-General:-

- (a) how far has the liquidation process for the Nyayo Bus Corporation gone;
- (b) whether he is aware that Mr. Peter Mobegi Mosesti was not paid the balance of his shares in the Nyayo Bus Sacco Society Limited; and,
- (c) when the ex-employees will be paid their terminal benefits.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I am sorry if he does not have the benefit of a written answer, because I signed the answer very early this morning. I am quite sure it must be somewhere in Parliament.

However, I beg to reply.

(a) The liquidation of Nyayo Bus Corporation is at an advanced stage. The official receiver appointed by the High Court on 5th June, 1997, as provisional liquidator has so far recovered Kshs47,086,926 as against and indebtedness of Kshs174,385,053.

(b) The Attorney-General is aware that Mr. Mobegi Mosesti has not been paid the balance of his shares in the Nyayo Bus Sacco Limited.

(c) The ex-employees were paid a total of Kshs17,390,095.05 by the Office of the President in 1996, in accordance with the guidelines supplied by the Ministry of Labour.

Mr. Obwocha: Mr. Speaker, Sir, you will agree with me that any economist who says that the Government is a good entrepreneur is basically wrong in his economics! The Government cannot run a transport business. The Attorney-General has told us that the official receiver has collected Kshs47 million and yet, there are some outstanding dues owed to certain individuals. For example, Mr. Mobegi had Kshs20,500 shares and they only paid him Kshs9,225.

Now, could he confirm when the official receiver will use the money that he has already collected to pay part of the outstanding debts?

Mr. Wako: Mr. Speaker, Sir, the official receiver is in the process of collecting a balance of Kshs42,340,132, and as soon as that is done, a dividend will be declared.

Mr. Obwocha: Mr. Speaker, Sir, are they going to wait until the official receiver collects the balance? What if he does not collect the balance? The other day, they sold the chassis that were lying in their yard at Ruaraka and money must have been collected. So, he should tell us: Are they going to wait for the balance to be collected? They have already collected Kshs47 million!

Mr. Wako: Mr. Speaker, Sir, I understand, but the official receiver is just about to collect that money. Therefore, he prefers that he collects it and pays the dividends in accordance with the powers conferred upon him under the Act.

Mr. Kariuki: Mr. Speaker, Sir, could the Attorney-General refute or confirm that the Nyayo Bus Corporation went under because of corruption? That is because other bus companies like Akamba and Coast Bus have continued to operate. If that is so, what business does the Government have in conducting transportation business?

Mr. Wako: Mr. Speaker, Sir, I can neither confirm nor deny that allegation. My office came into this matter as soon as we got the order to liquidate the company.

QUESTIONS BY PRIVATE NOTICE

KILLING OF MR. LENTANTUYA BY ELEPHANT

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

(a) Is the Minister aware that Mr. Lekimpompoi Lentantuya was killed by a rogue elephant on 15th February, 2002, at his home at 5.30 p.m. in Rombo Sub-Location, Loitokitok Division?

(b) What action is he taking to urgently compensate the family and protect both people and their properties from elephants roaming in the area?

Mr. Speaker: What has happened? Have you been dropped?

Mr. Parpai: I do not know my fate, Mr. Speaker, Sir!

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

(a) I am aware that on 15th February, 2002, a rogue elephant killed Mr. Lekimpompoi Lentantuya---

Mr. Katuku: On a point of order, Mr. Speaker, Sir. We cannot hear what the Minister is saying! Could he switch on the microphone properly so that we can follow what he is saying? He should talk loudly like the Organising Secretary of KANU!

The Minister of State, Office of the President (Mr. Nassir): Mr. Speaker, Sir, when I was elected, I did not come here to insult anybody or show off that I am too clever. I came here to serve Kenyans! Let me repeat my reply again.

(a) I am aware that on 15th February, 2002, a rogue elephant killed Mr. Lekimpompoi Lentantuya at his home at 5.30 p.m. in Rombo Sub-Location, Loitokitok Division.

(b) The family of the late Mr. Lentantuya have been issued with a compensation claim form which they have filled and returned to the Secretary, District Wildlife Compensation Committee, for deliberations. The Committee will meet in due course to deliberate on the matter.

Mr. Parpai: Mr. Speaker, Sir, the Minister has not even completed reading the written reply that I have, and that is where I would like to ask supplementary questions. He says that once the Committee has met and approved the compensation, the claims will be submitted to him to make prompt payments.

Mr. Speaker, Sir, this is my fifth Question on the same matter since I came to this House and no compensation has ever been paid. Could the Minister tell us how much money has been allocated for compensation this year, and how much will go to the district to compensate the very many pending cases there?

Mr. Nassir: Mr. Speaker, Sir, it may be true that he has asked the same Question many times, but I am newly appointed as the Minister in charge of the Kenya Wildlife Service (KWS). I have told him that if any Member of Parliament has a Question that has not been replied to, he can walk to my office and I will do it. Then, he would go back and report on the radio.

Mr. Parpai: Mr. Speaker, Sir, I reserve my comments on that. But on my question as to what the Minister is going to do with the rogue elephants, he says that he has increased the number of patrols, added some rangers, and availed an aeroplane to chase away the elephants.

Mr. Speaker, Sir, I was at home over the weekend and, indeed, the situation is worse off now than it was when I was asking this Question. Could the Minister tell us the truth because Loitokitok Division residents are having a lot of problems because of the rogue elephants? What is he really doing? He should not just talk of sending people whom he has not sent! Could he tell us how many rangers have been sent there and the type of plane? Two months ago, he came here and said that he no longer has any serviceable planes to chase away the rogue elephants!

Mr. Nassir: Mr. Speaker, Sir, just like the Maasai know much about the animals, the fishermen know more about the sea. But, actually, I have repeated twice that it is more dangerous to have more elephants. We are employing more people to look after them. If there is anything more that you require, you can ask more questions and we can work together as a team to help our people.

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

Mr. Anyona: Mr. Speaker, Sir, I have not received a written reply.

CLOSURE OF KISII CO-OPERATIVE UNION

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

(a) Is the Minister aware that the Chairman and the General Manager of Kisii Farmers Co-operative Union (KFCU), without the authority or knowledge of the management committee and members of Girango Farmers Co-operative Society, closed the factory and store of the society on 27th February, 2002?

(b) Is he further aware that, as a result of "a" above, farmers cannot deliver their produce while some 335

bags of cherry and mbuni coffee cannot be transported to the Kenya Planters Co-operative Union (KPCU) for processing and sale?

(c) What legal measures will he take against the Chairman and the General Manager of the Union and could he order the immediate release of the 335 bags of coffee to the KPCU?

The Assistant Minister for Agriculture and Rural Development (Col. Kiluta): Mr. Speaker, Sir, I do apologise for not giving the Questioner a written answer because the answers were released early last week. However, that, notwithstanding, I beg to give the following reply.

(a) I am aware that members of Girango Farmers Co-operative Society closed their stores on 27th February, 2002, awaiting the appointment of a new committee to take over the running of the factory. The new management committee was elected on 18th March, 2002.

(b) I am further aware that the newly elected management committee organised to transport coffee to the KPCU from 4th April, 2002. I am assured that, that is now being done.

(c) Arising from my reply in parts (a) and (b) above, I cannot take any legal measures against the Chairman and the General Manager of the KFCU Limited.

Mr. Anyona: Mr. Speaker, Sir, I have been having problems with this Ministry. I think this Ministry has a very competent Minister, but I think he needs a lot of support from his assistants and officials. Could the Assistant Minister tell us when the management committee was illegally elected by the farmers? Secondly, could he also tell us why the members of the said management committee held another election before their term was over?

Col. Kiluta: Mr. Speaker, Sir, this particular factory has been having problems in the past two years. In actual fact, it has held three elections. The last election was held on 18th March to replace the old committee, and the new---

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

Col. Kiluta: Mr. Speaker, Sir, can I finish answering his supplementary question?

Mr. Speaker: Mr. Anyona, let the Assistant Minister finish answering your supplementary question!

Col. Kiluta: Mr. Speaker, Sir, the new management committee is made up of the following officials: The Chairman is Mr. Onesmus Meroka, who is the nephew of the former chairman, and also happens to be a friend of the hon. Questioner. In fact, Mr. Meroka is the one who has been furnishing him with this information. The other officials include: Vice-Chairman, Charles Onyonka; Treasurer, Mr. Thomas Nyabicha, and the hon. Secretary, James Momba. Committee Members include: Julius Momanyi; Onchoma Mururi and Obuga Emenya.

Mr. Anyona: Mr. Speaker, Sir, as I said, I have a lot of problems with this Ministry. Already, there have been two other Questions which have suffered the same fate because minutes were cooked up in order to be read in this Parliament. I will bring that issue to the House later.

Mr. Speaker, Sir, the Assistant Minister says that the members of Girango Farmers Co-operative Society closed their factory awaiting the election of a new committee. My Question states clearly that the factory and the offices were closed by the Chairman and the General Manager of Gusii Rural Sacco. Those are not the farmers or the management committee of Girango Farmers Co-operative Society, and the two are separate in law.

Mr. Speaker: Mr. Anyona, could you shorten your question? Make it a question so that we can reach the balance of the Question.

Mr. Anyona: Mr. Speaker, Sir, can the Assistant Minister explain when, the committee that he says was replaced, was replaced, and under what law? In other words, where are the minutes that authorised that election?

Col. Kiluta: Mr. Speaker, Sir, I clearly said that the society agreed to close down the factory on 27th February, and the election of the new members were carried out on 18th March. The elections were properly supervised by a presiding officer from Kenya Planters Co-operative Union (KPCU) on that particular day. So, the elections were legally done and properly supervised, and the new members elected unless the hon. Member is saying that he will never recognise the elections until his friends are elected, despite the fact that some are in the committee.

Mr. Anyona: Mr. Speaker, Sir, first of all, is the Assistant Minister in order to impute improper motives on me that I have friends in the management committee? Could he name who these friends are and on what basis?

Mr. Speaker: Can we not personalise the Question!

Mr. Anyona: Mr. Speaker, Sir, he is trying to hide the ignorance of the Ministry for having been misled by people from down there.

Mr. Speaker, Sir, first of all, I would like to lay on the Table two documents. One, is a letter written by the farmers and their management committee on 19th March to the Minister, with a lot of correspondence showing interference with the affairs of their society for which we have had no reply.

Mr. Speaker, Sir, similarly, I would like to lay another document by the same society on the Table written to the Minister on 28th March, 2002, raising all these issues which he has not responded to.

(*Mr. Anyona laid the documents on the Table*)

Mr. Speaker, Sir, finally I have asked the Assistant Minister to say when the committee that was being removed was elected? Was it at the expiry of their term of office? He has not been able to answer this question, and what do I do?

Mr. Speaker: Hon. Col. Kiluta, can we finish this matter now!

Col. Kiluta: Mr. Speaker, Sir, I said clearly that this particular factory has had problems. It has had three elections over the past two years. The first election was held on 13th October, 2000. The second one was held on 27th April, 2001, and the third one was held on March 18th, 2002. Now, I request the hon. Member to be a little bit neutral in this case and not to take sides. If he wants me to investigate, I can have a look at the documents, go back and investigate and give him an answer. However, the information we have is that he has a friend in the other committee which was ousted last time, who is feeding him with this information.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. Could the Assistant Minister say who this friend is and state the basis of that friendship? I mean, he cannot continue imputing improper motives without producing evidence, because I have no friend! These are members of my constituency who have been elected by their members, and that is all I know. These letters that I have tabled were written to the Minister; they were not written to me!

An hon. Member: Who are they?

Mr. Anyona: Of course, they are all my constituents!

Col. Kiluta: Mr. Speaker, Sir, since he has asked me to say who his friend is, there is Mr. Richard M. Meroka, who is the past immediate chairman of the society, and also the hon. Member's strong supporter.

Mr. Speaker: Next Question by hon. Gatabaki!

ILLEGAL FLIGHTS BY ISRAELI CHARTERED AIRLINE

Mr. Gatabaki: Mr. Speaker, Sir, I beg to ask the Minister for Transport and Communications the following Question by Private Notice.

(a) Is the Minister aware that a chartered airline by the name CAL, established in Israel by Agrexo, an Israeli flower growing consortium, operated 15 illegal and unlicensed flights from Kenya, freighting flowers to Europe from October, 2001, and that the flights were terminated by the Directorate of Civil Aviation on 31st December, 2001, following strong objections by Kenya operators?

(b) Is he further aware that the airline has applied for a licence and that its application was heard on 22nd March, 2002?

(c) Could he order comprehensive investigations into the activities of the airline and the repercussions its operations will have to the Kenya flower industry?

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Speaker, Sir, I have information from my Ministry that this matter is in court under Miscellaneous Application No.9 of 2002, and High Court Miscellaneous Application No.240 of 2002. However, I do not have with me the pleadings because the time was not adequate. I would like to see those pleadings, to see whether the matter in question here relates to those issues in court. So, I ask for more time to get those pleadings. Otherwise, the matter is *sub judice*.

Mr. Speaker: Hon. Gatabaki, what is your reaction to the Assistant Minister's application?

Mr. Gatabaki: Mr. Speaker, Sir, no. Of course, I dismiss it with the contempt that it deserves!

(*Laughter*)

Mr. Speaker: Order! Hon. Gatabaki, there are some things that people who sit where you are forget. They modify their language appropriately.

(*Laughter*)

So, the person who will make the decision ultimately is me and not you. So, I am just asking for your response to his request for a little more time, for the Assistant Minister to see the pleadings, and also to let the Chair see whether he is right or wrong. Could you give him until Thursday to do that?

Mr. Gatabaki: Mr. Speaker, Sir, what is at issue is not what is in the court, but the fact that an Israeli airline

has been operating illegally since September last year, ferrying horticultural goods until it was discovered in December. This is not in court. What is in court is the licensing of the Israeli airline once the mistake was detected. So, we are asking the Assistant Minister whether he is aware that the Israeli airline has been operating illegally, ferrying goods into Kenya? This has been happening with the knowledge of the Assistant Minister and the Civil Aviation Board. The Israeli Government intimidated the Kenyan officials to allow this kind of flight. What we are witnessing in Palestine; the occupation by the State of Israel, is similar!

Mr. Speaker: Order! Order, Mr. Gatabaki! You are all confusing me.

Mr. Muite: On a point of order, Mr. Speaker, Sir. I have had the privilege of seeing the pleadings in this particular case. The case relates to an attempt by interested parties to stop the Civil Aviation Board from issuing a cargo licence to the Israel air charter. So, this Question is talking about events that occurred earlier. The matters in court are not in any manner touched by this Question, nor are they likely to be touched by an answer.

Mr. Speaker: That may very well be the position, but I have not seen those pleadings. You have had the advantage. I will defer the Question to Thursday afternoon and order you to give me the pleadings tomorrow, so that I will be able to see whether, indeed, you are right, or if you are not right. We will proceed on Thursday afternoon. Is that okay, Mr. Gatabaki?

Mr. Gatabaki: Mr. Speaker, Sir, I am overwhelmed by your judgement!

(Laughter)

(Question deferred)

Mr. Speaker: Next Question, Mr. Katuku!

HIGH COURT RULING ON KUPPET ELECTIONS

Mr. Katuku: Mr. Speaker, Sir, I beg to ask the Attorney-General the following Question by Private Notice.

(a) Is the Attorney-General aware that the High Court on 18th December, 2001, vide Case No.147/2001, ruled that the Kenya Union of Post-Primary Teachers (KUPPET) holds elections to allow for national elected office holders?

(b) Is he further aware that 27 out of 30 registered branches have resolved to hold the said elections on 26th April, 2002?

(c) Could he confirm that the union will be given the necessary assistance by his office to ensure the said elections are held?

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

(a) The Attorney-General is aware that on 18th December, 2001, Justice Kuloba ruled that the Kenya Union of Post-Primary Teachers (KUPPET) holds elections.

(b) The Attorney-General is aware that the Acting Secretary-General issued a notice on 1st March, 2002, calling for elections on 10th April, 2002.

(c) At a meeting held at the Office of the Registrar of Trade Unions on 11th April, 2002, it was agreed that the elections be held on Friday, 26th April, 2002, from 9.00 a.m. at the Umbrella Music Advancement Centre in Kabete, Nairobi. The Registrar of Trade Unions is under instructions to ensure that this date remains and that the elections take place on the said date.

Mr. Katuku: Mr. Speaker, Sir, I wish to take the earliest opportunity to thank the Attorney-General for the good answer he has given. But I would also want him to be aware of some facts. These elections should have been held a long time ago, but there have been some interested persons who have been interfering with them by running to court and even to the Office of the Registrar of Trade Unions. The other fact I want the Attorney-General also to note, because there is a likelihood of the same being repeated, is that, some of the interim officials of the so-called KUPPET are not even teachers. One of them works with the *East African Standard* Newspaper and is fronted by the National Security Intelligence Services (NSIS). The other one is a retired officer--

Mr. Speaker: Order! Order, Mr. Katuku! You are supposed to ask the Minister questions and he is supposed to answer them. It is not debating time. Do not take the Floor of the House to probably even mislead the Members. It is the Minister who is supposed to answer and not you!

Mr. Katuku: Thank you, Mr. Speaker, Sir. I was trying to make him aware because he has given me a good answer. Money has been deducted from teachers' salaries and has gone to the pockets of some officials who are not even teachers. What assurance is he giving us that the monies deducted from members is safe, because the elections have not yet been held? They will be held on Friday.

Mr. Speaker: Very well! Mr. Attorney-General, could you respond?

Mr. Wako: Mr. Speaker, Sir, his Question was about elections being held on a particular date and I have

answered it. It was not about money.

Dr. Kituyi: Mr. Speaker, Sir, considering that the brief history of KUPPET has been marred by controversies and some groups using extra-judicial measures to push their agenda, could the Attorney-General give an undertaking that he will oblige the relevant officers of the State to ensure security and fair play during the forthcoming elections?

Mr. Wako: The assurance is there!

Mr. Munyasia: Mr. Speaker, Sir, since the Attorney-General is aware that these elections are going to be held a year later, and that it is not because of the mistakes of those that might be elected, would he order that those officials who will be elected on Friday stay in office for five years as they would have been if they had been elected last year?

Mr. Wako: Mr. Speaker, Sir, I have to look at their constitution very carefully before I can make the orders.

Mr. Katuku: Mr. Speaker, Sir, could the Attorney-General also assure this House, because of the nature of the controversies involved in the elections, that all the applicants who want to contest whatever seats are given a fair chance to participate in these elections? There is an attempt to have some of them locked out by the courts.

Mr. Wako: Mr. Speaker, Sir, I cannot forecast what may be filed in court and what may not be. But according to the spirit of the meeting held on 11th April, 2002, at my office, all the factions were represented. They all signed a memorandum of understanding and I believe that, that spirit will hold when the elections are held on the day stated.

Mr. Speaker: Very well! Next Order!

BILLS

First Reading

THE CIVIL AVIATION (AMENDMENT) BILL

*(Order for First Reading read -
Read the First Time -
Ordered to be referred to the
relevant Departmental Committee)*

Second Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

(The Attorney-General on 18.4.2002)

(Resumption of Debate interrupted on 18.4.2002)

Mr. Speaker: Mr. Keah, you were on the Floor and, in fact, you had just begun.

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Speaker, Sir, I had taken less than a minute!

Mr. Speaker, Sir, I want to second this Bill, which the Attorney-General very ably moved. I want to make a few observations, first, of a general nature. This tool or mechanism of making changes to various laws that are archaic is, indeed, very commendable.

I want to take this opportunity to urge the Attorney-General to make use of this facility and change many other laws which are archaic and are really not in accordance with the current trend of events within our society. I am saying this because there are a number of Acts that are obsolete and do not serve any useful purpose.

I would like to bring to the attention of the Attorney-General, the Coconut Industry Act, Cap.331, which requires immediate change. I have certainly addressed the matter to the Attorney-General, and I expected it to be among the laws being amended here, but to my horror and surprise, it is not among them.

I would like to urge the Attorney-General to take advantage of these mechanisms to remove all the stringencies that are currently surrounding the Coconut Industry Act, so that he can provide for the commercialisation and economic utilisation of the entire coconut tree in this Republic and hence, the Coconut Industry Act.

[Mr. Speaker left the Chair]

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

It is long overdue and he has the mechanism to do so here. Our people continue to be unduly disturbed, molested and arrested without proper cause for dealing with the products of the coconut tree. This is not acceptable, particularly when we are trying to alleviate poverty. The Coconut tree has over 101 products---

Mr. Maitha: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am sorry to cut the Assistant Minister short. I think a Motion will be brought to this House seeking leave to introduce a Bill for the coconut industry. Is it in order to discuss the coconut issue before the Motion is brought to this House?

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I have every right to talk on a law that is inefficient and not practical. The intention to request this House to introduce that Bill is neither here nor there. How do we know the House will grant leave?

The Temporary Deputy Speaker (Mr. Imanyara): Order! I think he is asking you not to pre-empt debate on the Motion.

The Assistant Minister for Transport and Communications (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, I am not even aware that there is such a Motion in place. With due respect, and for the sake of my constituents, I would like to draw the attention of the Attorney-General to this matter now because this Motion may come to this House next year. Meanwhile, what will happen to the people who are arrested on a daily basis? If that Motion comes to this House next year, this means that my people will continue to be arrested on a day-to-day basis, and I have a duty to protect them. Let the Motion come and we will debate it, but I have to draw the Attorney-General's attention to the fact that the existing law, Cap.331, is ineffective and is not in accordance with the trends of the day. It does not assist in poverty alleviation and is one of those laws that should be scrapped so that we can provide for the commercial and economic utilisation of the coconut tree, together with all its over 101 products, Mr. Maitha's Motion notwithstanding.

I would like to take this opportunity to go through some of the statutes proposed for amendments because once this Bill is passed, then the Act will become effective. I would like to talk about the National Assembly and Presidential Elections Act, Cap.7. The changes being suggested here are long overdue. I want to caution that care must be taken so that the registration of voters residing abroad, is not unduly manipulated. There must be sufficient provisions and safeguards to ensure that there is proper registration of voters residing abroad and that the exercise is not subject to manipulation. It should be water-tight enough to ensure it is not manipulated simply because of the distance involved. We need to see the rules and regulations that will guide that exercise.

That notwithstanding, I am concerned by the fact that as we talk about this amendment, it appears that the register for the elections due later this year seems to have been closed. I want to seriously ask the Electoral Commission of Kenya (ECK) to ensure that Kenyans with identity cards are allowed to register until a month or two before the elections. The chairman of the ECK said that in a month's time, those registers will be available for scrutiny. Towards the last two or three weeks, before the closing date, there was a rush to the Registrar of Persons. A number of Kenyans, including many in my constituency, went to get their identity cards. As peak, those identity cards have not been released yet, and those people will miss a chance to vote. I want to urge that people who have identity cards should not be denied their right to register as voters. This should be absolutely clear, particularly when the registration of voters exercise was marred to some extent by lack of certain printing or photographic materials, which were missing in the last days of the registration exercise.

The changes being invoked in the Advocates Act, Cap.16, are meant to strengthen the procedures relating to the discipline of advocates. It proposes to amend the provisions relating to the Complaints Commission and the Disciplinary Committee. I have some complaints to be addressed by the Complaints Commission because several letters have been written to the Complaints Commissioner by members of the public, but they have not received any responses. I wonder if the Attorney-General could ensure that the Complaints Commissioner, at least, acknowledges the complaints made to that particular Commission, so that people can be heard in terms of their grievances. On the Disciplinary Committee, I would like to take this opportunity to emphasise the need for these professional organisations, including the Law Society of Kenya (LSK), to have strong disciplinary committees because when ethics are violated, the sufferers are really the general public. The LSK needs to look into those cases where some of its members do not release money which has been awarded by the court to the beneficiaries.

There are a number of Kenyans who are suffering at the hands of lawyers and there seems to be nothing that can be done to redress the situation in this particular regard. I am sure my colleagues who are lawyers in this House will understand the problem and will be sympathetic with the general public. I, therefore, welcome strict rules and regulations to ensure that such lawyers do not get away with it, but are rather punished severely for being unfair, unkind and unfriendly to members of the society.

Mr. Temporary Deputy Speaker, Sir, the other issue I would like to address is about the Kenya Airports

Authority Act, Cap. 395. I recently attended an international conference on airspace safety and security. I realised that the changes being sought to make the Civil Aviation Department autonomous from the Ministry of Transport and Communications are most welcome.

The creation of the Civil Aviation Authority as an autonomous entity will, in fact, be in compliance with the International Civil Aviation Organisation (ICAO) regulations. The creation of the Authority will enable us qualify for various benefits, which we currently do not get, simply because we have not fulfilled the ICAO conditionalities.

Mr. Temporary Deputy Speaker, Sir, I would like to express my support for the proposed amendment to the Books and Newspapers Act, Cap. 111, which seeks to subject handlers of gutter Press publications to punishment. Although the authors of these publications cannot be identified, their vendors can be found in the streets. So, in my view, the proposed law is good. One may claim that such a law will deny the poor vendors their daily bread. However, it is incumbent upon newspaper vendors to ensure that they do not handle publications which defame people, knowing very well that their victims cannot have redress because their authors cannot be identified. The envisaged change in this law is, therefore, most welcome. Indeed, I look forward to the enactment of this law as it will mark the end of the gutter Press, which has been besmirching individuals' characters without suffering any punishment.

Mr. Temporary Deputy Speaker, Sir, in this Bill, there is also a proposed amendment to the Moi University Act, which I also welcome. Also, an amendment has been proposed to the Pharmacy and Poisons Act, Cap. 244, to accord legal recognition to pharmaceutical technologists and provide for their registration and regulation by the Pharmacy and Poisons Board. This is, indeed, a welcome move. Once this amendment is approved, pharmaceutical technologists will be registered by this Board. I would, however, re-emphasise the issue of professional ethics. We do not want people who are not qualified to handle drugs for use by patients. So, I would like to be assured that when these changes are approved, only those who are qualified will be registered and issued with the licences we are talking about.

I also welcome the change proposed to the Industrial Property Act, 2001, to provide for patent rights to anything that may be invented in Kenya. We have remained paupers and yet Kenyans have invented things. We have not been able to protect our intellectual rights because we have not had a law providing for the same in our statute books. The United States of America is very rich because it has protected its intellectual property. It is, therefore, important for us to have an office which will register patents for Kenyan intellectual products, so that such registrations can be recognised worldwide.

Mr. Temporary Deputy Speaker, Sir, I do not believe that our current registered intellectual property is recognised worldwide. So, as soon as this law is passed, we should ensure that we have an officer whose duty will be to ensure that whatever has been patented in this country has been internationalised, and that we get revenue from such patents.

The Attorney-General has generally explained the other aspects which this Bill seeks to change in our statute books. So, I welcome the proposed amendments in this Bill, which seek to change what would otherwise take ages to change.

Mr. Temporary Deputy Speaker, Sir, in conclusion, I realise that we have quite a number of Bills to deal with during this Session. Therefore, I would like us to have an increase in our debate time, so that we can dispose of all of them within the remaining time.

With those remarks, I beg to second.

(Question proposed)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I would like to express confidence that, this time round, the Attorney-General is not taking advantage of the Statute Law (Miscellaneous Amendments) Bill to effect any mischief. That has really been his *modus operandi*. You will recall that every time we have dealt with a Bill similar to this one, the Attorney-General has deliberately removed commas from texts of certain provisions, or put a fullstop or a semi-colon in the wrong place, and changed the meaning of entire laws. So, I trust that this time round, that kind of mischief is not found in this Bill, which we are going to support.

Mr. Temporary Deputy Speaker, Sir, I realise that one of the changes proposed by the Attorney-General is to the Constitutional Offices Remuneration Act. I support the revised remunerations for the Judges of the High Court and the Court of Appeal. However, I suggest that this enhanced remuneration should go hand-in-hand with enhanced remuneration for the magistrates. The magistrates preside over the first courts of call for the hearing of all criminal cases in this country.

The High Court and the Court of Appeal are courts of appeal in respect of criminal cases. So, the people who are critically important in containing this issue of corruption and improving on the administration of justice are the magistrates.

Mr. Temporary Deputy Speaker, Sir, I would appeal to the Attorney-General that, as we enhance these salaries for the Judges of the Court of Appeal and the High Court, we should also enhance, simultaneously, the salaries of the magistrates. Mr. Attorney-General is aware of these complaints. The State Counsels are also affected, although they have their own perks, and they can go and serve in the KACA and other bodies. But the Magistrates are an important class of the Judiciary. So, as we enact this Bill, I would like to appeal to the Attorney-General to look into the prospects of simultaneously enhancing the emoluments for the magistrates.

The second point I would like to make here is the concern that some of us here, even as we enhance these salaries of the Judges, are gravely concerned with the discernible trend where the sovereign supremacy of Parliament in legislative matters is being undermined by the Judiciary at the behest of the Executive. There is evidence that some people have lost grip on this House, thanks to recent developments relating to the National Assembly, which is asserting itself. From time to time, it is able to operate across party lines and enact Bills that are in the interest of this country and House, in order to increase the independence and authority of this House. Even as we wait for a comprehensive law reform, this House has tried.

Now that we are increasing the emoluments of the Judges, they must exercise their independence. There are instances when we have enacted laws in this country and they have been challenged in courts. Take the case of the KACA Act, which became an Act of Parliament, and it was given Presidential Assent, yet somebody went to court to challenge it. If it was any other person, perhaps--- But somebody goes to court and challenges the constitutional validity of that Act of Parliament.

I am the first one, as a lawyer, to concede that the Judiciary and the High Court have got powers to declare an Act of Parliament unconstitutional, but it must be on a legal basis. We went to the same law school with these Judges, and we must be able to see the reasoning in the judgements so as to respect them and conclude that: "Truly, here was a section of the Constitution that is violated by this Act that was enacted." But when you look at the KACA Bill, you must not confuse the institution of KACA, which was created by an Act of Parliament, with the individual. If Mr. Justice Ringera had not relinquished his appointment in the Judiciary, then, of course, he should have been given the opportunity by the wording in that judgement to either resign his position as a Judge in order to continue heading KACA, or alternatively to resign from heading KACA and revert to the Judiciary so that somebody else is appointed to head KACA. But you cannot use the excuse that the person at that moment heading KACA is a Judge of the High Court and, therefore, KACA is unconstitutional. That does not demonstrate any legal basis for declaring an Act of Parliament unconstitutional. The only possible inference is that, perhaps, there were other considerations. These are the instances. We must ask the Attorney-General to ensure that this Parliament and the Judiciary do not proceed on a collision course. If we are not able to respect the reasoning of this judgement, sooner than later, there will be collision between this Parliament and the Judiciary.

We enacted the Kenya Roads Board (KRB) Act, setting up the KRB. We went through the debate. In fact before the Bill was passed, we went for seminars to Safari Park, and we were all very happy about this new approach of distribution of resources, so that the people at the grassroots can decide how to spend the little money that they are given from the Fuel Levy Fund. It is a good Act, by all accounts, and we welcomed it. It was a bipartisan approach because when we went to Safari Park, it was both the Government and the Opposition who attended the meeting. The Bill passed through this House; it became an Act, and it was given Presidential Assent. Then, the belief is that when the Bill became law, somebody somewhere must have gone pointing out to the powers that be that we are now closing one of the remaining opportunities for rent raking. Was it a coincidence that the Chief Executive then went on - I do not want to use the word rampage because you might say that it is unparliamentary - attacking that Act which he had just assented to? He said that this Act is unconstitutional because the elected hon. Members are going to be members of the DRB. He also said that the Act is unconstitutional because it conflicts with the rule of separation of the powers. We heard and read about these things. But the Chief Executive; the man behold---

Within a few days after that position had been taken by the Chief Executive, one John Harun Mwau went to court seeking to declare the KRB Act unconstitutional on the basis that hon. Members will be participating in the DRB.

In the majority of all the cases, we have seen Kenyans like Prof. Wangari Maathai seeking to file a case in court, to stop the forests from being destroyed. The first thing that she is told is that you have no *locus standi*. This is what Kenyans are told. You try to go on a public interest litigation and you are told that you have no *locus standi*. But in the case of Mr. John Harun Mwau, the issue of *locus standi* does not even arise. In fact, orders are issued *ex parte*, declaring the Act unconstitutional at a time when the Chief Executive and his entire Cabinet, including all the Assistant Ministers, are members of the Legislature. This is happening at time when you go through our Constitution, you will not find any section that talks about separation of powers.

The current constitutional order which we have is a cocktail between the Westminster and the American models. This concept or doctrine of separation of powers in the context of our constitutional order is more theoretical than real. That is why the Chief Executive who is charged with the implementation of the legislation that we pass in

this country is also a member of this Legislature; that is why his Cabinet is part of the Legislature, and yet here is the Judiciary declaring an Act of Parliament unconstitutional without citing the section that the court is saying had been breached by the enactment of the KRB Act.

Mr. Temporary Deputy Speaker, Sir, there are many instances like that. The latest is the Donde Act. The Attorney-General is aware that Section 77, Subsection 4 of the Constitution of Kenya is aimed at ensuring that nobody in this country can be punished criminally because of doing something or failing to do something which was not a criminal offence at the time he did it. That is what Subsection 4 says. Nothing else! There is no law that says that this Parliament cannot pass an Act that is retroactive. Constitutionally, we have the authority to enact laws retroactively. We can even say this law came into force from 1st January, 1963. That is what the supremacy of Parliament is all about! The only thing which we cannot do is to say that somebody will be punished for something which was not a criminal offence before we passed the Act. But that is something entirely different from saying that we cannot control interest rates retrospectively. We can do that! The only thing that a bank employee can have a defence to, is if he is taken to court criminally. He can resort to Section 77(4) of the Constitution and say: "This Offence does not apply, and, therefore I am not guilty." That is the extent to which the judgement should have clarified; that, no banker can be punished criminally. That is a different issue from controlling interest rates! The Act is constitutional, even though it retroactively reduces the date from which the interest rates were to be controlled.

Mr. Temporary Deputy Speaker, Sir, even as we enhance the emoluments of the Judges, the Judiciary must learn to respect the sovereign authority of Parliament, and the House will learn to respect the decisions of the Judiciary. But we can only respect the decisions of the Judiciary if they accord them with reason, but not when they do not accord them with reason, and the only possible inference is that the Executive is influencing the Judiciary in order to sabotage Acts of Parliament that were enacted against the wishes of the Executive. If that continues, we are going to be on a collision course sooner than later. I appeal to the Attorney-General to ensure that, that does not happen because it is not in the interest of this House, the Judiciary or the country that, that should happen.

Mr. Temporary Deputy Speaker, Sir, I would like to comment on the amendment to the Kenya Airports Authority (KAA) Act. The bulk of the income that goes to the KAA as a corporation--- I can see here that the powers of the Managing Director are being enhanced, including the power to spend money without going to the Board, if it is up to a certain level. This is in order because the whole concept of creating State corporations is to expedite their operations as commercial entities. So, in principle, I am not objecting to the amendment. But what I am pointing out is that the bulk of the income that goes to the KAA, whose Managing Director is a former Deputy Chief of Intelligence, Mr. Muriithi--- In 1982, Mr. Muriithi was illegally transferred from his position as the second-in-command in the Special Branch, and he correctly took the position that he could not go and run the Uplands Bacon Factory because since he left school, he had been a police officer, and he knew nothing about pigs and sausages! He did not go because he had security of tenure. He was governed by the Police Act. The President had no authority to transfer him to the Uplands Bacon Factory. Mr. Muriithi took the correct position and went into detention. His lawyer, my friend John Khaminwa, went into detention as well, for having acted for him. As a consequence, we dismantled a very important constitutional order in this country; that, up to 1981, the Civil Service in this country was under the Public Service Commission, which enjoyed security of tenure. Therefore, the entire Civil Service was insulated against political manipulation.

But when Mr. Muriithi went to court, a person who was later awarded by being appointed the Chief Justice of the Republic of Kenya, was the one who handled that case. He said there was no distinction between the position occupied by an elected President and the position occupied by her Majesty the Queen, and that every civil servant holds office at the pleasure of the President. That is outrageous! That was one of the instances in which we dismantled institutions and concentrated powers in the institution of the President. The then Attorney-General went further thereafter, to amend the Constitution to actually give effect to that judgement. So, today, as we speak, the entire Civil Service, from the messenger to the Head of the Public Service, holds office at the pleasure of the President.

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

Mr. Muite: Mr. Deputy Speaker, Sir, I do not want any information. If he has any information, he will have the opportunity to pass that information over when he will be replying. I do not want him to take my time.

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that a public officer holding an office at the pleasure of the President arises out of the court cases that went on around that time, when he knows very well that Section 25(1) of the Constitution clearly states that:-

"Every person who holds an office in the service of the Republic of Kenya shall hold that office during the pleasure of the President"?

So, it is a constitutional provision rather than something that arose as a result of some cases in court.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I think the hon. Attorney-General was not listening carefully to what I was saying. He has not told this House when that section was worded that way. It was worded like

that as a result of the Muriithi case! That was not the position before. This is how we dismantled the concept of checks and balances and we must go back to the previous position in the new constitutional dispensation when the Ghai Commission finishes its work. We must make the Civil Service in this country politically neutral so that they serve the public and the Government of the day without being amenable to the wishes of the Chief Executive, whoever he might be. That is how we can enhance the public good. We do not want a situation where, when the Member of Parliament for Narok North has fallen out of favour, the District Commissioner tells him that he cannot hold a celebration party in his House, when he has already slaughtered goats and cows! But it was not a bad idea for him to taste what we, in the Opposition, have been tasting all along.

Mr. Temporary Deputy Speaker, Sir, the point I wanted to make here is that most of the money that goes to the KAA is earned by the Air Traffic Controllers. These are the people who guide the planes when they are coming to land, and give permission for the planes to take off. So, each plane pays a lot of money as landing fees, and that money is directly attributable to the work of the Air Traffic Controllers. I do not want to anticipate debate, but I am happy that the Minister has brought the Bill to de-link the Directorate of Civil Aviation from the Civil Service, because it is long overdue. But when that Bill will be passed, I hope the Minister will go further because de-linking is not an end in itself. It is essential that when the Directorate of Civil Aviation is de-linked from the Civil Service, the Minister will move quickly and come up with a commensurate pay package for the Air Traffic Controllers.

Mr. Temporary Deputy Speaker, Sir, I also take this opportunity to appeal to the Minister for Transport and Communications, Mr. Mudavadi, to reconsider taking up personally this issue with the Air Traffic Controllers. They had been agitating for this de-linking for the last 20 years. Some of them get paid less than clerks who are working for the KAA. Now that the Bill has been brought to Parliament, does the Minister have to continue punishing them? Yesterday, the Government asked those sacked employees to re-apply for their jobs, and all of them re-applied. When they went for interviews, they were arrested and taken to court!

Mr. Achola: On a point of order, Mr. Temporary Deputy Speaker, Sir. Whereas I appreciate what hon. Muite is saying, I think he is a bit irrelevant. He is anticipating debate and, in fact, most of the issues he has raised now are not in the Bill before the House. Could he be asked to be relevant because we want to close debate on this Bill?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I was supporting this amendment to the Kenya Airports Authority Act, and they are interlinked. I was not talking about the emoluments. I am saying that the Government should be more humane in the way it treats the sacked Air Traffic Controllers. I was saying that, when these people went for interviews, a number of them were arrested and spent the night again at the police station. They will appear in court again tomorrow. This is not the way the Government should behave. It should not personalise these matters. These people were agitating for their salary increment and, now that the issue has been passed, the Government should not punish them. They are Kenyans. That is the point that I was making.

Mr. Temporary Deputy Speaker, Sir, to move on, in order to take into consideration the point that has been made by my friend, hon. Achola, I would like to go to page 359 of the Bill and make a brief comment on the amendments to the Firearms Act. You will find that very heavy fines and long jail terms have been proposed. In this country, we have become so fond of legislations and commissions. I am not objecting to these enhanced fines and long imprisonment terms which are contemplated, but I am asking whether this will reduce the number of firearms in this country. We are a country that is slowly descending into anarchy, and this anarchy requires other strategies and not just bringing amendments to the Firearms Act in order to raise fines from Kshs200,000 to Kshs500,000 and extend jail terms from five years to ten years. The issue of insecurity and guns freely circulating in this country is such a fundamental issue that I am sure we are tackling it effectively by simply amending the Firearms Act. I doubt that there is any criminal who will take any note of these amendments at all. I would urge the Attorney-General and the Government to rethink what other strategies they can come up with to address this issue of insecurity rather than just bringing these amendments to the Firearms Act.

With regard to the Books and Newspapers Act, I appreciate the point that the Attorney-General has made, that this is an amended fashion of the earlier Bill. I also appreciate the fact that the Attorney-General is trying to get the industry to regulate itself. But in respect of the amendments which he has proposed here, I feel that there is a dichotomy between what he said when he was introducing this aspect of the Bill and what is contained here. He used the example of the Law Society of Kenya (LSK), which he and I are very conversant with. The Attorney-General came to my house in Wind Ridge for us to plot how to Africanise the LSK and amend the LSK Act and he was nearly detained by his predecessor; I would even have gone to detention with him. That is beside the point. The Attorney-General has used the example of the LSK, which is a good example. He could as well have used the example of the valuers, who also have got a legislation that enables them to internally self-discipline themselves. The same thing applies to engineers and other professionals.

So, if the objective that the Attorney-General has is to give a legal framework to the industry to regulate itself internally, then there is no objection. But you do not do that by amending the Books and Newspapers Act and

enhancing the fines. He is not allowing the industry to self-regulate itself. What is needed is for the Attorney-General to bring a Bill to this House without thinking for the industry. In order for the Attorney-General to achieve his objective, and we will support him, and I am sure that even the journalists will support him, he should sit down with them and formulate the rules. He should listen to them and hear how they would like the legal framework to look like. He should draft the Bill in consultation with the media. He should hold seminars with the media players, hear their complaints and ask them to tell him how they intend to self-regulate themselves. The Attorney-General should have a comparative analysis of what is happening in other countries, develop a consensus and then bring a Bill here that will have the support of the industry, and that will enable it to truly self-regulate itself.

Mr. Temporary Deputy Speaker, Sir, there always will be bad beans. There always will be bad apples in every profession and I am sure that the media does not welcome the bad apples within itself because they spoil for everybody else. But here the Attorney-General is trying to punish everybody with this fine of Kshs10,000 to Kshs1 million. The Attorney-General was conveniently vague and general by saying that the value of Kshs10,000 then is now equivalent to the value of Kshs1 million. Where are the statistics to prove that today the value of Kshs1 million is equivalent to the value of Kshs10,000 when the fine was fixed? We certainly will oppose this enhancement of the fine to Kshs1 million and even the bond. That is punitive and is not right. We have all been victims of the gutter press, and some of us perhaps more than others. But when you also introduce payment of damages, one can begin to see an element of mischief here.

We do not want to throw away the baby with the bath water. We want to regulate the industry, but we must pay a price for the independence of the media, even a small price of being maligned. Some of us just keep quiet because the media is a necessary evil. We have a Judiciary that awards Kshs30 million to a person in respect of a matter that everybody believes; even if we do not say it, we believe it. If somebody has killed somebody and he goes to court and is awarded Kshs30 million for defamation, it does not change the fact that people believe that he did it. But that Kshs30 million "kills" a newspaper and inhibits others who become apprehensive because they do not want to be landed with those sorts of judgement. So, let us not kill our liberties through these enhanced fines and extended jail terms.

Mr. Temporary Deputy Speaker, Sir, I support the issue of continuous voter registration and surely we should enact the relevant provision as quickly as possible. I support the provision meant to enable Kenyans, who are outside Kenya, to register as voters.

With those few remarks, I beg to support.

Mr. Murungi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this important Bill.

The Statute Law (Miscellaneous Amendments) Bill does not have any common legislative policy because it deals with various minor amendments of the statutes. I think hon. Members of Parliament find it very difficult to contribute because of the various references that have to be made to the statutes that are being amended. If there was a friendlier manner of drafting the Statute Law (Miscellaneous Amendments) Bills in future, we would be very happy, as hon. Members of Parliament. The sections that are being amended should be written on the same page as the amendments, so that you do not keep on looking at the back of the Bill or into the parent statutes.

The purpose of this Bill is to introduce minor amendments to various statutes which have either become obsolete or unworkable, or others which have gone out of touch with our social realities. So, it is important for us to keep on reviewing these laws each year as we have always done.

Mr. Temporary Deputy Speaker, Sir, before I get on to specific laws that I want to comment on, I would like to indicate that there are certain laws that we would like to be amended, which are not included in the Statute Law (Miscellaneous Amendments) Bill, and to which we are going to introduce some amendments at the Committee Stage. The first of these laws is the Central Bank of Kenya (Amendment) Act; the so-called "Donde Act." There is no law called "Donde Act", that law is an Act of Parliament! It is a very great shame that the Attorney-General of the Republic of Kenya has refused to introduce amendments to that law to make it operative. We are happy that the Attorney-General the other day, clarified that, in fact, the only problem with that law is the commencement date which is retrospective and, therefore, contrary to Section 77 of the Constitution.

Mr. Temporary Deputy Speaker, Sir, we met as the Departmental Committee on Administration of Justice and Legal Affairs, and after studying the judgement and the law, we decided that the appropriate commencement date for that Act is on the 7th August, 2001 because the law received Presidential assent on 6th August, and it was published on the 7th of August. So, the Departmental Committee decided that the law is supposed to have taken effect on the day it was published; which is on 7th August, 2001. Therefore, we shall be bringing an amendment at the Committee Stage to indicate that the commencement date of the Central Bank of Kenya (Amendment) Act, is on 7th August, 2001. So, it will be operative after this amendment. That is the only single line amendment we are introducing to that Act.

Mr. Temporary Deputy Speaker, Sir, we will also be introducing amendments to the Kenya Roads Board Act, No.7 of 1999, which, as hon. Members are aware, the High Court declared Section 17 of this Act as contrary to the separation of powers, in so far as it gave hon. Members executive powers in the District Roads Committees. We have proposed an amendment which is going to create a District Roads Agency, as the executive organ of the District Roads Committee. So, the district roads engineer, is his assistant, an accountant and a supervisor for roads in every constituency, are also going to be members of the District Roads Agency, and they are going to be implementing the decisions of the District Roads Committee. So, the District Roads Committee remains a body which will be making policies at district levels, but the implementation agency is different. So, this amendment is going to cure the defect which the High Court found to be in the Kenya Roads Board. So, Members of Parliament will continue to be members of the District Roads Committees, and their work will be to approve the work schedules, identify the roads to be done, and also monitor the performance of the District Roads Agency.

Mr. Temporary Deputy Speaker, Sir, we will not talk about the Parliamentary Pensions Act because the Attorney-General himself said that he is going to introduce amendments at the Committee Stage to the Act, which we believe, is going to implement option (i) of what the hon. Members discussed recently. So, those are the omissions that we will deal with at the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, coming to this Bill, the first Act that I would like to make comments on is the National Assembly and Presidential Elections Act, Cap.7. Section 4 of this Act is being amended to provide for registration of Kenyan residents abroad, as voters. The Act is also being amended to provide for continuous registration of voters. These are good objectives and we want to support this amendment. There are very many Kenyan residents abroad because of the adverse economic conditions in this country. We know that very many of them out there are just economic refugees! Those economic refugees have fundamental human rights; it is only that they are in a different geographical location. So, we are very happy that they are being considered as citizens of this country who are entitled to vote. We would like to request the Attorney-General to ensure that the Electoral Commission is actually in control of the voting process out there. We do not want to hear that the High Commissioner was the Returning Officer and the Special Branch personnel who work with him were the electoral clerks. This is because we know that those Kenyans abroad are supporters of the Opposition and we shall be waiting to see the result. If they come supporting KANU, then we shall know that those elections are rigged.

Mr. Temporary Deputy Speaker, Sir, we have also heard various complaints regarding registration of voters. There are complaints that in Opposition strongholds, there is under-registration of voters. There are various delays to provide identification cards and registration materials in Opposition strongholds, whereas in KANU strongholds, there is over registration of voters. Sometimes children who have not reached the age of majority are registered as voters. That is why you hear that some constituencies have 98 per cent registered voters. We are very happy that there is going to be a continuous exercise of registration of voters up to 90 days before the elections. So, we are calling upon all Kenyans to go ahead and continue being registered as voters, as soon as this Act is passed. If there are problems regarding provision of materials; they should let Parliament know, because there could be an administrative sabotage of this Act. So, we are very happy with that amendment.

Mr. Temporary Deputy Speaker, Sir, there is also the new Section 4(a)(2) about proof of age in order for one to be registered as a voter. The two documents recognised under this section are the national identification card and a passport. We should introduce an amendment at the Committee Stage, to include a third document for proof of age. This is because in this country the birth certificate is the most important document, as far as the proof of age is concerned. This is because we just count the years from the date a person was born. The passports, and the national identification cards are not as important with reference to age, as the birth certificate. So, we would like the Attorney-General to include, among those documents; birth certificates. Any person who produces a birth certificate should be registered as a voter.

Mr. Temporary Deputy Speaker, Sir, we in the Opposition must also say that we are very much disappointed by the piecemeal amendments and piecemeal approach which the Attorney-General is using in this whole area of electoral reforms. We had various discussions with the Electoral Commission and other stakeholders out there, and we found out that what they want is a new comprehensive electoral code which covers all matters relating to elections. As of now, the voting laws are contained in various statutes scattered from the Local Government Act, National Assembly and Presidential Elections Act *et cetera*. We would like all these laws to be in one code, like the Criminal Procedure Code or the Penal Code. The Act that we are talking about should be covered in that code, like having transparent ballot boxes and counting of votes at the polling stations, instead of transporting ballot papers at night. So, we would like a law which contains all those things debated and passed by this House before the next general election.

Mr. Temporary Deputy Speaker, Sir, the amendments to the Magistrates Courts Act, Cap.10, are intended to reduce congestion and over-clogging at the High Court. That is why we are creating the jurisdiction of magistrates.

But we feel that, even as the Act has been amended, the increase of jurisdictions is not sufficient to de-congest the High Court. It says that the new jurisdiction of the Resident Magistrate Court should not be more than Kshs300,000, and the Chief Magistrate, who is at the top, should not hear cases whose pecuniary value is more than Kshs1 million. We feel that these jurisdictions are still too low, and if we want to de-congest the High Court, we have to further increase the pecuniary jurisdiction of magistrates. So, I would like to propose that the Resident Magistrate has a pecuniary jurisdiction of an amount not exceeding Kshs1 million, Senior Resident Magistrate - Kshs5 million, Principal Magistrate - Kshs7 million and the jurisdiction for the Chief Magistrate goes up to Kshs10 million. We do not understand why a resident magistrate can sentence a person to death in a case of robbery with violence while the same magistrate cannot hear a civil suit whose pecuniary jurisdiction does not exceed Kshs300,000. At the level of value, you have to sort out what is more important. What is the pecuniary value of the life of a person who is being hanged? Is it Kshs1 million or Kshs10 million? So, if this magistrate can hang somebody, there is no reason why he cannot hear cases worth Kshs1 million or Kshs10 million. So, we would like the Attorney-General to give a fresh look at these jurisdictions. These days, we have qualified magistrates who have gone to university and the Kenya School of Law just like the judges. The reason why one is a judge is, maybe, one had a political godfather who assisted him to be a judge, while the other one has nobody to help him reach there. So, we should not make this discrimination which has no merit.

I would like to touch on the Advocates Act, Cap.16. We are very happy that we are now amending the Advocates Act to permit cross-border practice so that lawyers from Tanzania and Uganda can practice law in this country. But what we would like the Attorney-General to look at is, as we open our doors to these lawyers from our neighbouring territories in the spirit of East African Co-operation, whether Tanzania and Uganda are also opening their doors so that Kenyan lawyers can practice in Dar-es-Salaam, Kampala and other cities of East Africa because it should be done in a reciprocal basis.

The question of remuneration of lawyers has been an eye-sore as far as our justice system is concerned. Even the lawyer who was paid Kshs52 million when the prison officers had an accident at Ruaraka did not pay a single cent to the victims. When he was taken to court, he was ordered to pay a fine of Kshs800,000. What is Kshs800,000 out of Kshs52 million? Some lawyers pocket the entire amount of money recovered from the victims and claim it to be their legal fee. We are happy that, at least, the law is now fixing the remuneration of those lawyers at 25 per cent of the claim. So, if the claim is Kshs100,000, then the lawyer should get Kshs25,000. I think that is clear. The clients will know that so that this cheating can stop. Mr. Temporary Deputy Speaker, Sir, we are also happy that the amendments to the Advocates Act strengthens the institutions for disciplining lawyers such as the Advocates Complaints Commission and Disciplinary Committee. We are happy that in addition to other forms of punishment that a lawyer can get, he or she is now required to pay compensation for whatever losses his acts or omissions might have caused the client. For instance, in the case where the lawyer received Kshs52 million and was fined Kshs800,000, under this amendment, he will also be required to pay back the Kshs52 million. So, we think this is a just law and will encourage better justice between lawyers and aggrieved clients.

Mr. Temporary Deputy Speaker, Sir, I would like to contribute on the Law of Contract Act, Cap.23. The amendments to Section three of the Law of Contract Act seeks to control fraudulent land transactions by ensuring that the contracts for sale of land are in writing and contain clear sums which are contained in a single document. So, the intentions of the amendments are very good, but we have seen several attempts of trying to deal with fraudulent land transactions, including removing lawyers and creating land tribunals composed of *wazee*. These *wazee* have been operating outside any known law and have caused a lot of confusion in the land market. Whereas these intentions are good, we feel that this amendment, like other amendments in the past, as far as the contract for sale of land is concerned, is unrealistic and goes contrary to the basic principles of both customary law and the law of contract. There is no law which says that a contract must be contained in a single document.

Mr. Temporary Deputy Speaker, Sir, the only sense of a contract is offer and acceptance. An offer can be contained in one document and acceptance in another document. We do not see the need for us to change this fundamental principle of the law of contract. The Attorney-General should think about a new code of the law of contract in this country. As it is now, both the law of contract and the law of Torts are laws by reference. These are laws which govern transactions in England through the common law. We feel that it is high time that we quantified contract law and the law of Torts just like we have done with regard to criminal law. Since this Attorney-General is fond of creating task forces, we would be very happy to hear that he has appointed a task force to quantify the law of contract.

(Laughter)

We are coming to the most dangerous amendment contained in this Bill. This is the amendment to the Books and Newspapers Act, Cap.111. We find this amendment negative, retrogressive and unconstitutional. In fact, it is a

violation of the basic human rights.

Mr. Temporary Deputy Speaker, Sir, there are two proposed amendments. The first amendment is the one which relates to the bond. The publisher's bond, which is currently Kshs10,000, is being increased by 990 per cent. It is being increased from Kshs10,000 to Kshs1 million. This increase is astronomical and totally unjustified. We have a penalty for printing or publishing a newspaper without a bond. Again here, the fine has been increased from Kshs10,000 to Kshs1 million. There is also the question of imprisonment which is being increased from one year to five years. To make matters worse, you could be liable to both fine and imprisonment. What are we really trying to do here? As the Attorney-General and a defender of human rights, what are your thoughts about these provisions?

Mr. Temporary Deputy Speaker, Sir, we know that the target of these excessive punishments is the alternative Press or the so-called gutter Press. We know that the alternative Press has made a lot of allegations against many people, including hon. Members of Parliament. But it is also true that the alternative Press has exposed numerous political, financial and sexual scandals which are true. In fact, if we have to talk about a vibrant Press in this country, it is vibrant because of the alternative Press. We should not forget to mention the fact that there are many of our young people who cannot find employment within the mainstream Press, who are feeding themselves, their wives and children from the proceeds of the sale of *The Confidential Weekly* and *Finance*, among other publications of the gutter Press. So, we should not destroy the livelihood of these people to protect a few criminals. The punishments themselves are unconstitutional and they violate Section 79 of the Constitution which protects the freedom of expression and the freedom of the Press.

Mr. Temporary Deputy Speaker, Sir, there are so many ways of destroying the freedom of the Press, which includes the freedom of expression. You know about the various cases in Singapore where during the Lee Kwan Yu(?) time, the High Court was awarding huge awards for libel against Ministers and other personalities. Since the newspapers could not pay the fines and the civil awards made by the court, many of the newspapers were closed down. So, when we see Mr. Biwott's awards, we remember what happened in Singapore. Very soon, when he moves to attach for the Kshs60 million which he has been awarded by the court, you will not hear of a newspaper called *The People Daily* again. All its properties will be attached and all journalists working for this paper will be jobless because of that single one award made to Mr. Biwott. May be the *Daily Nation* can survive, but we do not know about the others. So, the Attorney-General should also introduce some amendments giving a limit as to how much one can be paid for libel. How much is the name of an individual worth? Just the name, not the life. A magistrate can sentence you to death, but he cannot try a case of Kshs1,000. How much is an individual's life worth?

Mr. Temporary Deputy Speaker, Sir, we have enough laws in this country to govern libel, defamation and slander. If you look at the Penal Code, we have provisions relating to criminal libel. Why is the Attorney-General not invoking those sections of the Penal Code against the so-called alternative Press, if people are offended, instead of creating this ridiculous and unconstitutional law?

Mr. Temporary Deputy Speaker, Sir, we feel that it is our duty, as hon. Members of Parliament, to promote and expand freedom in this country. That being our core duty, we cannot join the Attorney-General in this enterprise of cutting down the tree of freedom. So, we will reject this amendment and introduce an alternative amendment during the Committee Stage because we know the Attorney-General will not introduce any amendment. We have to do it ourselves.

Mr. Temporary Deputy Speaker, Sir, the next statute is the Firearms Act which my learned friend, Mr. Muite, was talking about. The amendments which are seeking to enhance penalties for various crimes under the Firearms Act are welcome. Who can say they are not welcome given all the banditry, cattle rustling, armed robberies and carjackings in this country? So, we are supporting you, Mr. Attorney-General, for any measures that you are taking to enhance the security of every individual in the country. Even if you have more excessive penalties that you want to add to this, we will support you. But we would like the problem to be seen in a broader context. There are many Kenyans who have been killed by the police in cold blood. So, it is not only those people in illegal possession of firearms who are killing and destroying the lives of Kenyans, but even those people who are licensed to carry guns. The trigger-happy policemen are as dangerous to Kenyans as the robbers. So, we would like the Attorney-General to come up and speak very clearly against the unconstitutional shoot-to-kill policy; where policemen are taking people from buses, lining them up by the roadside and shooting them from the back. Later, they say they were "exchanging fire" with them. How can you "exchange fire" with people who are lying face down, without any weapon in their hands? So, we feel that the Government should move to control the illegal use of firearms by the police and other security forces.

Mr. Temporary Deputy Speaker, Sir, we should also ask ourselves: Why do we have so many people carrying illegal guns in the country? Can we control the source of those guns? Many criminals are not in crime out of choice. These are hungry people and they have been pushed into crime by poverty. So, unless this Government comes out with clear economic policies which will reduce poverty in this country, we will not solve this problem by merely

increasing punishment. It requires a broader agenda and a more realistic approach.

Mr. Temporary Deputy Speaker, Sir, on the Agriculture Act, Cap.318, we are very happy that the amendment proposes to apportion cess, 20 per cent, to the county council and 80 per cent to the roads. But we would like this amendment to be tightened so that the 80 per cent goes to the farmers' organisations so that they can make roads in their own areas. We have a case where the Coffee Board had deducted Kshs518 million for coffee road cess, but that money has never reached the coffee farmers and the roads in the coffee areas have not been done. Just like we did with tea, so that tea cess goes to a factory, the coffee cess should go to the co-operative societies to do roads within their areas. So, I am very happy with that amendment, but I think we can improve on it.

Mr. Temporary Deputy Speaker, Sir, with regard to the Seed and Plant Varieties Research Act, Cap. 326, I would like to warn the Attorney-General about something called bio-piracy where natural products of the Third World countries are being patented by the Western countries and then sold to us as inventions by them. Rice from India has been patented in the USA. So, we should be careful about this before we sign it. We need more expert consultations.

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

Mr. Obwocha: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to request my colleagues who were contributing to be brief, because I believe many of our colleagues want to make brief comments on this Bill before we close it. I would like to be one of those to be counted to make very few remarks on some of these amendments proposed by the Attorney-General.

First, I would like to be on record as supporting the National Assembly and Presidential Powers Act, Cap.7, because I am extremely happy about this amendment. I am happy because I am one person who brought a Motion to make the registration of voters a continuous exercise. Since the Attorney-General has positively responded to this, obviously, I am one happy person. We should caution the Electoral Commission that this exercise needs to be considered very carefully. It must be implemented with a lot of clarity. We know that sometimes funding is a problem, but if it is tied with the issue of the registration of persons, we can get over these things quite well. So, I hope the Chairman of the Electoral Commission and his Commissioners are going to do this with a lot of caution, so that the exercise does not eventually bring us to issues of voters who are being registered in a manner that could result to rigging elections.

Mr. Temporary Deputy Speaker, Sir, I am one person who is not very comfortable with the issue of voting by Kenyans abroad. We remember during the one-party era, during which time, when a person lost an election, you would find 10,000 votes being introduced in the counting hall, in the name of having been cast overseas. This Parliament should look at this provision very carefully without defranchising Kenyans who are abroad. We should look for a method where the votes cast outside can be verified so that we do not have votes being brought into the country to rig elections. The second point is with regard to the Advocates Act, Cap.16. A quarter of the problems our constituents bring to our constituency offices relates to complaints about advocates. There is an advocate in Kisii called Canaan Katiku. I have numerous complaints from people about the money they receive from victims who have been involved in road accidents. When they are paid, this man does not release this money. I do not know what the Complaints Commission is doing. The Attorney-General should streamline the issue of the Complaints Commission; how it works and how it can help people. How we can report thieves and how it can handle those complaints.

Mr. Temporary Deputy Speaker, Sir, I would like to join my colleagues who have talked about the Books and Newspapers Act, Cap.111. This is not what we expected. We expected the Attorney-General to make extensive consultations with stakeholders in the media industry, so that we do not just get one amendment stating that you would have to pay Kshs1 million as indicated on page 538. It is not comfortable for the Attorney-General to state that:-

"One shall be guilty of an offence and liable in a case of a first offence to a fine not exceeding Kshs1 million or to imprisonment for a term not exceeding three years or both."

I believe we do not want to muzzle the Press. At the Committee Stage, we will ask the Attorney-General to consider seriously withdrawing this clause so that this issue is extensively discussed by stakeholders, so that he comes up with a reasonable amendment and Bill on the media.

Mr. Temporary Deputy Speaker, Sir, with regard to the Parliamentary Pensions Act, Cap.196, I believe, the Press and Kenyans have bashed this Parliament for quite sometime. I hope they are going to be happy that we are being sensitive to the cry of the people by increasing the term from one to two, and the eligible age from 40 years to 45 years. When we were moving these amendments, it was clear that we were looking at former Members of Parliament. When you look at them, they are a pathetic case and you will never know whether they were former Members of Parliament. I personally gave an example of the late Tuva who was in this Parliament from 1963 to 1992. He was getting only Kshs11,000. Is Kshs11,000 enough for an air ticket from Malindi to Nairobi and back to Malindi? This is really why we wanted pension due to be increased. But since there was an outcry that the pension was too much, when we were basically talking about Kshs70,000, we have now reduced it to Kshs30,000. I do not even know whether that Kshs30,000 or less would be enough. What we are saying is that, Parliament is now sensitive.

Mr. Temporary Deputy Speaker, Sir, I would like to request our brothers in the media that, they should destroy a politician and not an institution. Once they destroy Parliament as an institution, the people lose confidence in that institution and there is a time they will need that institution to get them out of bondage. For that institution to talk on their behalf, when they have destroyed it, where will it come from? Like now, there is talk of no confidence in Parliament and yet Parliament is supposed to talk about issues on behalf of the people. If you have a problem with the way we are conducting issues, zero it in, on Mr. Obwocha if he is the wrong person, or on the politician who is wrong. Do not wrong the institution because it belongs to the people of this country, and they want to use it in the future when I may not be there. I believe I am at par with my colleagues in the media. They perfectly understand what I mean.

Mr. Temporary Deputy Speaker, Sir, there is one more comment I want to make about the amendments to the Accountants Act, Cap.531. In this Parliament, we have the PIC and the PAC Reports which name various individuals, some of whom are professionals. When you name these people in these reports on the wrong things they have done, why are their cases not reported to the Institute of Accountants, the Institute of Engineers if he is an Engineer, and the Institute of Architects if he is an Architect? Why are we not reporting them so that they take action? I have in mind various individuals who are professional accountants, who have messed up the NSSF, and yet they are being rewarded and remain on the roll call of our institutes. Those individuals should be removed from the list of accredited members of those institutes.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to say that we have many issues that we will raise at the Committee Stage. I do not think there are hassles in some of the provisions. There are some issues that we will request the Attorney-General to consider their implications seriously, so that we could remove them at the Committee Stage.

With those few remarks, I beg to support.

Prof. Anyang'-Nyong'o: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to join my colleagues who have contributed to this Bill. I will not repeat the sentiments that they have expressed. But I would like to mention one thing regarding what Mr. Obwocha has just said.

One of the reasons why Parliament is having a low esteem in society is because we have a general crisis of the legitimacy of the State. Parliament, being the legislative arm of the State, this is something that we must really confront, if we have to redeem our esteem. That notwithstanding, I am going to make certain comments with regard to each Act; to which amendments the Attorney-General is seeking.

With regard to Cap.7, which is on the National Assembly and Presidential Elections Act, while I do join my colleagues in welcoming the amendment that it is going to establish a continuous registration of voters, I would like to make an appeal to the Attorney-General and the Electoral Commission of Kenya (ECK) to consider the following:- That, with continuous registration of voters, and with the availability of technology now, that should not be a problem. I think, through computerisation, there should be little fear that continuous registration of voters would cause any problems. If anything, I would like to join Mr. Murungi who said that the birth certificates should be the fundamental documents in registering voters. I would also like to say that, as students enter college or any institution of higher learning, one of the things that should be required for the registration process is for them to be registered as voters. It should also be a requirement that for any form of licence that people would be receiving, one of the things that they should demonstrate is that they have registered as voters.

What I am intending to say is that, I think the law should require that voting should become compulsory for all Kenyans above the age of 18 years. If voting is made compulsory in the Republic of Kenya, we shall not have the problem of voter buying and corruption in voting. It will be the responsibility and duty of every Kenyan as a citizen to vote. As such, nobody is going to go out bribing women with salt, *lesos* and whatever else. Every citizen will know that, when it is the time for voting, they vote! We will eliminate many problems that we are having at the moment. I think next to the continuous registration of voters, should be the requirement that voting becomes a duty for every citizen.

Mr. Temporary Deputy Speaker, Sir, let me go to the section where the Attorney-General is saying that any citizen of Kenya, who has attained the age of majority, as evidenced by either the national identity card or a Kenyan passport and so on, should be eligible to vote. It is alright to say that they should be eligible to vote or to register as voters. But the Attorney-General and the ECK must make it easy for people to have access to registration forms. At the moment, it is extremely primitive to only expect people to go and get registration forms at the District Officer's office or the chief's office. Those are not very convenient places for people to go to. Registration forms should be available in supermarkets and banks, provided that every individual's identity has only one number in the computer. The availability of registration forms should not be something that is confined just to a few places. I think with modern technology---

For example, you know the way companies like Safaricom and Kencell have made it easy for people to have access to scratch cards. Previously, I think in 1980, if you told Kenyans that they could go to any shop and buy a

scratch card, they would think you were crazy! But scratch cards are computerised and it becomes very difficult for people to make a mess of them. Now, the Republic of Kenya, if it cannot behave more sophisticated than Safaricom, then, obviously, there is something wrong. I think the Government of Kenya should be a little bit more sophisticated than Safaricom and Kencell, and make registration forms much more accessible to the citizens of Kenya, so that, that particular section that the Attorney-General has put in the Statute Law (Miscellaneous Amendments) Bill becomes realistic to the people of Kenya.

Mr. Temporary Deputy Speaker, Sir, let me go to another section which is equally important. My colleagues have made tremendous contribution to that section. That has to do with Cap.111, regarding the Books and Newspapers Act. While I share the sentiments that making the fine too punitive will obviously encourage certain rights of expression, I do believe that there are other ways by which you can make people accountable for their actions. One of them is to make them accountable to their professions, through a professional code of conduct, peer review and peer accountability. When the profession of lawyers and doctors first appeared in medieval England, they belonged to guilds. Once you belonged to a guild, you could only carry out your trade if you satisfied the professional requirements of that guild. What is happening in this country is that you have a community of people called the "gutter press", which would not seem to appreciate belonging to a certain profession.

Mr. Temporary Deputy Speaker, Sir, I do believe that one of the things that should be made compulsory is that before you begin producing a newspaper or a magazine, you should be a registered member of the Kenya Union of Journalists (KUJ) and the union should be subject to a certain code of conduct of its members. I do believe that the Attorney-General appointed a task force on that issue. He should draw from the recommendations of that task force, so that, rather than make the law punitive, we should subject those people to peer review and a professional conduct that will instill in them a certain culture of respect for the truth and human decency, so that you do not go printing all kinds of crazy things about an individual for which you have no proof whatsoever, but you only have the intentions to be malicious.

Mr. Temporary Deputy Speaker, Sir, when it comes to the punishment that should be levied on an individual who goes astray in that particular matter, rather than going for fines, I would recommend to the Attorney-General that one of the things he should say is that, when a weekly newspaper is found guilty in a proper court of law to have breached certain legal requirements like spreading malicious scandals about somebody, the punishment that should be meted out on them is that they should cease publication for, at least, three or four consecutive weeks. If it is a monthly publication, it should cease publication for two or three months. Now, if you associate punishment with the benefit that they get from selling their wares, to me, it is much more relevant and much more effective than the fines of Kshs10,000, Kshs50,000 and so on. In any case, the money does lose value over a period of time. The way the economy is going in this Republic is that in the next one year, Kshs10,000 may be worth Kshs10! So, I think that it would be much better to go that way, than the way the Attorney-General has suggested on page 539. That is a recommendation that I am making to the Attorney-General. Maybe, we could sit down with him and deliberate on that idea further.

Mr. Temporary Deputy Speaker, Sir, further to this, let me go to Cap.395, the Kenya Airports Authority Act, 6 (A). I think hon. Muite did refer to this amendment when he said that there is something rather dangerous here. The Attorney-General is proposing something on the powers of the Managing Director contained in Amendment 6 (A) (1), that:-

"The Managing Director may, subject to the direction of the Board, (b) approve emergency individual capital works of which the estimated cost does not exceed Kshs7 million."

If you give these powers to the Managing Director, he can begin approving emergency capital works every month worth Kshs7 million. By the end of the year, Kshs7 million multiplied by 12 months in simple arithmetic, brings you to Kshs84 million. That is a substantial sum of money to put in the hands of one individual in the Kenya Airports Authority.

Mr. Temporary Deputy Speaker, Sir, I would suggest an amendment if the Attorney-general would permit me. I think the amendment should read as follows:-

"The Managing Director may, subject to the direction of the Board, approve emergency individual capital works of which the estimated cost does not exceed Kshs7 million provided that such work is reported to the Board for approval within three weeks of the commencement of the job."

In this regard, you, at least, make the Managing Director accountable to the Board within three weeks of his actions so that if he does give this kind of Kshs7 million approval for two consecutive months, the Board can raise its antenna and say:-

"Wait a minute, Mr. Managing Director. These things cannot be emergencies. You seem to be forming a habit of cooking up emergencies here for funny reasons."

Mr. Temporary Deputy Speaker, Sir, you know, for example, it is very easy knowing that the economy is in

doldrums, for some contractor who is hard up, to promise the Managing Director Kshs1 million provided he is given an emergency job for Kshs7 million. After the Managing Director "eats" Kshs1 million, he may give the Attorney-General Kshs200,000 but I do not know---

(Laughter)

So, Mr. Attorney-General, you know that your neck is also here. So, this amendment, putting all of you under the eagle eye of the Board, is much better than just leaving these things to the discretion of the Managing Director. So, Mr. Attorney-General, I think that is an amendment that you should take very seriously and make sure it is done.

Mr. Temporary Deputy Speaker, Sir, I will now come to a very important amendment that the Attorney-General is proposing which, I think, is both cheeky and dangerous. The Attorney-General is proposing to amend the Exchequer and Audit Act, Cap.412 of the Laws of Kenya. Now, the Exchequer and Audit Act is extremely dear to me, having been chairman of PIC for two years, because I believe that it does two things. One, it gives Parliament the oversight role over expenditure in the public sector by the Executive. Two, it sets up two institutions in the public sector, the Office of the Auditor-General (Corporations) and the Controller and Auditor-General. These are two important offices that the Attorney-General is now proposing to merge into one without bringing a proper Bill to Parliament, but by putting it into this omnibus Bill called the Statute Law (Miscellaneous Amendments) Bill, 2002.

Mr. Temporary Deputy Speaker, Sir, as my friend, hon. Murungi says, this Statute Law (Miscellaneous Amendments) Bill is an extremely cheeky Bill because the Government can decide to hide all kinds of important amendments to the law which they expect Members of Parliament not to see or pay attention to. Unfortunately, I did pay attention to this and I would like to draw it to the attention of the Attorney-General that I would like to appeal to the relevant committee, to reject in total proposals made by the Attorney-General to amend the Exchequer and Audit Act and the State Corporations Act, Cap.446. I think, before these two Acts are amended, they need a substantial Bill on its own brought to the National Assembly.

Mr. Temporary Deputy Speaker, Sir, why do I say so? Before I go into the details of the particular sections I am raising objections to and before I bring my own proposal regarding what I think should be done with the Controller and Auditor-General's office--- I say so because ever since 1993, we have been proposing to the Government that it should enact the Public Investments Divestiture Act. In other words, a law in Parliament that would put legal regulations in the disposal of public assets through privatisation.

Mr. Temporary Deputy Speaker, Sir, I know that in 1992 the World Bank in cahoots with this Government, decided that no law should be brought to Parliament to regulate privatisation. According to the World Bank document of 1992, Parliament would cause a delay in the privatisation process. However, we know that it is precisely because there is no privatisation law in this country that there is a delay in the privatisation process in this country.

Mr. Temporary Deputy Speaker, Sir, let this House not forget that, as I speak today, the Kenya Re-Insurance Corporation, whose assets are well worth over Kshs8 billion, is apparently being privatised at the moment for Kshs2 billion. The Exchequer is just about to lose Kshs6 billion worth of assets through an irregular privatisation or disposal of assets of the Kenya Re-Insurance Corporation precisely because we do not have a proper law. In our responsibility as parliamentarians, I have submitted a draft Bill to the Government on privatisation. We have also had a Motion approved by this House for the Bill to be brought to the House. Unfortunately, we went on recess before it was done. I have re-submitted that Motion so that we have a Private Members' Bill on privatisation because the Attorney-General's office has dragged its feet since 1993, in collaboration with the World Bank, not to bring that Bill to this House.

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir. On the issue of the Privatisation Bill, let me inform the hon. Member of Parliament that such a Bill is at very advanced stages and takes into account some of the aspects of his own draft Bill.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, while I appreciate the information, it should not have taken the Attorney-General three years to digest the Bill that I drafted. By the time it comes, it might be a pale shadow of its former self.

Mr. Temporary Deputy Speaker, Sir, so, in that regard, if indeed a Bill is coming on privatisation, let me ask the Attorney-General to withdraw in total the proposals made here to amend the Exchequer and Audit Act and the State Corporations Act because they are going to make nonsense of the Bill he is bringing. For example, Section 29 of the Exchequer and Audit Act which has been proposed to be amended and which establishes the Office of the Auditor-General (Corporations) and subsequent sections which are in tandem with that section, now tells us that the Auditor-General (Corporations) is not going to be there and we are only going to have the Controller and Auditor-General at a time when a lot of the public corporations in existence are still under the governance of the State Corporations Act.

Mr. Temporary Deputy Speaker, Sir, I know that the Attorney-General is also making proposals to amend the State Corporations Act and to exempt from amendment certain sections of that Act. I have gone through some sections

and I would like to challenge the Attorney-General that what he is doing really in amending the State Corporations Act, is giving the President the latitude to exempt, from public scrutiny, both public corporations established under this Act and those not established under this Act. That is the objection I am raising to the amendment to these two Acts.

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir. I want to inform the hon. Member so that I can hear his views on the matter.

The proposals under the Exchequer and Audit Act are intended to do away with the Office of the Auditor-General (Corporations) and put it under the constitutional office of the Controller and Auditor-General. That is their input. They are holding positions and the National Audit Office Bill is about to be finalised and it will be more comprehensive as far as that Office of the Controller and Auditor-General is concerned.

Prof. Anyang'-Nyong'o: Exactly, Mr. Temporary Deputy Speaker, Sir! That is the objection I am raising! Rather than amend this Act before he brings the comprehensive Bill, I would rather he withdrew these amendments and we see the comprehensive Bill on its own. If you look at the State Corporations Act, Section 13 which the Attorney-General is also seeking to amend, it is already problematic. This is in the area of privatisation and that is why I am saying that we need a comprehensive Bill. The section says:-

"The assets of a State Corporation may be disposed of:-

(a) if there are current assets in the normal course of business carried out by that State Corporation--
-"

Part two is most important and it says:-

"Subject to Subsection 1, the Minister for the time being responsible for Finance, may in consultation with the Committee, make rules for the acquisition and disposal of assets by State Corporations and different rules may be made with respect to different State Corporations. Such rules shall be brought to the notice of the State Corporation and other persons affected thereby, but it shall not be necessary to publish the rules in the Gazette."

When I was the Chairman of the Public Investments Committee (PIC), we had problems with this. If you do not publish the rules in the Gazette, Kenyans have no opportunity to question how a public corporation is being privatised, or how public assets are being disposed of. Therefore, we had proposed, in the PIC, that this particular section should call for a transparent and accountable process of privatisation. Rather than amend it on its own, we had proposed to the Government that we have a comprehensive privatisation law. After that privatisation law, we have another law establishing the Office of the Controller and Auditor-General with two other things accompanying it; the Kenya National Audit Office as a constitutional office, and the Audit Service Commission, as a Commission that will employ people in the Audit Office. That is the only thing that would make the Audit Department an effective oversight institution in the Government of Kenya. But bringing this half-hearted amendment will not help anybody. I am sure that after we have passed the Statute Law (Miscellaneous Amendments) Bill, before the Attorney-General brings the privatisation law and other laws which may be establishing the Kenya National Audit Office and the Audit Service Commission, all kinds of public corporations are going to be privatised *haraka haraka* with all kinds of individuals getting assets for a song. One of them being the Kenya Re-Insurance Corporation, which is now being privatised, to who you know, for Kshs2 billion when we know that the assets of that Corporation are worth over Kshs8 billion.

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Prof. Anyang'-Nyong'o to state that the Attorney-General knows to whom the Kenya Re-Insurance Corporation is being sold for a song? Is it in order for the two of them to say they know and the House does not? Should Prof. Anyang'-Nyong'o not tell us who it is; this person whom he and Attorney-General only know?

(Laughter)

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, in this country, when you say you know who, you do not need to mention the name. There are only a few total men in this country!

The Temporary Deputy Speaker (Mr. Imanyara): Order! When you are asked to substantiate, then you have to!

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I would say that there are only a few total men in this country. In my language, when you say that, you say; "Complete it with your head". So, I will ask them to complete it with their heads!

(Laughter)

Mr. Temporary Deputy Speaker, Sir, finally, on Cap.423, the Constitutional Offices Remuneration Act, I do appreciate that the Attorney-General is awarding the Attorney-General's Office Band A1 Salary Scale, and the Chief

Justice Office Band A1 Salary Scale. They are on the same band and wavelength. If you look at the salary scale, it goes from Kshs300,105 per month and rises up to Kshs531,650. In other words, at the end of it, Kshs500,000. I do not want to sound as if I am holier-than-thou. But one of the reasons why we are awarding ourselves high salaries is because the economy is not performing well. If the economy was performing well and we had good roads, public transportation, public insurance and good mortgage facilities, we would not burden the Exchequer with such high salaries.

Secondly, it is very easy to say that we can pay a few people a lot of money. That will not burden the Exchequer. But we cannot pay the hundreds or thousands of civil servants a lot of money. The top echelons will get this kind of increase, but when you go to Job Group "J" and so on, the increase they can get is only about Kshs1,000 to Kshs2,000. The Exchequer will say Kshs2,000 times 500,000 is a lot of money. But Kshs500,000 times ten is not so much. So, let us pay the top echelons a lot of money and the lower cadre less, because the Exchequer dispenses less for the top cadre and more for the lower cadre. I would like to appeal to the Attorney-General that this kind of trend is not going to help the economy. It makes no sense whatsoever for 5 per cent of the population to have a *per capita* income of US\$15,000 per annum when 90 per cent of the population has a *per capita* income of US\$280 per annum. That kind of income distribution will never lead us to economic growth.

But, Mr. Temporary Deputy Speaker, Sir, what is more important is that, the Attorney-General knows that one of the things I have been emphasizing is that we should have a proper pension scheme for everybody, from the President to the sweeper. He is busy awarding himself very good salaries here, but he is refusing the President's pension. I would like to appeal to the Attorney-General that when my Bill, the Presidential Retirement Benefits Bill, comes to Parliament next week, because it is being published - I have waited for the Attorney-General for three years and he has never taken up his responsibility to do that to support it--- Let us not be shy to discuss with the President what his pension is. If we do not give him his pension, he will want to come back again next year as our President and Kenyans do not want that. We want to give him a good safe-package to go and retire as a decent, honourable gentleman and Kenyan, so that we, as Kenyans, can continue with our businesses and we say goodbye to the "Nyayo errors".

Thank you, Mr. Temporary Deputy Speaker, Sir.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, recently, I was privileged to look at a report by an organization, to which many Members in this House belong; the Progressive People's Forum, with regard to the recent voter and identity card registration. I was a bit surprised to learn that the monies that the common man is supposed to pay to acquire those vital documents, especially the identity card, are not made public. Many Kenyans do not know. I did find that, for a new identity card, one is supposed to pay Kshs50; for a renewal, Kshs100 and for alterations, Kshs300. I want to begin from the premise that citizenship should be a basic right. The fact that I want to have a Kenyan identity card should be something that should be automatic. I am delighted that the Attorney-General has talked about this issue, but I do not think that is good enough. I think we should remove all these fees of Kshs50, Kshs100 and Kshs300 that are currently paid by Kenyans. The reason I am saying this is this: For example when a lady goes to change her maiden name after getting married, she is supposed to pay an extra Kshs300 to get a new identity card reflecting her new name. I do not see that in any other light than that it is discrimination against these young women who get married. Why should you be penalised for getting married? That fee of Kshs300 is too much especially for the ordinary Kenyan who does not see this kind of money sometimes in a week or even a month. I want to appeal to the Attorney-General to scrap these fees, especially with regard to new issuances and alteration, when it is not any fault of yours that you are making the alteration.

I also want to draw the attention of the House to a revelation in that document I referred to, that there is what is called "pen money". Elsewhere it has been called *kitu kidogo* and many other names. Often before chiefs issue application forms for registration or the identity cards that were withheld and deposited to them from district headquarters, they require some little money which they call "pen money". Normally, unless an ordinary Kenyan pays this money, the chiefs will keep on telling you to come back the next week because they are busy or in a meeting and time keeps going on and on. A mechanism needs to be put in place to sort out the issue of pen money. Chiefs tend to take advantage of the fact that there are some prescribed fees that people pay to get identity cards. Since most Kenyans are ignorant about these fees, a registration clerk will ask for Kshs100 while he knows that the actual amount required is Kshs50. Since most common people do not know this, they may be penalised and the pen fees may be hidden to them. I want to call upon the Government to make sure that, that pen money which makes it difficult for many Kenyans to get identity cards, is also totally stopped.

With regard to discrimination, women are not only discriminated against when they alter their names, but young women who want identity cards are told to go back to their original homes. Normally, you will find that a lady who is from Kitui and is married to a man in Homa Bay, will have to pay about Kshs1,000 to go to Kitui and back just to get a photocopy of her parents' identity cards. This is beyond the means of most ordinary Kenyans. Why are we

discriminating against married women? I would want to believe that it would make more sense if the spouse's identity card was taken as adequate reference to enable young women get identity cards. That kind of reference is not only restricted to young women. There is also discrimination against those who are over 25 years old and those who are between 17 and 18 years. There are those who may not have turned 18 years during the time when voters cards are being issued, but by the time the actual voting is taking place they will have turned 18. Based on the experience from other countries, once you turn 17 years, it is contemplated that you will soon become a major and that you should be eligible to an identity card. So, once you turn 17 years you are given an identity card in anticipation. I think it would be helpful that we do not discriminate against people who turn 18 years just at the voting time or soon before that.

I also have concerns about the current restrictions on people who come from border districts because they are usually required to produce a court affidavit in order to be issued with identity cards. Much as I do agree that there may be foreigners who may take advantage of a situation where it is easy to get identity cards, and get them illegally, a better way needs to be found to deal with border districts. I come from Homa Bay District which is considered to be a border district, much as it does not border any country in any way. You will find that if somebody wants to make an alteration to their names and you want to get a court affidavit, they will have to pay Kshs200 to go to the district headquarters where the courts are. Some of them have never been to those district headquarters. Instead of going to those district headquarters where the courts are to get a court affidavit, they just choose not to go. There are some Kenyans who fear going to the court to get an affidavit because they think they will end up being locked up. It is in this regard that I think it would be vital for the Government to find easier ways for Kenyans from border districts to obtain identity cards.

On the issue of mobile registration, I do appreciate that in certain districts attempts are made to have mobile registration centres. I am still talking about identity cards with regard to Registration of Persons Act, Cap.107. It would be very helpful if identity cards were obtained at market places and also in schools; to allow those people who have turned 18 to get their identity cards. I do know that this is a practice that is happening in some districts, especially those that are still considered as KANU zones. It would be very helpful if the same was extended to other parts of the country as well. I am saddened by the fact that in the amendments the Attorney-General is introducing, dual citizenship is not mentioned. I do remember that Mr. Shidiye introduced a Motion in this House on dual citizenship which was unfortunately shot down. The reason given for this was that it would come with the Constitutional amendments of the Ghai Commission. Since the Attorney-General has been generous enough to introduce some of these amendments herein, I would also plead with him to make it possible for Kenyans to have dual citizenship, as recommended in the Motion that Mr. Shidiye introduced in the House.

I also want to turn to the amendments that are being recommended on the National Assembly and Presidential Elections Act, Cap.7. I am glad like, my other colleagues, that continuous registration of voters is being proposed. I am equally glad that Kenyans living abroad, maybe for the first time in history, will have an opportunity to participate in the voting process. I want to disagree with my colleague Mr. Obwocha who tried to give what I considered to be an excuse to deny Kenyans living abroad a chance to vote, when he said that those votes may be used to rig elections. In my view, the prescription should not be to deny them a chance to vote. Instead, we should find a way to ensure that those votes are not used for rigging purposes. One possibility that the Attorney-General would want to consider is that the Kenyan community abroad which is a registered body that exists in many countries of the world, could be used as a vetting point to ensure that those who are on the registrar's list are legitimate Kenyan citizens in those countries, they can partake of the voting exercise properly and their votes will be properly counted.

In effect what I am saying is that the Kenyan community abroad, as an organisation, could serve for monitoring purposes to ensure that the votes overseas are not used for rigging purposes. I also want to take issue with the fact that whereas this Bill is being introduced in the House, I take cognisance of the statement made by the Electoral Commission of Kenya that the recent voter registration will be the last one. If that were the case, then the Kenyans overseas will be disenfranchised because they will not have had a chance to register as voters. It is in that regard that I want to express my hope that, even without this Bill going through, there will still be at least one more voter registration exercise so that the millions of Kenyans that are reported not to have got identity cards to enable them to register as voters get an opportunity to do so.

I also want to call upon the Attorney-General to consider a suggestion which has been given by many hon. Members before, namely, the use of national identification cards for voting purposes. In this regard, I would like to call upon the Government to consider introducing a third-generation identification card, which should, in addition to the details contained on the current identification card, also have the details contained on the elector's card, so that the same card can be used for voting purposes as well.

Mr. Temporary Deputy Speaker, Sir, I expected that some of the concerns raised by the Electoral Commission of Kenya (ECK) previously would be addressed through this Bill. One of the reasons the ECK gave for its inability to ensure free and fair elections was lack of adequate resources. I thought that the Attorney-General would find it fit that,

in order for the ECK to be truly independent, it should be allowed to draw its finances directly from the Consolidated Fund. Until that is done, we will continue having the kind of ECK that we have, which is controlled from somewhere.

I am equally concerned that the Attorney-General has not introduced an amendment to legitimise the nomination of some of the members of the Commission by Opposition parties. As we are all aware, following the Inter-Parties Parliamentary Group (IPPG) negotiations in 1997, the Opposition was allowed to nominate about half of the number of the Commissioners. We know that the term of the current Commission comes to an end very soon. However, there is no legal guarantee that the Opposition will also nominate some members of the Commission as it did in 1997. President Moi will be very much in order if he appoints new Commissioners without consulting Opposition parties because, currently, there is no law which requires that some of them be nominated by the Opposition. It is in this regard that I would have liked to see an amendment seeking to give the Opposition a free hand to nominate Commissioners to be appointed by the Head of State.

Mr. Temporary Deputy Speaker, Sir, I am glad that voter registers are going to be availed to anybody who may want to inspect them. However, I would like to call upon the Attorney-General to ensure that, as the registers are made available, soft copies of the same are produced. As a computer expert, I know that you can do a lot of data analysis with soft copies. I recall that in 1997, the defunct National Development Party (NDP) did mandate me to liaise with the ECK to get a soft copy of the voter register; other Opposition also tried to get a soft copy of the register, but we were never given that document. I think it would be useful that, even as hard copies of the register are availed for public scrutiny, a soft copy is availed to political parties which may want to have access to it for strategic planning purposes. I must say that also the National Alliance for Change would benefit significantly from that document. If we get a soft copy of the voter register, it will help us to ensure that we take over the current Government come election time.

Finally, with regard to the Presidential and National Assembly Elections Act, I hope that when the time comes, the Chair will allow hon. Members to propose some amendments. I would also like to draw the attention of this House to the amendments that have been proposed to the Auctioneers Act No.5 of 1996. I have come across several Kenyans who have been victims of mishandling by auctioneers. I happen to have served on the Paul Ngei Intervention Committee, and I know how auctioneers mishandled hon. Paul Ngei. That may not be the best example to give, but there are many other ordinary Kenyans who are mishandled by auctioneers. I would have expected to see an amendment that seeks to give either a court of law or an official arbitrator the power to seize property.

Even when auctioneers seize property from debtors, they should do so decently. There is what is known as auctioneers' fees. Even when the actual seizing of property has not been done, the mere fact that they have given a notice to do so results in their fees being paid. The fees charged by auctioneers are too high. Auctioneers sometimes charge the exorbitant fees for nothing; they may not even execute the seizing of the property from defaulters. So, it will be helpful to many Kenyans if such fees are made more reasonable and auctioneers become more professional than they are currently.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to refer to the amendments that have been proposed to the Books and Newspapers Act. I want to begin by disagreeing with my colleague, Prof. Anyang'-Nyong'o, who has suggested to the Attorney-General the need to consider using a measure such as banning the publication on an offensive publication for a period of time. Depending on what media house we may be talking about, proscribing a publication for some time may even be more costly than the Kshs1 million charge that the Attorney-General has proposed. Personally, I do not believe in any form of legislation to control the media. I want to call this "control" rather than "regulation", because the two measures the Attorney-General has proposed in the amendments contained in this Bill are really going to control the media.

As it has been said here before, I may disagree with what you say, but I will defend unto death your right to say it. It is in this regard that although the so-called "gutter press" may publish unpleasant things about some of us, I would want to defend their right to publish their stories. Of course, if the media fraternity can undertake to regulate itself through a code of conduct, that would be the best way of regulating the media. I am glad that the Kenya Union of Journalists (KUJ) has come up with a draft code of conduct to be upheld by its members. In any case, self-regulation is the trend the world over. Why should the case be different in Kenya? In this respect, I do not believe that the reasons given by the Attorney-General for rushing this Bill through Parliament are genuine. I believe that the real reason for doing so is because the elections are around the corner, and he would want to muzzle the Press, so that the alternative view is not heard.

Mr. Temporary Deputy Speaker, Sir, so, I appeal to hon. Members to very vigorously oppose the proposed amendment to the Books and Newspapers Act. I hope that the Attorney-General will find it fit to withdraw these amendments during the Third Reading, as he has on many occasions promised the media fraternity.

I was, indeed, surprised that on the day the Attorney-General introduced this Bill before the House, the Minister for Tourism and Information met the media fraternity and reassured them that the Government would do

everything possible to look into their concerns. I do not know whether that was a case of the left hand of the same Government not knowing what the right hand was doing, or whether the Minister and the Attorney-General were being cheeky. On the same day the Minister reassured members of the media fraternity that the Government would look into their concerns, the Attorney-General introduced amendments to the Books and Newspapers Act, through this Bill, to do exactly the opposite.

Mr. Temporary Deputy Speaker, Sir, I have known the Attorney-General to be a very truthful person. Some time last year and only a few weeks ago, he went on record and assured the media that the Government would remove the sections that are offensive to the media from this Bill. I hope that he will live up to that promise and remove all the contentious provisions from the Bill. I would, in fact, encourage him to propose the removal of the provisions on libel from the Defamation Act and the Penal Code. That way, he would contribute more to the enhancement of the democratic space in this country. Especially now that they are soon headed towards the Opposition, he would have done himself a favour by either repealing it totally altogether or amending the Defamation Act so that the media freedom and independence is enhanced.

Mr. Temporary Deputy Speaker, Sir, I would also like the Attorney-General to introduce amendments to the KBC Act again in order to give it true autonomy and independence, through a Board or a Commission that is not controlled by one person, as is currently the case. I think such an amendment would be more useful to the country than the current amendment which the Attorney-General is proposing.

In conclusion, I would want to say that we do not need the two amendments that the Attorney-General is proposing to the Books and Newspapers Act. What we need, in my view, is a comprehensive Media Bill, in particular, one that will harmonise the broadcasting industry. Currently, there is no legislation whatsoever that regulates the broadcasting industry. Licences and broadcasting frequencies are issued at the whims of two Ministers; the Minister for Tourism and Information and the Minister for Transport and Communications. I think it will make a lot of sense if there was a comprehensive Media Bill.

It is in this regard that I want to appeal to the Chair to consider the Motion calling for introduction of a Media Bill that I had filed three years ago calling for the introduction of a Media Bill. But somehow, it has never seen the light of the day. I want to appeal to the Attorney-General, since I have no evidence that would make me believe that it is going to see the light of the day, to do something about that issue. Why does the Attorney-General not do us a favour by moving a proper Media Bill in the House that will truly ensure that Kenya has a responsible, independent and objective media? This is because, currently, that is lacking especially with regard to the broadcasting industry.

May I also draw the attention of the House to the fact that only 5 per cent of Kenyans today read newspapers. I say this because the *Sunday Nation* which has got the largest circulation has sales of about 250,000 copies a week. Even if I was generous and say that they sell 300,000 copies of every issue, and assume that every newspaper is read by five Kenyans and no Kenyan is poor; a number of them share newspapers, we would still be talking of about 1.5 million Kenyans reading that newspaper weekly. In fact, 1.5 million Kenyans, out of 30 million Kenyans, translates to only 5 per cent of Kenyans reading newspapers. What does that mean? In effect, about 95 per cent of Kenyans do not read newspapers. The question is: I do know that illiteracy level is not as high, but it is high enough to make the percentage better. Then, the question is: Why is it that few Kenyans read newspapers? The reason is that newspapers are expensive. Part of it is because of the taxes on the newspaper inputs; I do not know whether they are called newspaper reels. I am talking about the products used to manufacture newspapers. The taxes on them are so high that the end product is beyond what most Kenyans can afford. I would have thought that what the Government would be considering is lowering those taxes so that newspapers can be cheaper and many more Kenyans can afford the newspapers, and thus we have a more informed society. This is because that is the trend worldwide.

With those few remarks, I support the Bill.

Mr. Waithaka: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity also to contribute to this Bill. I will be very brief and fast. I will only request the Attorney-General also to consider bringing an amendment to Section 6 of Cap. 302 of the Laws of Kenya, which is a very offending section of our law. This has been stated by our Judiciary when they are dealing with transactions under Cap. 302 of the laws of Kenya. I am talking about the controlled land transactions, whereby it is a requirement that any land which is agricultural and it is to be transferred, mortgaged or charged, there must be a consent from the Land Control Board from the area the land is located. This section has been misused by many unscrupulous land sellers when they realise that a consent has not been obtained within six months. By this time, they have already taken the money, and the value of land would have gone up. They refuse to apply for the consent of the Land Control Board. There should be a proviso to that section which clearly states that if the said transactions are accompanied by occupation by the purchaser with the consent of the vendor, then, there can be specific performance in court because that has been an abuse of our provisions of the law.

The other issue I would like to raise, because I want to go very fast, is that these other amendments must be in the spirit with the thinking of Kenyans. Mr. Attorney-General, you know what is happening in Murang'a. Women are

always up in arms against a certain illicit brew being sold in Murang'a. If you go to Naivasha and Kinangop where I come from, young people who are consuming these illicit brews are being arrested and charged in courts of law for being in possession of illicit brews. Courts are discharging them under section 35 of the Penal Code or fining them peanuts; Kshs100 or Kshs50. This is because there is an abuse of the law; when a police officer apprehends consumers of a product, which the Government has licensed the producer, and factories which are making these brews in Naivasha are licensed by the Government of the Republic of Kenya. Women are making noise in Murang'a, and nothing is being done and those who are consuming are being arrested. Mr. Attorney-General, I would want you to study the relevant statutes and come up with an amendment so that we can control the brewing and consumption of these illicit brews which are causing a lot of havoc to our youth in this country.

There is also this amendment to Cap. 404, the Transport Licensing Act. I do not know whether the Attorney-General has addressed himself to the issue of what the Government is going to lose in terms of revenue. This is because today if you want to renew your road licence, and if you have not renewed it and it expired in September, last year, you have to buy another one which will expire in September, this year. If you renew in November, and it was supposed to expire in December this year, it is only supposed to last for only that month. If you amend this law, and leave the whole business under the whims of the police, and the police allow *matatus* sometimes to ply without these licences, maybe for two or three years before they are apprehended, what will happen when you are transferring your motor vehicle and you have to have all the terms indicating that this vehicle has been licensed all the years? That one should also be considered because it will have a lot of effects on our revenue collections.

I would also want to reiterate what was said by my learned friend; that, if we are amending the law to allow members of the bar - advocates - from Tanzania, Kenya and Uganda to practise in this country, we should not do it blindly without knowing whether our sister countries are doing the same. This is because we may find ourselves only doing it and our sister countries are not doing it and we will have an influx of advocates from Tanzania and Uganda in this country when there is no reciprocation of our qualified members of the bar going to practise in those countries.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ochilo-Ayacko!

Mr. Ochilo-Ayacko: ---(inaudible).

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Attorney-General, you may--- There is somebody who wanted to talk to you, but since there is no hon. Member interested in contributing, could you reply to the Bill?

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

First of all, I want to thank most profusely, all those hon. Members who have contributed to this Motion. They include: Messrs. Muite, Murungi, Waithaka, Prof. Anyang'-Nyong'o and Dr. Ochuodho for their positive contributions.

Mr. Temporary Deputy Speaker, Sir, hon. Members have said that the salaries of magistrates should be considered along with those of the judges. But I believe that salary increments for State Counsel should also be considered. That is a matter that is being looked into by the Government. The terms and conditions of service of magistrates and State Counsel should be considered because they are the ones who actually do most of the work at that level.

Mr. Temporary Deputy Speaker, Sir, a point was also raised with regard to the fact that we shall now be permitting advocates from Uganda and Tanzania to come and practise here. I would like to assure hon. Members that, that particular section of the law will not become operative until the Attorney-General says so. The Attorney-General will allow that law to be operative, only if he is satisfied that our Kenyan advocates will also have similar access to practise law in Uganda and Tanzania. There must be an element of reciprocity. I know that through the East African Law Society, the governments of Uganda and Tanzania, are also taking steps towards that direction. It is only when they put that in place, that I will make this particular section of the law operative in Kenya.

Mr. Temporary Deputy Speaker, Sir, on the issue of birth certificates forming part of the evidence when issuing out voters cards, I will take that up with the Electoral Commission of Kenya. If they have no objection, I will bring the appropriate amendment to the law. On the issue of increasing the jurisdiction of the magistrates in the figures suggested, I will also take that up with the Judiciary, and come up with the necessary amendments.

Mr. Temporary Deputy Speaker, Sir, a lot was stated about the Media Law. Let me make it clear that we do not have a Media Law in this Statute Law (Miscellaneous Amendments) Bill. To call this Media Law, as it has been baptised by the Press, is clearly wrong. It is the intention of the Government to bring to this House, a proper and comprehensive Media Law in the way hon. Members like Dr. Ochuodho, Mr. Muite and Mr. Murungi have stated. In fact, as I stated earlier, we had a Task Force on Press Law which drafted a Media Law which was given to the stakeholders. They came up with a very good code of conduct, but they are yet to set up their own commission which will enforce that code of conduct. I have been very consistent on this matter and the challenge is in their court. We want to bring a comprehensive Media Law in conjunction and in consultation with them, because Kenya requires a

vibrant, but responsible Press. We want to bring to the House, a code of ethics which they have agreed to, and the way it should be enforced. We want to assist them to have that code of ethics and the enforceability to have a force of law. That will be the Media Bill. What we are saying is that the journalists should, internally, discipline themselves by having their own code of conduct and that they should enforce that code of conduct. But to be able to do that effectively, they will require a law. As the Attorney-General of this country, I am prepared to bring that law in which the Government will not be controlling or disciplining journalists. We want a law which will give legislative backing to a machinery set up by the journalists themselves. It is a pity that the journalists have been very slow in doing that. But I know that they have had consultations with me and I believe that the consultations they had with the Minister for Tourism and Information have been positive. If we proceed along those lines, we should be able to have a proper and comprehensive Media Law, which respects freedom of the Press, right to information and gives them the teeth to discipline some of their own who may violate, in the course of their work, the code of ethics. When we have this law in place, a member of the public who has been defamed, rather than going into the expensive procedure of going to court, can go to the Media Complaints Commission and say: "Journalists so-and-so, have violated my rights in this way." The Media Complaints Commission, which will consist of the journalists themselves will be able to determine and make a pronouncement which can be enforceable because there is a law in place. Without that law, whatever the Media Complaints Commission will do, will merely be morally binding; and knowing what we are, it may not necessarily be obeyed by the journalists and they will continue practising. We need a law to give legislative backing and teeth to the Media Complaints Commission, which will be composed and constituted by the journalists themselves.

Mr. Temporary Deputy Speaker, Sir, on the use of firearms, it is clear Government policy that the law enforcement officers in this country should only use reasonable and proportionate force in whatever situation they find themselves in. Where somebody loses life as a result of a police officer shooting, the Attorney-General has, invariably, asked that proper investigations should be made on such an issue and that an inquest should be held by a court to find out whether reasonable force was used. Where we find that there was excessive use of firearms by the police officers or any other law enforcement officers, we have always charged such officers either with murder or with manslaughter. If somebody has not died, we charge them with assault, causing grievous harm. There are a number of cases of that nature in court now, some of them as recently as last week. So, the Government is committed to ensuring that the law enforcement officers in this country respect the human rights aspect of their work as they enforce the law. They cannot enforce the law when, in enforcing it, they are also breaking the law. They must enforce the law in accordance with the rule of law.

Mr. Temporary Deputy Speaker, Sir, it was suggested by Prof. Anyang'-Nyong'o, that the law should stipulate that voting is compulsory. This, of course, has to be examined in the light of the rights of the person. It is one's freedom to exercise his or her right to vote or not. Maybe, we could provide for a middle ground such that as one gets a national identity card, one must also register as a voter. But we cannot force somebody to go and vote. This will amount to violating his or her rights. We should be able, maybe, to put that person in a position where he can exercise that right. That may very well be that he must, at least, register as a voter but we cannot force anyone to exercise their right to vote as Prof. Anyang'-Nyong'o suggested.

Mr. Temporary Deputy Speaker, Sir, the amendments to the Exchequer and Audit Act are meant to uphold the position held by both the Public Investments Committee and the Public Accounts Committee; that the office of the Auditor-General (Corporations) should no longer be there. Strictly speaking, the Constitution does not recognise the office of the Auditor-General (Corporations). It only recognises the office of the Controller and Auditor-General. So, I can assure this House that sooner than later, I will be publishing the National Audit Bill, which will put in focus the duties and functions of the Controller and Auditor-General. It is just an office in the Constitution, just like the Electoral Commission of Kenya, but its functions, duties and how it can employ staff, are not spelt out. So, we are bringing a Bill to this House, to address that aspect. This amendment sets to hold the position, at least, to ensure that there is only one Controller and Auditor-General as is required by the Constitution. The National Audit Office will spell out, in a more comprehensive way, the duties and functions of the Controller and Auditor-General. In a similar way, we should take care also of the functions and duties of the Electoral Commission of Kenya (ECK). It may be on record that when we were debating a Motion on the continuous registration of voters, I pleaded with the parliamentary political parties to hold extensive consultations with the ECK with a view to bringing a comprehensive electoral law to this House.

Mr. Temporary Deputy Speaker, Sir, I am glad to report that, in fact, that was heeded and the ECK has been holding consultations, on a very regular basis, with the parliamentary political parties. Therefore, a comprehensive Electoral Bill will come to the House, and whether it will come before or immediately after we have a new Constitution in place, is a matter that we have to weigh and consider. Right now, we do not know as yet whether we shall have minimal amendments to the Constitution before the elections, or whether we shall have a new Constitution before the elections. But once that issue is decided upon, then the Electoral Bill will come to the House. If we will have a new constitution, then the Electoral Bill will have to be consistent with it. If we will have minimal amendments,

which will touch on the elections, then the Electoral Bill will have to be consistent with the amendments to the Constitution. But the intention and the objective is there; that we must have a comprehensive Electoral Bill brought to this House and enacted before the next general election.

Dr. Ochuodho asked why I did not bring the issue of dual citizenship in this Bill. The issue of dual citizenship touches on the Constitution and it is a matter that is best handled at the constitutional level. This Bill is only dealing with mere Acts of Parliament and cannot pretend to amend the Constitution by bringing an amendment to it under the Statute Law (Miscellaneous Amendments) Bill. There are about two speakers who said that this Bill is a bit heavy for hon. Members because here we are trying to make amendments to 40 different legislations, and the way it is put is not friendly to hon. Members having easy reading of it. We shall look into that and see if the format can be changed. But this has been the format, and it is the format used throughout the Commonwealth countries. But we shall look into it to make it more friendly and more easier for hon. Members to know exactly what changes are being made.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I wish once again to thank all the hon. Members who have contributed to this Bill and I beg to reply.

(Question put and agreed to)

THE DOMESTIC VIOLENCE
(FAMILY PROTECTION) BILL

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I did not come with my notes on this particular Bill. I thought debate on the previous Bill would go on up to tomorrow. So, can we adjourn?

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, it is only a few minutes to time. The House is, therefore, adjourned until tomorrow, 24th April, at 9.00 a.m.

The House rose at 6.25 p.m.