

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 3rd April, 2002

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:

2001/2002 Supplementary Estimates of Development Expenditure Estimates.
2001/2002 Supplementary Estimates of Recurrent Expenditure Estimates.

(By the Minister for Finance)

NOTICES OF MOTIONS

APPROVAL OF 2001/02
SUPPLEMENTARY ESTIMATES

The Minister for Finance (Mr. Obure): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motions:-

THAT, a sum not exceeding Kshs1,541,140,114 be granted from the Consolidated Fund to meet the expenditure during the year ending 30th of June, 2002, in respect of Supplementary Estimates for the year 2001/2002 on Development, having regard to the proposed reduction of the sum of Kshs1,350,779,549 therein appearing.

Mr. Deputy Speaker, Sir, I also wish to move the following further Motion:-

THAT, a sum not exceeding---

Mr. Deputy Speaker: Mr. Obure, you have not completed giving notice of the first Motion. Do you have consent to do so?

The Minister for Finance (Mr. Obure): Sorry, Mr. Deputy Speaker, Sir. I beg your pardon.

Yes, with respect to the first Notice of Motion, I want to confirm that the President has signified his consent to this Motion.

THAT, a sum not exceeding Kshs10,281,453,610 be granted from the Consolidated Fund to meet the expenditure during the year ending 30th June, 2002, in respect of Supplementary Estimates for the year 2001/2002, Recurrent Expenditure, having regard to the proposed reduction of the sum of Kshs5,432,622,400, therein appearing.

(His Excellency the President has signified his consent to these Motions)

ORAL ANSWERS TO QUESTIONS

Question No.089

UNLAWFUL DISMISSAL OF NCPB EMPLOYEES

Mr. Deputy Speaker: Is Mr. Maitha here?

An hon. Member: He is not here!

Mr. Deputy Speaker: We will come back to his Question later.

Next Question, Mr. Katuku!

Mr. Katuku: Mr. Deputy Speaker, Sir, before I ask the Question, I would like to make a correction on the Question as it is on the Order Paper. The name "Yatta Division" should read as "Yathui Division."

Question No.076

PROVISION OF TELEPHONE SERVICE
TO MAKUTANO MA LEMA MARKET

Mr. Katuku asked the Minister for Transport and Communications:-

- (a) whether he is aware that Makutano ma Lema Market in Mwala Constituency, Yathui Division and its environs have not been supplied with telephone services; and,
- (b) when he will supply the service to the area.

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

I have noted the change from the name "Yatta Division" to "Yathui Division".

(a) Yes, I am aware.

(b) Telkom Kenya has no immediate plans to supply telephone services to Makutano Ma Lema Market, since there is only one applicant on the waiting list. However, connectivity of telephone services will be considered when, at least, 15 applications have been received from Makutano Ma Lema Market. A service forecast demand, which was done on the 26th of February this year, has shown a demand potential of only seven subscribers for the year 2002. For the period between 2002 to 2005, there is an expected forecast demand of only 19 subscribers. So, at this point in time, there is no plan to supply telephone services to the Makutano ma Lema Market.

Mr. Katuku: Mr. Deputy Speaker, Sir, I have not received a written answer. I hope the Assistant Minister will be kind enough to give me a copy of his written answer. I do not know why he has not supplied one to me.

The Assistant Minister has said that there is no justification for the supply of telephone service to the Makutano ma Lema Market. I would want to draw his attention to the fact that, that one applicant is the Member of Parliament for the area, who is myself. More interesting, the Makutano ma Lema Market, which I am talking about, there are no telephone services and yet there is a booth in next market the other side. The market after Makutano ma Lema has telephone services! It is only Makutano ma Lema Market which does not have such services.

Mr. Deputy Speaker, Sir, I think this is political! Why has Telkom Kenya denied people around my village telephones, yet the markets after and before my village have telephone services? Could the Assistant Minister confirm to this House whether this is not political and assure this House that they are going to provide telephone service to my people?

Mr. Keah: Mr. Deputy Speaker, Sir, I have gone to great lengths to even draw the map to show where that area is and, I can confirm that there is absolutely nothing political in the provision of telephone services to that area. In providing telephone service, Telkom Kenya, like any other organisation, has to take into consideration the issue of the investment; the cost of the service to be provided. Yes, I appreciate the fact that the hon. Member needs a telephone line. But at this point in time, he can help us by finding or enticing a few customers around his area so that Telkom Kenya can justify the extension of a telephone line to the area he wants. So, really, I want to pass the ball into his court so that he can gather a few more applicants, apart from himself.

Mr. Deputy Speaker: Mr. Keah, remember I heard him say that "the matter is political." So, being the only politician in the area, you can supply him with telephone services.

Mr. Keah: Mr. Deputy Speaker, Sir, the matter is not political, it is rather commercial and we will go with commercial considerations.

Mr. Kaindi: Mr. Deputy Speaker, Sir, this is the first time that the Assistant Minister is revealing to the House that there is really some study that is being done in that area. Where we come from, we have never seen Telkom Kenya doing projections based on the potential of an area. But Yathui Market is so political that they were able to extent a line to the market before, and the next market. This is political and that is why a line was extended there. I know Mr. Katuku's area and I am very conversant with it. It is in the middle of the two markets and that is the point of contention! Why do you move the telephone line from one part of the constituency to the next market and leave one in the middle? It beats logic even when you consider the potential that the Assistant Minister is talking about. Could the Assistant Minister table documents to show the potential of the area that he is talking about here? Unless they are saying today that, people in certain areas must apply and they must be, at least, 15 applicants, without basing the projections on the commercial potential, as he said, then he is not telling the House the truth. The truth is that there is

politics and he should be able to tell us the criteria which is being used. What criteria is being used, apart from politics and the projections he is talking about which are now not clear?

Mr. Keah: Mr. Deputy Speaker, Sir, there are no political overtones in as far we are concerned. Telkom Kenya has to make money and, in that regard, be commercial. We do not install telephone lines on political considerations, even though that may form one of our criteria. In this case, it is not. In fact, we have invested a lot of money. There are even some lines that have not even been tapped. When I talked about a survey having been done in the area--- I can confirm that, for example, in Wamunyu, there are 180 lines, but the demand is so low. In Yathui Market, there are 15 lines. With only seven subscribers, eight lines are still there. From Yathui to Makutano ma Lema Market the distance is about six kilometres and there is only one applicant. To take a line and a cable to only one applicant is certainly not commercially viable.

Mr. Muchiri: Mr. Deputy Speaker, Sir, a Member of Parliament is a very important person in his area. He needs communication facilities within and outside the country. The Assistant Minister also needs to communicate with his constituents. What facilities has the Ministry provided to the hon. Member so that he can communicate within and outside the country and with his constituents?

Mr. Keah: Mr. Deputy Speaker, Sir, I do not have a telephone line in my house in Kaloleni. This is simply because of, once again, cost consideration. As you all know, we do not go not for an hon. Member. If that was the case, every hon. Member here would have electricity, telephone and water made available---

An hon. Member: Why not!

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

Mr. Deputy Speaker: Order! Mr. Maitha, you came late for your Question and I will not allow you to interrupt the House proceedings.

Mr. Katuku: Mr. Deputy Speaker, Sir, I think the emphasis has been shifted from the market to my home. I am sure this Government may not give me that service and I do not mind that. But there is need to provide a telephone booth to Makutano ma Lema Market. Is the Assistant Minister telling us that members of the public must apply to get a telephone booth? Why has the Government given Katulani Market which is after Makutano ma Lema a telephone service? Why deny the same service to Makutano ma Lema Market? What is the Assistant Minister telling us? Does mean that people must apply to get a telephone booth?

Mr. Keah: Mr. Deputy Speaker, Sir, Telkom Kenya will not extend a service to a place where the service is not in demand. This is normal commercial sense. Demand is shown by the people showing interest. Therefore, if people at Makutano ma Lema Market show that interest, I want to assure this House that Telkom Kenya will provide them with telephone service.

Mr. Muite: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House whether this criteria of 15 applicants applies across the entire country or not, given that we have seen telephone lines extending for many kilometres in certain areas in the country to go and serve one little hut. It is the same for electricity. Is this criteria being applied selectively, or does it apply across the entire country?

Mr. Keah: Mr. Deputy Speaker, Sir, I do not know about the areas the hon. Member is talking about, where a line goes from one place to another to serve only one consumer. But if that happens, having worked with KPLC, I know the consumer will have paid for the installation cost. It is quite possible that, in the cases he is talking about, the installation cost has been incurred by the individual. But for public expenditure to be incurred for one customer, then cost consideration and the returns are certainly a determining factor. We consider the criteria of 15 applicants because it is economically viable. Therefore, working out the cost of the installation of telephone lines from the nearest Yathui Market to Makutano ma Lema will be commercially viable. If we get 15 applicants, Telkom Kenya will be able to extend telephone services from Yathui Market to Makutano ma Lema Market which is only seven kilometres away.

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

Question No.012

COLLECTIONS FROM NYAMIRA/KISII TEA FARMERS

Mr. Angwenyi asked the Minister for Agriculture:-

(a) how much money has been collected from tea farmers by each of the factories in Zone 10 of Nyamira and Kisii Districts, in each year since 1994 to date, for the construction of tea factories; and,

(b) how much of this money has been collected from the Kitutu Chache farmers in each of the years.

Mr. Deputy Speaker: Anyone here from the Ministry of Agriculture and Rural Development? We will come

back to the Question later.

Next Question, Mr. Achola.

Question No.005

REMOVAL OF DRILLING RIG FROM MIGORI

Mr. Achola asked the Minister for Water Development:-

- (a) why the water drilling rig (R.12) meant for Migori District was removed from Migori;
- (b) where the rig is currently located; and,
- (c) who is paying for both its maintenance and salaries for its operators and engineers.

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

(a) The Ministry does not allocate rigs on a permanent basis to provinces or districts. The practice is that, the few rigs available work on a rotational basis in order to cover other areas where their services are required.

(b) The rig (R12) is currently carrying out community drilling works in Koibatek District.

(c) The operational and maintenance costs and salaries for the rig operators and engineers, are met by the Government.

Mr. Achola: Mr. Deputy Speaker, Sir, the Assistant Minister is giving a very misleading answer to this Question. This particular rig was specifically donated by the Japanese Government to Migori District in a bid to alleviate the water shortage problem in that area. Having said that, could the Assistant Minister confirm or deny whether this rig was a Government rig or it was donated by the Japanese Government to provide water in the lower parts of Migori District and that the number of water wells which were supposed to have been sunk were not actually sunk and the rig was then moved to the Minister's home to drill wells for his friends?

Mr. Kofa: Mr. Deputy Speaker, Sir, this rig the hon. Member is talking about was doing some work in South Nyanza for a South Nyanza Rural Water Supply Programme in the early 1980s. At the moment, as I said, the rig is based in Koibatek District doing some work and not in the Minister's district.

Mr. Otita: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to avoid answering the question? The Question is: Could he confirm or deny that the rig was donated by the Japanese Government for water projects in lower Migori District? Could he answer that question?

Mr. Kofa: Mr. Deputy Speaker, Sir, I was asked to confirm or deny whether it is in the Minister's home and I denied.

Mr. Deputy Speaker: No! No! No! You were also asked you to deny or confirm that the rig was donated for Migori District by the Japanese Government.

Mr. Kofa: I deny, Mr. Deputy Speaker, Sir.

Mr. Otula: Mr. Deputy Speaker, Sir, could the Assistant Minister table the evidence to show that this rig belonged to the Kenya Government, and was not donated by the Japanese Government?

Mr. Deputy Speaker: It can belong to the Kenya Government even if it is donated by the Japanese Government.

Dr. Kituyi: Mr. Deputy Speaker, Sir, from what you are saying, you will get the gist of what the hon. Member is saying; that it was a donation to the Government, but specifically to Migori District, but not to roam around to Koibatek and such places. Could he show evidence that this donation to Migori District was meant to be made available for other politically- correct places like Koibatek?

Mr. Kofa: Mr. Deputy Speaker, Sir, once it is donated, it belongs to the Government, and the Government can take it where there is need.

Mr. Muite: Mr. Deputy Speaker, Sir, we need your guidance here because the Assistant Minister has a duty to this House, and this is a serious issue. If something is donated specifically for a particular area, then the Kenya Government holds that particular item in trust for that particular area. Is he saying that the Government has got the right to work in breach of trust? If something is given by the donor specifically to a particular area, even if it is given to the Government, it should respect that trust and use that item for that particular area. Is this what happened or not? That is what the House wants to know.

Mr. Kofa: Mr. Deputy Speaker, Sir, as I said, the rig will go where there is work to be done.

Mr. Deputy Speaker: Could you answer the question which you have been asked?

Mr. Kofa: Mr. Deputy Speaker, Sir, it was not specifically donated for Migori District.

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, you can see that the Assistant Minister has not been very specific. Could the Assistant Minister tell us how many rigs are in this country; how many are operational and in which areas?

Mr. Kofa: Mr. Deputy Speaker, Sir, that question does not arise.

Mr. Deputy Speaker: Order! That is a legitimate supplementary question arising from this Question. So, you must answer it. If you do not know, just say so.

Mr. Kofa: Mr. Deputy Speaker, Sir, I do not have the figures at the moment.

Mrs. Sinyo: Mr. Deputy Speaker, Sir, this issue of the rig is a very---

*(Mr. Samoei passed over a document to
Mr. Murungi across the Dispatch Box)*

Mr. Deputy Speaker: Order! Order! Mr. Murungi, could you return that document to Mr. Samoei! You have no business exchanging documents across the Dispatch Box. If you want to lay a document on the Table, do it in the proper manner.

*(Mr. Murungi passed over the document to
Mr. Samoei across the Dispatch Box)*

Mr. Wanjala: You think this is Kasarani! This is not Kasarani!

Mr. Deputy Speaker: Proceed, Mrs. Sinyo!

Mrs. Sinyo: Mr. Deputy Speaker, Sir, some of us lose our balance when we do not know what is going on. But that aside, this rig was for sinking wells from Lower Suna, where the majority of the people who use the water from the wells are men, women and children who are great beneficiaries. I would like to request the Chair to defer this Question so that this Assistant Minister comes with documents to this House to refute the fact that this rig was specifically donated for Lower Suna, because we have suffered enough. Could the Question be deferred so that he can furnish us with adequate information?

Mr. Deputy Speaker: Well, I think really, instead of deferring the Question which we have fairly exhausted, I will ask the Assistant Minister to bring that information on a date that is convenient to him. Could you bring it next week, on Wednesday?

Mr. Kofa: That is okay, Mr. Deputy Speaker, Sir.

Mr. Achola: Mr. Deputy Speaker, Sir, in the Assistant Minister's answer to part "c" he said that the engineers and the operators are being paid by the Government. If one were to look at the Printed Estimates for the Water Department in Migori District, it is indicated that it is Migori District which is being charged for the maintenance and operation of this rig, yet the rig was removed from Migori District four years ago, and is lying somewhere in Koibatek District, next to the Minister's home. He then comes here and tells us that the Government is paying for it. Having said that, my request to the Assistant Minister is: Could the rig be taken back to Migori District so that the job which was supposed to be done using the rig could be completed, irrespective of whether the rig is Government property or not, possibly by next week?

Mr. Kofa: Mr. Deputy Speaker, Sir, this will depend on whether the funds are available or not.

Mr. Achola: Mr. Deputy Speaker, Sir, I did not quite hear what the Assistant Minister murmured. Maybe if he could open up his mouth I could hear. Could he repeat the answer?

Mr. Deputy Speaker: What answer did you give?

Mr. Kofa: Mr. Deputy Speaker, Sir, I said that if the funds are available, and there is work in Migori District, the rig will be taken there.

Eng. Toro: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House? The hon. Member asked when the rig will be returned to Migori District. It is not a question of funds being available, because wherever it is, it is not idle, it must be doing some work. And, as the hon. Member said, Migori District is already undertaking the payment for the maintenance of the rig, the engineers and the operators. So, when will it be taken back there?

Mr. Kofa: Mr. Deputy Speaker, Sir, I said that the operations, maintenance and the salaries for the rig operators are being done by the Government, and the rig will be taken back to Migori District when there is work to be done.

Mr. Deputy Speaker: The point Mr. Achola is making, quite frankly, is that the maintenance charges and salaries are being made out of a Vote provided for Migori District in the Printed Estimates. How can it be charged to

Migori District and operate a rig in Koibatek District?

Mr. Kofa: Mr. Deputy Speaker, Sir, that is not true.

Mr. Deputy Speaker: Next Question!

Question No.083

MEASURES TO PROTECT TRADERS
FROM COCA COLA'S MONOPOLY

Mr. Muchiri asked the Minister for Trade and Industry:-

(a) whether he is aware that appointed distributors and wholesalers of Coca Cola Bottling Company Limited in Kenya have had their businesses adversely affected by the company's move to control sales of their products by engaging in both wholesale and retail business;

(b) whether he is further aware that the said company pays their distributors and wholesalers on commission basis and directly controls deposits for crates and bottles of their commodities; and,

(c) what action the Government is taking to protect small traders from such monopolistic tendencies by the company.

The Assistant Minister for Trade and Industry (Mr. Mohamud): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) I am not aware that the company pays her distributors and wholesalers on commission basis. I am, however, aware that it retains deposits for crates and bottles pending their return as security for those containers.

(c) There is already a legislation - The Restrictive Trade Practices, Monopolies and Price Control Act Cap.504 - in place to address restrictive trade practices, including monopolistic tendencies. If there is evidence that the company has monopolistic tendencies, the affected businesses should be advised to refer the case to the Monopolies and Prices Commission for appropriate action.

Mr. Muchiri: Mr. Deputy Speaker, Sir, I am surprised that the Assistant Minister says, in part "a" of his answer, that he is not aware. I had been a Coca Cola distributor for many years. I know the Assistant Minister is not informed of the tricks and what goes on within the trade. Could the Assistant Minister tell this House - since Africanisation of businesses was started and Coca Cola was one of the companies that offered Africans distributorship - a single distributor who has ever made any profit or has become a rich man out of that company? It is a fact that, as a result of Africans doing business with Kenya Breweries, there has emerged the Rwathia group of companies and others. Could he name one African company which has emerged from doing business with Coca Cola?

Mr. Mohamud: Mr. Deputy Speaker, Sir, I am not aware of any company that has become rich from distributing Coca Cola products. There are many distributors who have signed contracts with Coca Cola Bottling Company. There are also many retailers. So, when Mr. Muchiri says that Coca Cola Bottling Company controls sales, it is not true. There is no company that controls sales. In fact, all companies, in this era of liberalisation, cannot control sales. Every company strives to sell more of its products to the people. So, the question of certain distributors becoming poor and others becoming rich does not arise.

Mr. Donde: Mr. Deputy Speaker, Sir, the Assistant Minister is misleading the House. The Question is very clear that Coca Cola Bottling Company engages in manufacturing, distributing and retailing. If you engage in that vertical arrangement, you are, in a way, controlling the amount of retail that the distributor can give. So, I think the Questioner was right, that Coca Cola Bottling Company controls the level at which the distributors can sell their products because it is engaging in retail sales. Could the Assistant Minister answer the Question which was properly asked? He has not answered it!

Mr. Mohamud: Mr. Deputy Speaker, Sir, it is not true that the company distributes and retails. Actually, the distributors are appointed by the company. They take sodas to the retailers.

Mr. Ndicho: Mr. Deputy Speaker, Sir, we are all wondering about where the Assistant Minister lives. Does he live in this country or he lives in Uganda and comes here in the morning to answer Questions and goes back? It is common knowledge that Coca Cola Bottling Company has put kiosks in form of containers along Thika Road, Mombasa Road and all over Nairobi. So, is it in order for the Assistant Minister to deliberately mislead this House, when that is the truth? Could he tell us why Coca Cola Bottling Company has kept other competitors like Softa, Sampanola and Pepsi Cola out of business? You have given them that advantage over other competitors.

Mr. Mohamud: Mr. Deputy Speaker, Sir, this is a world of liberalisation. The hon. Member should know that. The world markets are liberalised and we no longer control companies. When you say that the company is providing crates---

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

Mr. Deputy Speaker: Mr. Angwenyi, it had better be a point of order!

Mr. Angwenyi: Mr. Deputy Speaker, Sir, could I be in order to ask the Assistant Minister to go and learn the meaning of the word "liberalisation" before he comes to answer this Question?

Mr. Deputy Speaker: That is not a point of order!

Mr. Imanyara: Mr. Deputy Speaker, Sir, you heard the Assistant Minister say that because the Government allowed liberalisation in this country, it no longer controls companies. But in the same token, he has talked about Cap.504. Are you satisfied that the Assistant Minister is not misleading the House when he concedes that there is Cap.504, that is designed to control the activities of monopolistic practices and, at the same time, says that the market is liberalised and, therefore, Coca Cola Bottling Company may sell at their own prices? Are you not misleading this House?

Dr. Kituyi: He does not know!

Mr. Mohamud: Mr. Deputy Speaker, Sir, where consumers are aggrieved, they can refer to that Act. But, under normal circumstances, we allow companies to operate in the best way possible---

Mr. Deputy Speaker: Order, Mr. Assistant Minister! Cap.504 - Restrictive Trade Practices and Monopolies Act, gives you the responsibility to make sure that there is no monopoly or restricted practices. What are you doing about it?

Mr. Mohamud: Mr. Deputy Speaker, Sir, the Act is very clear and if there is any person who is complaining that there is monopoly in Coca Cola Bottling Company or any other company, he can refer that matter to the Commissioner.

Mr. Obwocha: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for this House to grill the monkey when the organ's grinder is just seated next to Mr. Murungi? He should be the one answering this Question!

Mr. Deputy Speaker: Order! A Minister is defined as a Minister and an Assistant Minister! So, the Assistant Minister is quite competent to answer the Question!

Mr. Shill: Mr. Deputy Speaker, Sir, since the truth of the matter is that, that company engages in monopolistic practices, and that it is doing wholesale and retail business and Kenyans are crying, could the Assistant Minister go back, carry out investigations and take action against it?

Mr. Mohamud: Mr. Deputy Speaker, Sir, I do not agree with the hon. Member. What I know is that Coca Cola Bottling Company is a manufacturing company. There are distributors who apply to the company to do that. Then, there are retailers. What the company does is to promote business for distributors and retailers. For example, retailers are given kiosks or containers all over. That is one way of improving their business. The company provides good kiosks and fridges to retailers. They are charged very little amounts of money. So, the question of saying that the company has monopolised the business is not true.

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

Mr. Deputy Speaker: Mr. Shill, it had better be a point of order!

Mr. Shill: Mr. Deputy Speaker, Sir, is it in order for the Assistant Minister to protect Coca Cola Bottling Company instead of the consumers?

Mr. Deputy Speaker: Order! You know, after the way you yelled "point of order", one would have thought that you would have a point to make! But instead, you are asking a question! Now, if you are not satisfied with the Assistant Minister's answer, you know what to do. You should move a Motion under Standing Order No.18.

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, I have to declare my interest. I am a Coca Cola retailer. Coca Cola bottlers, especially those in Mombasa, are distributing this drink in Ganjoni and the whole of South Coast. Why is the Assistant Minister denying that they are not carrying out distribution and retail business in those areas? I personally went and asked for the distributorship in Ganjoni and Likoni, but they refused and said that they are doing it themselves. Why should the Assistant Minister mislead this House?

Mr. Mohamud: Mr. Deputy Speaker, Sir, the fact that Mr. Mwakiringo is a Member of Parliament does not mean that he will automatically get the licence. There are certain conditions which one should fulfil---

Mr. Deputy Speaker: Order! Mr. Assistant Minister, the hon. Member has done the right thing by declaring his interest. So, you must take the questions he puts to you very seriously. You are making life very complicated for yourself. Please answer the question factually. This House is not interested in your opinions. Give the House facts.

Proceeds!

Mr. Mohamud: Mr. Deputy Speaker, Sir, in order for one to be a distributor, there are certain conditions that one must fulfil, including the amount of money to be raised, the location of the premises and many other factors. The hon. Member should be able to apply and he will be considered along with others.

Mr. Shakombo: Mr. Deputy Speaker, Sir, I am the Member for Likoni Constituency. We used to have a

distributor there, but they have denied him the distributorship. They are doing it themselves. Unless the Assistant Minister tells us that he does not know what is happening, I know that what Mr. Mwakiringo said is correct.

Mr. Mohamud: Mr. Deputy Speaker, Sir, I will investigate the allegations made by the hon. Member.

Mr. Deputy Speaker: Order! You will make that investigation and report back to this House. I will give you two weeks.

Mr. Muchiri: Mr. Deputy Speaker, Sir, this Ministry has Trade Officers who are stationed in every major town. Why are these officers not going round to the shopkeepers and businessmen within their areas of jurisdiction to advise them about the distributorship of Coca Cola and other big companies as well as how to apply for licences?

Mr. Mohamud: Mr. Deputy Speaker, Sir, we will do our best to ensure that traders are attended to. Right now, we have a shortage of staff countrywide, but we will do our best to ensure that we offer our services effectively and efficiently.

Mr. Deputy Speaker: Next Question!

Question No.025

TARMACKING OF ROADS IN GATUNDU SOUTH

Is the Mr. Member for Gatundu South here?

Hon. Members: Uhuru Kenyatta!

(Laughter)

Mr. Deputy Speaker: We will come back to the Question later.

Next Question!

Question No.008

NUMBER OF REGISTERED POLITICAL PARTIES

Mr. Obwocha asked the Attorney-General:-

(a) how many political parties have been registered to date; and,

(b) if he could give a breakdown of their names and registration certificate numbers.

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

(a) At the time I signed the answer there were 48 registered political parties, but as I stand now in Parliament there are 47 parties.

(b) Their names and registration certificate numbers are as follows: Kenya African National Union - R1579; FORK(K) - R15418; FORD(A) - R15419; FORD(P) - R18273; Democratic Party of Kenya - R14995; Kenya National Democratic Alliance - R15040; Party of Independent Candidates of Kenya - R151128; Mass Party of Kenya - R15100.

As at the time I signed the answer, the National Development Party of Kenya was in dissolution. I can now confirm that it has been dissolved. The other parties are: Kenya Social Congress - R15431; Kenya National Congress - R15047; UMMA Patriotic Party of Kenya - R18267; People's Party of Kenya - R18261; Kenya Nationalist People's Democratic Party - R18371; New People's Democratic Party - R18260; Democratic Assistance Party - R18265---

Mr. Deputy Speaker: Mr. Attorney-General, I think you should just table that list now.

The Attorney-General (Mr. Wako): Kenya Socialist Party - R18259---

Mr. Deputy Speaker: Mr. Attorney-General, just table that list.

(The Attorney-General laid the documents on the Table)

Mr. Obwocha: Mr. Deputy Speaker, Sir, it would have been good for him to read that list for the record of this House and for the history of this country. However, if you have ruled---

Mr. Deputy Speaker: Order, Mr. Obwocha! You have been here long enough to know that, when a document is tabled, it forms part of the records of this House.

Mr. Obwocha: Mr. Deputy Speaker, Sir, since you have given your ruling, my question is this: Over 25 of these political parties have been registered by the Special Branch. The Kenya Alliance for Democracy submitted its application on 5th April, 2000. Could the Attorney-General tell this House why this party has not been registered?

Mr. Wako: Mr. Deputy Speaker, Sir, that does not really arise out of the Question. If the Question had been: "How many parties have applied and not been registered?" I would have been ready for his answer. I can check and let him know.

Mr. Murungi: Mr. Deputy Speaker, Sir, you have heard from the Attorney-General that there is no party by the name New KANU. Section 20 of the Societies Act states that no society can amend its name except with prior consent of the Registrar and which should be made after an application in writing. On 18th March, 2002, when KANU and the NDP went to Kasarani, there was no prior application or consent to change the name. Therefore, what was done at Kasarani was illegal and those elections are null and void. Could the Attorney-General tell this House why he stood there and smiled as these illegalities were being committed in his presence?

Mr. Wako: Mr. Deputy Speaker, Sir, I was invited as an observer along with diplomats and other people. I did not observe any illegalities in the course of the proceedings.

Mr. Deputy Speaker: I can also confirm that, Mr. Attorney-General.

Mr. Murathe: Mr. Deputy Speaker, Sir, I am still here and this is not Kasarani. However, on a very serious note, you can see that after the registration of political parties, they must be active. Could the Attorney-General tell us how many of these political parties are active or is it correct, as hon. Obwocha has said, that some of these parties are merely creations of the Special Branch to give the impression that there is robust democracy in this country?

Mr. Wako: Mr. Deputy Speaker, Sir, under Section 11 of the Societies Act, the Registrar of Societies can refuse to register any society or revoke the same on specified grounds. I do not know the activities of these parties but since they file their annual returns, they must be active somewhere.

Mr. Kajwang: Mr. Deputy Speaker, Sir, I just wanted to correct what hon. Murungi said by way of a point of order.

Mr. Deputy Speaker: No! This is Question Time!

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

Mr. Deputy Speaker: No!

Mr. Kajwang: Mr. Deputy Speaker, Sir, I want to say---

Mr. Deputy Speaker: Hon. Kajwang, if you have got a question to ask, ask it!

Mr. Kajwang: It is a point of order, Mr. Deputy Speaker, Sir. Hon. Murungi has misled this House very gravely and deliberately.

Mr. Deputy Speaker: Under what Standing Order has he done that? Which Standing Order has he breached?

Mr. Kajwang: Mr. Deputy Speaker, Sir, he has, knowingly, and maliciously, misled the House. What hon. Murungi has said is that there is no name like New KANU in the register. Of course, there is no party called New KANU in the register. He should have looked at the constitution which was approved at Kasarani which said that KANU will be like that in the register.

Mr. Deputy Speaker: Order, hon. Kajwang!

Mr. Kajwang: Mr. Deputy Speaker, Sir, it is merely a logo!

Mr. Deputy Speaker: Order, hon. Kajwang! I will harass you for as long as you do not follow our rules! That Question was directed at the hon. Attorney-General and not at one Mr. Kajwang. So, you have no *locus standi* to answer it.

Mr. Kajwang: Mr. Deputy Speaker, Sir, but I am a Member of this House and I have a right to---

Mr. Deputy Speaker: Order, hon. Kajwang! I will not allow you to engage in a frivolous exchange with the Chair.

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

Mr. Deputy Speaker: I will now require you to leave the Chamber for the rest of this morning sitting.

(Mr. Kajwang withdrew from the Chamber)

Mr. Manyara: Mr. Deputy Speaker, Sir, on that same day, when NDP dissolved itself, a political party that is listed as No.7 - Party of Independent Candidates of Kenya (PICK) - was dissolved. Therefore, under what circumstances is PICK still appearing on the register since it dissolved itself on the day that NDP dissolved itself?

Mr. Wako: Mr. Deputy Speaker, Sir, the Registrar of Societies follows the procedures laid down under the law. Under the law, if a society passes a resolution to dissolve itself, in accordance with its own constitution, it has 14 days within which to notify the Registrar of Societies. On proof of that, the Registrar of Societies may declare and approve the dissolution of the party and, obviously, that has not happened now.

Mr. Obwocha: Mr. Deputy Speaker, Sir, could you assist me by ordering the Attorney-General to tell us

when he will bring the answer to my question about Alliance for Democracy in Kenya? When will that political party be registered? When will the Attorney-General bring the answer?

Mr. Wako: Mr. Deputy Speaker, Sir, I think, once a Question is put in those terms I will reply to it.

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

Mr. Maitha: Mr. Deputy Speaker, Sir, first of all, let me apologise for coming late.

Question No.089

UNLAWFUL DISMISSAL OF NCPB EMPLOYEES

Mr. Maitha asked the Minister for Labour:-

(a) whether he is aware that National Cereals and Produce Board unlawfully dismissed Messrs George O. Okinya and Lazaro M. Munyao and that their terminal dues have not been paid fully to date; and,

(b) what measures he is taking to have the two employees either paid their dues fully or reinstated to their positions.

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Messrs. George O. Okinya's and Lazaro M. Munyao's services were terminated due to poor performance.

(b) Since they have been paid, part (b) does not arise.

Mr. Maitha: Mr. Deputy Speaker, Sir, it seems as if the Assistant Minister has not read his answer properly.

When you look at part (a) of the reply, it states:-

"The Board dismissed Mr. George Okinya due to loss of confidence".

In the labour laws, there is nothing like "loss of confidence" to be incorporated in any dispute and under the Disputes Act. What does the Assistant Minister mean by "loss of confidence" in the labour laws?

Mr. Ethuro: Mr. Deputy Speaker, Sir, the hon. Member is deliberately misleading the House. The issue was that Mr. Okinya's services were terminated due to loss of confidence in his performance. So, that statement can only be read in its complete form by adding the word "performance" since it is not just "loss of confidence".

Mr. Maitha: Mr. Deputy Speaker, Sir, while the Assistant Minister is also ignorant about what he is saying in his reply, could he table these people's signatures to prove that they really collected their terminal dues as he has stated in this answer because the information I have is that their dues are still being held by the Ministry's officials?

Mr. Ethuro: Mr. Deputy Speaker, Sir, I do not have the signatures to table, but I can provide the collection date for the money and the amounts collected.

Mr. Maitha: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has stated clearly here that these people were paid. He has even indicated the collection date but the information I have is that the Labour Officer has been keeping this money in his office. These people have not collected anything. Could the Assistant Minister table a document containing the signatures of these people to prove that his answer is really genuine?

Mr. Ethuro: Mr. Deputy Speaker, Sir, the hon. Member brought a Question and its answer has been provided. If he does not trust us, who else does he trust? The fact of the matter is that the cheques have been collected and if he needs any proof, he can always come to us to get the details. However, the money has been collected and we have given out the cheques, amounts and the collection dates and I think that is a satisfactory answer.

Mr. Ndicho: Mr. Deputy Speaker, Sir, the Ministry of Labour and Human Resources Development was created to help Kenyans obtain jobs in factories and other areas of employment. However, over a long period of time, the Ministry has not been of any help to Kenyans who are either seeking jobs or those who are sacked; to get their terminal benefits. Could the Assistant Minister tell us whether his Ministry is now protecting the employers because we are dissatisfied with the answers we get from this Ministry? Is your Ministry geared towards helping Kenyans obtain jobs and also ensuring that those who lose their jobs get their terminal benefits?

Mr. Ethuro: Mr. Deputy Speaker, Sir, the Question was about two employees of the NCPB and so I find it difficult to answer that particular question. However, if the hon. Member files a fresh Question, I will get a proper answer for him.

Mr. Maitha: Mr. Deputy Speaker, Sir, now that NCPB is a parastatal body which falls under the Civil Service, and its employees are not protected by any union, is the Assistant Minister satisfied that Kenyans are properly protected when they are carrying out their jobs and after they have been sacked?

Mr. Ethuro: Mr. Deputy Speaker, Sir, in the case of the two employees of the NCPB who were dismissed, I think that the employer was more generous. They were being accused of fraudulent activities that involved theft,

which should have led to summary dismissal. But considering the many years they had worked for the company, they were paid their terminal dues.

I just want to reassure the House that it is the responsibility of the Ministry of Labour and Human Resource Development, by law of this House, to take any employer to court if there is any breach of the provisions of employment.

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

Question No.012

COLLECTIONS FROM NYAMIRA/KISII TEA FARMERS

Mr. Angwenyi asked the Minister for Agriculture:-

- (a) how much money has been collected from tea farmers by each of the factories in Zone 10 of Nyamira and Kisii districts, in each year since 1994 to date, for the construction of tea factories; and,
- (b) how much of this money has been collected from the Kitutu Chache farmers in each of the years.

Mr. Deputy Speaker: Anyone here from the Ministry of Agriculture? Mr. Angwenyi, I will defer this Question to Tuesday next week.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, on Tuesday next week I will be out of the country on official business. I would like to request you to ask the Minister to answer this Question tomorrow afternoon. We do know that, that Ministry has eight Ministers.

Mr. Deputy Speaker: We would like to know when you want to have this Question answered.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I request that you defer it until tomorrow afternoon.

Mr. Deputy Speaker: The Question has been deferred until tomorrow afternoon.

(Question deferred)

Mr. Muihia's Question for the second time!

Question No.025

TARMACKING OF ROADS IN GATUNDU SOUTH

Mr. Deputy Speaker: Mr. Muihia still not there? The Question is dropped.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

ISSUANCE OF ID CARDS IN SOUTH IMENTI

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

(a) Is the Minister aware that on 11th March, 2002, a huge crowd of youths, who had gone to seek National Identity Cards, threatened to burn down the Chief's Camp at Kionyo Market in South Imenti?

(b) Is he further aware that the said youths have sworn to burn down the camp unless they are issued with ID cards without delay?

(c) What steps is he taking to speed up the issuance of ID cards at the chiefs' camps countrywide?

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

(a) I am not aware of any crowd of persons who had gone to seek registration on 11th March, 2002, and threatened to burn the Chief's Camp at Kionyo Market in South Imenti.

(b) I am not also aware of any threat posed by anybody or group of persons to burn down the Chief's Camp in South Imenti unless they were issued with ID cards.

(c) For the record of this House, the registration of persons is a continuous process and Kenyan nationals, who have become of registrable age, are required by law to seek registration and subsequent issuance of the national

ID card not only in the chiefs' camps, but in any other place and at any other time that may be convenient. The Department has put in place the necessary machinery, including mobile programmes, to facilitate speedy issuance of national identity cards countrywide.

Mr. Murungi: Mr. Deputy Speaker, Sir, I am very disappointed by this answer. If these Young Turks want to rule this country, they have to do much more research. It is true this Chief's Camp was about to be burnt down by the youths who were very angry because the Registration Officer was asking for Kshs150 for every identity card on the pretext that the films and the cameras were his. He wanted money to pay for those films and the cameras. The youth who did not believe him wanted to burn him at the Chief's Camp and he was saved by one mzee called Kaparo. Could the Assistant Minister tell this House what investigation he has done after receiving my Question? What I am saying is true and this is the information I have received. It is not enough for him to come to this House to say he is not aware! What steps has he taken to establish the correctness or otherwise the facts?

Mr. Samoei: Mr. Deputy Speaker, Sir, in accordance with Section 2 of the Registration of Persons Act, Cap.107, the Government may require the person seeking an identity card to provide his or her photograph where the same is not available. We did have a delay of this equipment to provide for this service and when persons were asked to provide their photographs, it is within the law for them to do so. If there was a person who provided that service at a fee, there is absolutely nothing I can do. They would have gotten their photographs from any other persons and not necessarily from the one charging Kshs150. However, as for the incident in question, I am not aware. My investigations reveal that there were people seeking identity cards and they were not a threat to the Chief's Camp neither were they rowdy in any way.

Mr. Kombo: Mr. Deputy Speaker, Sir, it is well known that the issuance of identity cards is a very slow process. In places like Bungoma, they even ask for title deeds. I do not know why that should be happening. But could the Assistant Minister tell us why it takes very long, even after the registration has taken place, for the actual identity card to be issued? My own daughter, who was registered in October last year, has not received her identity card up to now. Why does it take this long?

Mr. Samoei: Mr. Deputy Speaker, Sir, I did inform this House sometime last year, that we were in the process of computerising this exercise so that we could issue identity cards as efficiently as we should. However, that process is underway and we hope to realise that efficiency in a very short while. While I do admit that it sometimes takes a bit of time to get identity cards, this House will also appreciate that we have in our custody thousands of identity cards whose owners have failed to collect them. They are a big problem to us.

Mr. Nderitu: Mr. Deputy Speaker, Sir, is the Assistant Minister making it official that anybody who wants an identity card should go with his or her photograph? Is he telling us that the Government has no money to provide for films and cameras so that people can be issued with identity cards?

Mr. Samoei: Mr. Deputy Speaker, Sir, as things stand now, we do have all these materials available. I did say that the law provides that in the event that, that service is not available, persons seeking identity cards are required to provide their photographs.

Mr. Murungi: Mr. Deputy Speaker, Sir, under the Registration of Persons Act, it is a criminal offence for any person who has attained the age of 18 not to apply for an identity card. We are aware that many of the youths in this country are not being issued with identity cards and we suspect that it is because it is well known that the youth in this country support the Opposition. Could the Assistant Minister consider mobilising the Registration Officers to go to all the schools in this country and register the youth, especially the Form Fours who are now attaining the age of 18? I got my identity card at school. Why can our students also not get their identity cards from schools instead of going to report to the chiefs' camps?

Mr. Samoei: Mr. Deputy Speaker, Sir, for the information of the hon. Member, we do provide identity cards in schools. I did also get my identity card in the secondary school that I attended. That exercise is still on. For the youth who do not have identity cards, and yet they have attained the age of 18, it is wishful thinking for Mr. Murungi to even imagine that the youth of this country support the Opposition. The only party that gives a chance to young people in this country is KANU. The deadwoods and old guards belong to the Opposition!

(Applause)

Mr. Murungi: On a point of order, Mr. Deputy Speaker, Sir. We will know the true position regarding this matter after the election. The categorical assertion the Assistant Minister has made will be proved wrong. Is the Assistant Minister in order to mislead the House that the Government is issuing identification cards in schools when it is not? Which schools in Meru, and especially in South Imenti, have registration officers gone to issue national identification cards?

Mr. Deputy Speaker: Order! Mr. Murungi, you have asked a question rather than raising a point of order.

Mr. Murungi: Mr. Deputy Speaker, Sir, it is only in the Rift Valley Province where registration officers issue national identification cards to school leavers.

Mr. Samoei: Mr. Deputy Speaker, Sir, I would encourage Mr. Murungi to visit his constituency frequently. If he does, he may not have to ask such a question.

Mr. Deputy Speaker: Very well; let us proceed to the next Question.

MEASURES TO AVERT TEACHERS' STRIKE

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

(a) Is the Minister aware that Kenya National Union of Teachers (KNUT) officials are planning a nationwide strike involving all teachers?

(b) Why has the Government not paid the remaining four phases of the teachers' salary increment as agreed upon in 1997?

(c) What immediate action is he taking to avert the strike?

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

(a) I am aware that the KNUT officials are planning a nationwide strike involving all teachers. However, no strike notice has been issued, as per the labour laws.

(b) The Government has adopted the harmonisation of salaries and allowances as a strategy in order to address the terms and conditions of service of all public servants. Implementation of the remaining phases of the teachers' salary increment is not possible because there are not enough resources.

(c) Establishing dialogue with teachers will avert the intended strike.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, the Minister has given a very different answer from the one he has given me. However, I should draw his attention to the fact that this is a very grievous issue facing the nation. The Government entered into a binding agreement with the teachers. The agreement entered into was signed by the Teachers Service Commission (TSC) and the late Mr. Ambrose Adongo for the KNUT. Present were the then Permanent Secretary (PS) for Education, Mr. Lesrima, and the then Solicitor-General, Mr. Ringera. The agreement was signed at State House, Nairobi, and witnessed by the highest authority in the country, His Excellency the President. You will remember the *isukuti* dance that took place that night.

Mr. Deputy Speaker: Ask your question now!

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, the Minister has deliberately avoided part (b) of my Question: Why has the Government not paid the remaining four phases of the teachers' salary increment as agreed upon in 1997? He should not divert from this Question.

Mr. Kosgey: Mr. Deputy Speaker, Sir, the facts that have been referred to by the hon. Member are known. In respect of part (b) of the Question, I said that we have not implemented the remaining phases of the teachers' salary increment because there are not enough resources. Allow me to explain more on this issue, so that the position can be clearer to hon. Members before they ask supplementary questions.

The agreement, which was gazetted under Kenya Gazette No.534 of 1997, provided for increase of salaries by between 150 per cent to 250 per cent, and a house allowance of 50 per cent for the lowest scale. In 1997, the annual pay package for teachers was about Kshs24 billion. The first phase of their salary increment translated into an increase of 47.4 per cent of this figure, raising their annual pay package to Kshs36 billion. If the second, third, fourth and fifth phases were to be implemented, the annual salary package for teachers would have risen to Kshs48.4 billion, Kshs62.9 billion, Kshs76.2 billion and Kshs84.4 billion respectively.

Mr. Deputy Speaker, Sir, obviously, these figures could not be met by the meagre financial resources allocated to the Ministry annually. However, since then, teachers have been receiving their annual salary increases. In the 1998/99 financial year, they received an increase of about 5 per cent, while in 1999/2000 they received 2.4 per cent. These increments have raised their annual pay package from Kshs36 billion in 1997 to Kshs43.7 billion currently. Following the adoption of the harmonisation of salaries and allowances for public servants by the Government, the teachers' annual pay package increased by 15 per cent in the current financial year. You can, therefore, realise that we are currently paying teachers about Kshs44 billion.

An hon. Member: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Kosgey: Mr. Deputy Speaker, Sir, this is a very serious issue and, therefore, hon. Members ought to listen very carefully to the explanation I am giving.

Mr. Deputy Speaker, Sir, the national annual revenue collection is about Kshs200 billion. The Kshs84 billion

the teachers are demanding, in salaries and allowances, is close to half of the national Budget. If we pay teachers this much, how will the Government provide other services to the public?

Mr. Opoire: Mr. Deputy Speaker, Sir, did the Government not anticipate this position when it entered into the agreement with the teachers? If the Government did anticipate this position why did it sign the agreement?

Mr. Kosgey: Mr. Deputy Speaker, Sir, during that time, the country's economic situation was not as bad as it is now. Since 1997, we have experienced an economic down turn, which has adversely affected our revenue base. We are, therefore, not in a position to implement the remaining phases of the salary increment.

Mr. Omingo: Mr. Deputy Speaker, Sir, the Minister says that they did not anticipate this problem when they entered into the agreement with the teachers. We know that revenue collection has been increasing every year. Could he, therefore, tell the House the measures he is going to take to avert the looming strike by the teachers? It is surely coming.

Mr. Kosgey: Mr. Deputy Speaker, Sir, Mr. Omingo used to work at the Kenya Revenue Authority (KRA). So, he knows very well that revenue collection has not been increasing. The country's annual revenue collection has been between Kshs180 billion and Kshs200 billion over the years, and it has not increased. On what we are doing to avert the strike, I said that we expect to establish dialogue with the teachers.

Hon. Members: On a point of order! On a point of order!

Mr. Deputy Speaker: Order! Order! Let the Minister finish what he is saying.

Mr. Kosgey: At the moment, we keep approaching KNUT to come to---

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

Mr. Deputy Speaker: Order! He has hardly answered that question! How can you rise on a point of order? Proceed, Mr. Kosgey!

Mr. Kosgey: Mr. Deputy Speaker, Sir, I have not finished the sentence. The hon. Member, is a Member of the Committee on Education, Research and Technology, and I did explain a lot of things to him---

Mr. Deputy Speaker: Order, Mr. Kosgey! Answer the question!

Mr. Kosgey: Mr. Deputy Speaker, Sir, I said that we are trying to establish dialogue with the teachers so that we can explain to them that the way forward is through the harmonisation programme that is currently going on within the Civil Service.

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

Mr. Deputy Speaker: Order, Mr. Muite! I know you want to ask a question! Go ahead and ask it.

Mr. Muite: Mr. Deputy Speaker, Sir, Mr. Opoire asked a very specific question. When the Government was signing a legally binding agreement, were these figures in the billions that the Minister is now giving us not available? Mr. Minister, why did you sign the agreement if you knew that you could not afford to pay what you are legally supposed to pay? That is what we want to know. Why did you sign?

Mr. Kosgey: Mr. Deputy Speaker, Sir, at that time, as I said, we did expect that the economy would grow. In fact, projections at that time were that the economy would grow up to 7 per cent. As we all know, the economy has not even grown; it has probably been around 1 per cent, or 1.4 per cent and sometimes even negative. Therefore, our revenue collection has been below the anticipated figure.

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, could the Minister tell the House what is the Government's position in respect of that binding agreement? Is it null and void? **An hon. Member:** Is it "bindable?"

Mr. Kosgey: Mr. Deputy Speaker, Sir, the agreement is there, and it was gazetted. There is no dispute about that; we have an agreement with the KNUT. However, we have an agreement that cannot be implemented. I think the way forward is to follow the harmonisation programme that is currently going on. That is a very important point because, however much we may want to implement the agreement, we cannot do it, and that is the bottom line; we do not have money.

Dr. Kituyi: Mr. Deputy Speaker, Sir, even the most blind adherent of "Nyayo economics" could have known that in 1997 the Kenyan economy was not going to double within five years to justify a treble income for teachers. But this Government, with its kind of economics, signed an agreement with KNUT. They knew they would pay Kshs4 billion to teachers. While the Minister is attempting some civility here, consistently the reaction of the Government towards KNUT has been arrogant. He signed an answer which was brought to this House today, which the hon. Member complained about being different. Just allow me to read out two sentences from this answer. The Minister said:

"I am not aware that KNUT is planning a strike."

He says that no action is being taken to avert a non-existent strike. It was signed by the Minister, Mr. Kosgey.

An hon. Member: Where does he live?

Dr. Kituyi: Mr. Deputy Speaker, Sir, is that the Minister who is going to look after our children? He thinks

that he can do that by standing here and telling us that in 1997 they expected the economy to grow. To date they do not know. Could he tell us - now that they can conjure up "new Nyayo economics" figures about economic growth - when do they think they will start implementing the binding cost that they have with the teachers of Kenya?

Mr. Kosgey: Mr. Deputy Speaker, Sir, first, that answer which I signed quite some time back is still valid under law. This is because, as I said, no strike notice has been given. However, through the Press and other various media, we know that the teachers are planning a strike. However, I wish to assure Dr. Kituyi that the children of this country are in good hands.

(Applause)

They are in capable hands of the Minister for Education. This is very serious. Everybody is aware of the economic situation that we are in.

Mr. Muite: Who is responsible? --- (inaudible).

Mr. Kosgey: Mr. Deputy Speaker, Sir, we are all responsible, including Mr. Muite!

Mr. Deputy Speaker: Mr. Minister, do not react to these provocations! Just answer the question!

Mr. Kosgey: Mr. Deputy Speaker, Sir, I am sorry, if I am reacting to the provocations coming from seated hon. Members. But I wanted to explain that the situation in 1997 was different from the one that we are in at the moment. In 1997, we did anticipate that come after the general elections, there would be donor support, resumption of aid from the IMF and the World Bank. Therefore, we anticipated the economy to grow, as I said, between 5 per cent to 7 per cent. That did not happen and, therefore, the downturn continued. We went up to 1 per cent and 1.4 per cent last year, and these figures which I have just quoted, are simply not attainable under the current economic situation.

Mr. Mugalla: Mr. Deputy Speaker, Sir---

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

Mr. Deputy Speaker: Order! But he is not on the Floor! What point of order are you raising?

Proceed, Mr. Mugalla!

Mr. Mugalla: Mr. Deputy Speaker, Sir, since this is a national issue that will affect the education of our children in this country, could the Minister declare whether, if teachers go on strike, it will be declared illegal or legal?

Mr. Kosgey: Mr. Deputy Speaker, Sir, of course, we do not want to have a strike. I think the hon. Member, having been a trade unionist, knows that the law, which says that a strike is illegal or not illegal, after declaring a dispute and so forth, does not fall under this category. We do not want the teachers to go on strike. It is a national issue, and I do expect that any person in Kenya, who is nationalistic, will go out of his way to explain to teachers and the public at large, that the amount of money that is required to implement these phases is not within the means of this country.

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

Mr. Deputy Speaker: Order! Who are you informing? There is no such thing as point of information!

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, may the Minister rest assured that we shall be out, hand-in-hand and side-by-side with teachers, if they will go on strike, and we shall do that faithfully in order to ensure that the Government pays teachers the remaining money. The Government owes Kenyans and teachers a duty of care. Could he tell this House what he will do if the teachers moved to court today and they applied the ancient leave order of *mandamus* in order to compel this Government to do a function under which it is obligated by law to do, which they will do? If that kind of action is taken, what will they do? Why do you not implement one phase of teachers' pay in order to "cool their temperatures?"

Mr. Kosgey: Mr. Deputy Speaker, Sir, I hope the hon. Member heard me when I said that anybody who is nationalistic should go out of his or her way to explain to the teachers the circumstances in which we are in---

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

Mr. Kosgey: Mr. Deputy Speaker, Sir, I have not finished answering.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, is the Minister in order to apply the meaning of a "nationalist" in such a case and deceive this House that those people who are in support of the teachers' strike are not nationalistic?

Mr. Deputy Speaker: Order! There is no point of order there! You are asking a question! That is a point of argument!

Proceed, Mr. Kosgey.

Mr. Kosgey: Mr. Deputy Speaker, Sir, it is this House that appropriates all the funds that are collected as taxes. The Government brings a request to this House to be provided with money and promises that it will be spent according to the requests made for it. We cannot request this House to appropriate money we do not have. We do not have the money; that is the bottom line.

Mr. Maitha: On a point of order, Mr. Deputy Speaker, Sir. The Minister has been giving the same answer to all the supplementary questions. Why can he not stand up and admit that the Government had---

Mr. Deputy Speaker: Order, Mr. Maitha! That is not a point of order! You should know better than

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to mislead this House that the reason for not paying the teachers is lack of money? He knows that between 1997 and today, the Government has increased salaries of judges, Permanent Secretaries and Members of Parliament without any Appropriation. Is it in order for the Minister to mislead the House that the reason for not paying teachers is lack of money when he knows that, that is not the reason? The reason is that the Government wanted to fool teachers so that they could vote for this Government! The Government is expecting to repeat the same thing before the next general elections.

Mr. Deputy Speaker: Order, Mr. Imanyara! That is not a point of order. You are just arguing with the Minister!

Mr. Katuku: Mr. Deputy Speaker, Sir, the Minister owes the teachers of this country an apology. Yesterday, the Minister for Labour and Human Resource Development and the Minister for Education were summoned by a Committee of this House to come and explain to Parliament what is going on. None of the Ministers turned up! Is the Minister, therefore, serious when he is refusing to appear before a Committee of Parliament? Could he tell us why he boycotted the meeting with a Committee of Parliament yesterday?

Mr. Deputy Speaker: Mr. Minister, I do not think you have to answer that question. That is a matter which is still before a Committee of this House. If the Committee feels that you defied it, then they know what to do. It is not for a Member of that Committee or any other Member of Parliament to come and take the Minister to task on a matter that is still before a Committee.

Mr. Murathe: Is it actually in order for the Minister to refuse to answer a specific question by a Member of Parliament? Now that the Government is saying they have no money to pay the teachers and yet they have signed that agreement, when do they hope to pay the teachers? He should not tell us "When funds are available!"

Mr. Kosgey: Mr. Deputy Speaker, Sir, I have already answered that question. The figures contained in the agreement are not attainable, given the state of our economy. We have no option but to dialogue with the teachers and explain to them that the way forward is through the harmonisation programme.

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

POINT OF ORDER

PRESENCE OF FOREIGN MILITARY PLANES IN MOMBASA

Mr. Imanyara: Mr. Deputy Speaker, Sir, I last week I sought a Ministerial Statement in the presence of the Leader of Government Business with regard to the circumstances under which American, British and German military planes are flying in and out of Mombasa to Somalia, without the knowledge of this House. We wanted the Minister for Foreign Affairs and International Co-operation to explain to this House and the country why these planes are taking off from Mombasa on military missions to a neighbouring country under circumstances that are not clear to the people of Kenya. At that time, the Chair pointed out that the Minister for Foreign Affairs and International Co-operation was not present in the House but the Leader Government Business was here at that time and I am wondering when this Ministerial Statement will be given.

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Speaker, Sir, it is true that the hon. Member did raise that point. I thought it was taken up by the Minister for Foreign Affairs and International Co-operation. But he is not in the Chamber this morning and I undertake to contact him, so that he could come to the House and appraise us about the situation.

Mr. Muchiri: Mr. Deputy, Sir, the Leader of Government Business is the Vice-President of this country. He ought to know what is happening all over the country. Why can he not issue the statement in the absence of the Minister for Foreign Affairs and International Co-operation?

Mr. Deputy Speaker: Order, Mr. Muchiri! The Leader of Government Business has undertaken to inform the Minister for Foreign Affairs and International Co-operation to come to the House and give that statement. I think that is sufficient for his part.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. How about the provision of collective responsibility? This is a very grave matter because we could be attacked by those nations that are sympathetic to Somalia. Could he apply the principle of collective responsibility and---

Mr. Deputy Speaker: Order, Mr. Ndicho! If the people who are supposed to apply the principle of collective responsibility do not want to do so, there is nothing the Chair can do!

Mr. Maitha: On a point of order, Mr. Deputy Speaker, Sir. The Vice-President and Minister of Home Affairs, who is the Leader of Government Business should bring the Minister for Foreign Affairs and International Co-operation to come and give that Ministerial Statement in this House, because this matter is a very serious one. All these armies are stationed in my constituency and we are worried about this.

Mr. Deputy Speaker: Order, Mr. Maitha! How can the Vice-President and Minister for Home Affairs bring a Member of this House? That hon. Member is duty-bound to come to the House! The message will reach him, that this House awaits his statement. Let us give the Vice-President and Minister for Home Affairs an opportunity to reach him. We do not know whether the Minister for Foreign Affairs and International Co-operation is in Timbuktu or in Beijing! We can give him up to tomorrow afternoon if he will be available.

MOTION

LEAVE TO INTRODUCE THE CHIEF'S AUTHORITY (AMENDMENT) BILL

THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled The Chief's Authority (Amendment) Bill to amend Section 7 in order to ensure that persons engaged by chiefs or their assistants are paid an allowance or salary by the Government.

(Mr. Muchiri on 27.3.2002)

(Resumption of Debate interrupted on 27.3.2002)

Mr. Muchiri: Mr. Deputy Speaker, Sir, under Section 7 of the Chief's Authority Act, chiefs and their assistants have the authority to engage or to employ elders. Elders have been appointed in every sub-location in this country by chiefs. Unfortunately, chiefs do not issue letters of engagement. The effect of this has been that these elders are not paid, although they do a very good job. There are places in this country where chiefs' offices are miles away from villages where people live. These elders, therefore, provide information to the chiefs as to what is going on in the villages.

Mr. Deputy Speaker, Sir, this Government pays witnesses travelling allowances when they go to give evidence in court. In the same breath, court assessors are paid allowances when they are sent to court. This Government also pays millions of shillings to police informers. You will also find that this Government pays allowances to the National Intelligence Service officers. So, there is no reason why these elders, who are appointed by the chiefs in every village, should not be paid an allowance. In some areas, the elders who have done a good job---

(Loud consultations)

Mr. Deputy Speaker: Order, Mr. Maitha!

Mr. Muchiri: Mr. Deputy Speaker, Sir, why can you not throw him out?

Mr. Deputy Speaker: I am giving him the last warning!

Mr. Muchiri: Mr. Deputy Speaker, Sir, District Commissioners and the chiefs do not have the authority to pay the village elders and so they give them relief food meant for the district, in place of their allowances. Most of these elders are KANU chairmen in their respective areas, who have volunteered to work for this Government. These elders ought to be more respected than the chiefs because they do more work than them. They also adjudicate cases in their respective areas, and because they are not paid any allowance, they ask the warring parties to pay a certain amount of money before their cases are heard. They know that if they adjudicate a case against one party, that party will not pay the required fee.

We need these elders to adjudicate cases, and they are all over the country in every location. The Government should accept to pay them an allowance. Even members of the land boards are paid an allowance. Why should we not pay the elders a small allowance to induce them to do good work?

[Mr. Deputy Speaker left the Chair]

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

Since they are not paid anything, these elders engage in corrupt deals. So, if elders can engage in corrupt deals and they are the people that this Government depends on, how will we eradicate corruption?

Mr. Temporary Deputy Speaker, Sir, finally, I know that the Minister may come up here and say that there is no money to pay these elders because they are very many. These elders have been engaged by the chiefs and their assistants, and a law was passed in this House authorising this, so the Government should provide funds for their allowances. A lot of money is being misappropriated in this country. If an hon. Member is called from any part of the country to attend a Committee sitting, he is paid travelling and sitting allowances. So, why should the Government not pay the village elders?

With those few remarks, I invite hon. Ndicho to second the Motion.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I was preparing to contribute to the Motion, but since the hon. Member has asked me to second it, I will do so.

The hon. Mover of this Motion is trying to drive at the fact that there are some people in the villages, where Kenyans live, who are doing a good job. The Kenyan population today stands at 30 million, and assistant chiefs, chiefs, district officers do not have the capacity to listen to all the grievances and the problems of the wananchi in a bid to solve them and make sure that there is smooth running of governance operations in their areas. In a bid to ensure that there is smooth running of operations in the villages, assistant chiefs have appointed elders from the community to help them in governance and sorting out wananchi's problems.

These people stop doing what they ought to do, for example, looking at their cattle or tilling their farms, so that they can go and help the assistant chiefs and the chiefs in governance and sorting out wananchi's problems. The Mover is requesting that some little money should be set aside by the Government to pay these people. If that is done, as the Mover rightly said, it will eradicate corruption. We know, as a matter of fact, that no Kenyan today goes to an assistant chief's office or a chief's office with a problem to be sorted out if he has no money. Before he starts his journey in the morning to the assistant chief's or the chief's office, he first goes to a friend to ask for Kshs200 or whatever amount of money that the chief demands, so that his case can be listened to. All this amounts to corruption. It, therefore, means that if this person has got no money, then his case will not be listened to, his problem will not be solved, and so it will persist.

Therefore, if there is good governance in this country, the generation of revenue will not be a problem. If money in the Exchequer is well expended, then some money can be set aside to pay the elders some allowance. This spills over to the pertinent issues obtaining in the country, such as the payment of increased salaries to teachers, civil servants and all other employees in this country. The Government has set a bad example for the private sector to emulate. If the Government does not pay good salaries to its employees, the private sector will take a cue from it and the result will be that even people working in private companies will be paid little money. The Government will have no moral authority to tell the private sector to pay good salaries to its employees, and this will result in problems to employees in both the private and the public sectors. We are calling upon the Government to start with its own officers because the money they receive is so little that they are forced to engage in corrupt practices, like cutting down trees in the forests; allowing the brewing of illicit brews; for example, *chang'aa, kumi kumi, et cetera*. Why do we have all these problems? It is because both the chiefs, assistant chiefs and even the administration police, are poorly paid. When an administration policeman (AP) manning a chief's office or a DO's office sees a criminal ready to give him some good money to be released, provided that the AP gets paid, he will set the criminal free of whatever crime he committed. So, we are calling upon the Government to start looking at these things positively.

Mr. Temporary Deputy Speaker, Sir, Mr. Manyara asked the Minister why members of the Judiciary, military and even hon. Members, had their salaries reviewed upwards and the Minister could not answer that question. We have one source of revenue and that is the Exchequer. It is only that the Government has got no will. We are imploring upon the Government to have the will. Let us share the national cake together. Let us not have some people who are better paid, like hon. Members, simply because they are near the Minister for Finance whom they can sweet-talk and increase their salaries. The chief cannot go near the Minister. We are asking the Government to treat all Kenyans equally. Let us share the national cake; let the revenue that is generated in this country help as many Kenyans as possible, but not a few "politically-correct" guys, as they are called.

Mr. Temporary Deputy Speaker, Sir, if there is transparency and accountability over the revenue generated and collected in this country, we are not going to hear about the things that we are hearing today. At least, these days, every sector is going on strike; the air traffic controllers are threatening to go on strike; the teachers are going on strike. Even the civil servants; it is only that the Government has denied them the right to register their union. But immediately the civil servants' union is registered, they will give a notice of going on strike. Hon. Members are not

threatening to go on strike because they have been given good salaries. So, the Government can also give those who are working in the Civil Service good salaries.

One of the areas that the Government should guard against is the importation of products that can be produced and manufactured in Kenya; where the Government makes heavy losses in foreign exchange. Why are we importing milk from South Africa and Denmark? Why is the Government allowing this to happen? The Government says that these commodities are cheap, but this is the reason why the Government loses money and, therefore, finds it not possible to increase salaries of civil servants, teachers and everybody. If the people who are importing products which can be produced in this country are stopped, the money that is used for importation is going to remain in this country, and it will be distributed evenly to everybody.

Why is the Government allowing importation of eggs from South Africa and Israel? Why is the Government allowing the importation of sugar when there is a lot of sugar produced in the sugar belt in western Kenya? Enough sugar can be produced in this country and make sure that it is enough for domestic use and even for export. Kenya is a very funny country; instead of encouraging its own farmers to produce enough farm products for both domestic and export, this Government encourages farmers from other countries to dump their surpluses here at the expense of Kenyans.

Mr. Kaindi: On a point of order, Mr. Temporary Deputy Speaker, Sir. With all due respect to Mr. Ndicho, I fail to see relevance of what he is saying to this Motion.

(Applause)

Mr. Ndicho: You cannot see the relevance in my contribution because you should open and broaden your mind in order to hear any relevance. We are trying to look for areas where we can make money!

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is Mr. Ndicho in order to begin addressing the hon. Member who has just raised the point of order against him, when he should be addressing the Chair?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, hon. Kaindi should open his mind and see that what I am talking about is to broaden the revenue base so that we can have a lot of money. We should not import things into this country that are not necessary!

Mr. Temporary Deputy Speaker, Sir, I know what the Government will answer when replying to this Motion. The Government will say: "We cannot do this because funds are not available. We cannot increase salaries for these people because funds are not available." The Minister for Education is saying that they cannot keep their promise of paying teachers because there is no money, but we are telling them how to make money and where to get money!

With those few remarks, I beg to second.

(Question proposed)

The Minister for Energy (Mr. Raila): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion.

Let me begin by expressing surprise that the hon. Member for Kasarani Constituency is raising this matter in the House, knowing very well that he represents an urban constituency, and knowing his views about the Provincial Administration. I would have thought that this matter should have been raised by people who come from the rural constituencies, where this matter is an issue.

Be that as it may, let me begin by just quoting the Act here, on the responsibilities of the chief:

"It shall be the duty of every chief or assistant chief to maintain order in the area in respect of which he is appointed and for such purpose he shall have and exercise the jurisdiction and powers by this Act conferred upon him over persons residing or being within such an area."

Mr. Temporary Deputy Speaker, Sir, Section 7 of the Chief's Act; to which this Motion refers, states that:

"A chief or assistant chief may employ any person or persons residing in his jurisdiction to assist him carry out the duties imposed upon him by this Act or otherwise by law. Any person so employed may carry out and give effect to any lawful order, given by a chief or assistant chief."

The operative word here is "assist" the chief or the assistant chief.

Mr. Temporary Deputy Speaker, Sir, I think it would be asking too much if every individual who is called upon to assist the administration was to be paid money. Where are we going to draw the line, and where will it end? There is what we call "communal responsibility"; it is the responsibility of every member of our society to assist in maintaining law and order without having to be paid. Some of us want to demand that most of these responsibilities should be done voluntarily; even the work of an assistant chief. I know that a number of political

parties, for example, FORD(K) is against the Provincial Administration. They argue that Provincial Administration is a relic of colonialism that has no place in Independent Kenya.

I also have a strong view about the Provincial Administration. I believe that it should be reformed. That is why I am saying that a lot of this work needs to be done and must be done on a voluntarily basis. This is because we are maintaining law and order for the citizens and the citizens, have an obligation and responsibility to maintain law and order.

Mr. Munyasia: On a point order, Mr. Temporary Deputy Speaker, Sir. At that time, it was Mr. Raila who drew that particular provision in the Constitution of FORD(K) dismissing the Provincial Administration. Do I understand that now he is in support of the Provincial Administration?

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, as I said, I am for reform of the Provincial Administration as presently constituted.

So, I would like to take my friend, the Mover of this Motion, on a memory lane back to the colonial days. In those days, we had what was called voluntary labour where people in the rural areas were called upon every week to go and provide this labour. They were digging trenches to prevent soil erosion. In those days, it was a very useful exercise because it managed to arrest soil erosion in most parts of the rural areas. People were not paid; it was voluntary labour. These days we talk about communal policing. In fact, we have been urging the police force to introduce communal policing to assist them in maintaining law and order in our rural areas. Therefore, I think that this Motion is misplaced. It should not have been introduced at this particular time to waste the valuable time of this House. We should be debating more important matters.

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Are you satisfied that the hon. Minister is using parliamentary language when he talks about waste of time? Is the word "waste" a parliamentary language?

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, the word "waste" is parliamentary. I would have even used much stronger language.

I do believe that, in fact, the cut-off point should be at the chief. I think we should use our resources more frugally and much more prudently. We have just been talking about teachers here. Out of our revenue collection of Kshs200 billion, teachers are demanding to be paid Kshs83 billion. If we pay 200,000 teachers Kshs83 billion out of Kshs200 billion, where are we going to get the money to pay the chiefs, police, army officers and hon. Members, among other people? Maybe the solution lies in slashing down the salaries of hon. Members to be able to afford some of these other services. But if we had the money, I would not agitate for using that money to pay people to assist the assistant chiefs and chiefs in the rural areas. I would use that money to pay other people who are in greater need.

I want to remind my hon. friends that, we now live in a global village. There is what is called globalisation and liberalisation which forces us to open our markets. The Government does not have the powers to ban the importation of some of these goods here. This is because we would be violating some of the treaties which we have signed, like the WTO and COMESA, which bind us.

I want to remind hon. Members that if the economy in the world goes through a recession at certain period of time, we are not unique. But on a more positive note, I do believe very strongly that we have reached the end of the valley. We cannot sink lower than where we are. We are now picking up and I am confident that the economy of this country will pick up, and within a very short period of time, it will show positive results.

Mr. Temporary Deputy Speaker, Sir, we need to introduce institutions that will enable us to better manage our resources. But when we do that we must also be prudent on how we apply those resources. We should not apply those resources in areas where they are less needed. We have been doing a very painful exercise of retrenchment. This retrenchment is aimed at reducing the bloated Civil Service to make it leaner so that we have a leaner Civil Service that is better remunerated and motivated and, therefore, capable of providing efficient services to our people. In doing so, we should not now again begin by subtracting the gains which we have made by opening up at the bottom or adding another scale below the assistant chiefs. These people will need to be paid and, therefore, we will just go back to square one. That is why I would urge my friend, Mr. Muchiri, when he comes to reply, to withdraw this Motion so that he can bring much more important Motions to this House.

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

Mr. Kibicho: Mr. Temporary Deputy Speaker, Sir, those people who assist the assistant chiefs are recognised by the law. If the law gives the assistant chief power to employ people to assist him and he is an agent of the Government, then this Government should not even wait for this Motion to pass, but it should pay for services rendered by those people. Indeed, the Government should pay those who have rendered similar services since Independence. It is their right to be paid. The law of agency demands that if you are acting on behalf of a principal, your acts are binding on the principle. The Act gives the assistant chief, a Government officer, power to employ. You cannot employ without remuneration. Indeed, this Motion itself merely seeks to make clear a situation which may not wait for any enactment.

Mr. Temporary Deputy Speaker, Sir, if the work of the assistant chief is to maintain law and order, I have no quarrel with it. But currently, the assistant chief is an administrator, who administers people, and yet he is not elected. This is a fact I do not support. Indeed, once the Constitution of this country is reviewed, if there is anybody who purports to exercise authority under a system of this country and holds an office which is not elective, then that office must be abolished. All I am saying is that since the law gives the assistant chief power to employ the assistant to assist him, then that assistant must be paid. But when it comes to us deciding how we want to be governed, the whole Provincial Administration system must come to an end. We must create institutions where power is exercised by people who are only elected.

Mr. Temporary Deputy Speaker, Sir, some assistant chiefs have got more power than even the DC. This is not what it should be. This is because in democratic societies, one can only be governed by somebody to whom he has given authority to govern him. If you are governed by somebody whom you have not given permission to govern you, then you are not free.

Mr. Temporary Deputy Speaker, Sir, the institution of chiefs and their assistants is a colonial one and it must be abolished. Indeed, in the early 1920s when the colonialists were ruling this country, the assistant chief and chiefs were employing people. In those days, those people were not paid, but they used to be paid with beer and goats which the assistant chief used to get from the people he ruled, and they were satisfied. Even the chief and the assistant chief themselves had no salary. They were depending on handouts from their subjects. When we got Independence, we allowed this trend to continue. We did not even amend this section of the law. Now we are duty-bound to pay them because the law says so.

Mr. Temporary Deputy Speaker, Sir, I would strongly urge those who have been employed as sub-chiefs to take this matter to court as a case study so that we can hear the court's interpretation, because there is a contract, and yet they are not being paid. The law has given the Government power to employ those people, and they are not being paid. Indeed, we should not wait until Mr. Muchiri's Motion is passed by this House. We should go to court and hear its interpretation as far as this section is concerned. While we wait for the Constitution to be amended, in order to abolish the institution of the chief - because I am sure Kenyans are not going to agree to be governed by people they have not elected - the Government should issue a circular to the chiefs, reminding them of their roles.

The chief's role is only to maintain law and order, but not to pretend to be judges over domestic and land matters. That should be left to the courts. It is in the courts where justice is administered and not by the sub-chiefs. There are many other areas where the sub-chiefs assume their power and as a result take away a lot of our people's freedom. That can be corrected by the Office of the President which should define the roles of these people. They should even go beyond that and train them. They do not seem to be trained. They are simply given uniforms and a *kimbo* and installed by a DC, then they have power to administer over the people. This is not what Kenyans expect.

Mr. Temporary Deputy Speaker, Sir, sometimes, some assistant chiefs seize people's goats and chickens as donations for Harambee. These are some of the issues that these people must be discouraged from doing. Our people are law abiding and respect authority. So, when a fellow called a sub-chief demands these items, they simply give them out.

The Assistant Minister, Office of the President (Mr. Samoei): On a point of order, Mr. Temporary Deputy Speaker, Sir. Mr. Kibicho has made very sweeping allegations concerning the Provincial Administration. If he has any specific name of an assistant chief or chief who has taken anybody's goat or hen, I would like to know so that I can take action.

Mr. Kibicho: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is simply making a public relations statement, whereas he knows---

The Assistant Minister, Office of the President (Mr. Samoei): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think it behoves all of us to take the business of the House very seriously. I am sure the Chair is not about to allow Mr. Kibicho to make defaming statements about chiefs and assistant chiefs who do a very good job. He should be made to substantiate his claims or withdraw that remark.

Mr. Muite: On a point of information, Mr. Temporary Deputy Speaker, Sir. May I inform Mr. Kibicho that in the representations made to the Constitutional Committee in Western Province, almost every person from Western Province complained about chiefs taking their chickens. This is what is happening all over the country.

Mr. Kibicho: Mr. Temporary Deputy Speaker, Sir, could I proceed, so that it does not appear to be a duel between me and the Assistant Minister?

The Assistant Minister, Office of the President (Mr. Samoei): On a point of order, Mr. Temporary Deputy Speaker, Sir. I believe the business of this House should be based on facts and not on mere allegations that were made. If they are rumours and allegations, the hon. Member should state so.

Mr. Kibicho: Mr. Temporary Deputy Speaker, Sir, these are not rumours. This is information within the domain of the public and everybody knows about, that one cannot be called upon to substantiate. Newspapers have

reported about Kenyans complaining about this.

Mr. Koske: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute on this very important Motion.

We know that chiefs and assistant chiefs play a very important role in the locations and sub-locations respectively. I would like to say that I think there is a problem in the case of the recruitment of chiefs. Time and again, you find that chiefs who have been appointed to these various positions are not of age, have a questionable age background or lack the leadership ability. On a day-to-day basis, chiefs and assistant chiefs interact with *wananchi* at the grassroots level. So, it is important that the chiefs and assistant chiefs who are appointed are persons of integrity are able to relate with these people. Despite the spirited attempts by the Assistant Minister to defend these people, time and again, these chiefs will always demand something from the people if they have to sort out any problem. Chiefs would always like to sort out all matters. They do not know what is actually their role. They want to settle domestic problems and take time to try---

(Mrs. Mwewa stood up in her place)

The Temporary Deputy Speaker (Mr. Muturi): Order! Order, hon. Members! Mrs. Mwewa, may I remind you that it is incumbent upon you to familiarise yourself with the rules of the House that demand that you should not walk between the hon. Member speaking and the Chair.

Mr. Koske: Mr. Temporary Deputy Speaker, Sir, the role of these chiefs is actually not defined. The chiefs and assistant chiefs want to sort out all matters, some of which they do not have jurisdiction over. So, if the Government could actually state clearly the roles of the chiefs, I believe some of the conflicting roles would not be there.

Mr. Temporary Deputy Speaker, Sir, a certain age limit should actually be set out for employment of the chiefs and assistant chiefs. In some cases, young boys at the ages of 21, 22, or even 25 years have been engaged as chiefs. They cannot perform because, as I stated earlier, they are supposed to interact with the elderly people of about between 50 and 80 years. When they take their personal matters to a chief who is 25 years old, this chief---

The Assistant Minister, Office of the President (Mr. Samoei): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is Mr. Koske in order to state that we should employ persons of 70 or 80 years when he knows very well that chiefs and assistant chiefs are members of the Civil Service and should conform to the age limit for civil servants?

Mr. Koske: Mr. Temporary Deputy Speaker, Sir, if the Assistant Minister heard me properly, I stated that the chiefs who are 21 or 22 years old are dealing and interacting with people who are 70 or 80 years old. I did not state that they should employ old men of that age. There should actually be an age limit. I know that these chiefs are civil servants and are supposed to retire at the age of 55 years, but, definitely, I would not be here advocating for an old man to be employed as a chief.

On the other hand, the chiefs have taken up the role of having their friends or cronies forming committees that help them to sort out those problems. So, when somebody comes here and says that the chief's cronies are supposed to be paid, that is very wrong. How do you pay your friend? If you ask your friend to help you to sort out a problem in the village, how do you stand up tomorrow and say: "Because my friend has helped me to sort out a problem, he should be paid!" In every village, it is the friends of chiefs who are appointed to be village elders. So, unless a system is found of appointing respectable village elders in the sub-locations, we are wasting our time. If that is done, there would be need to pay them. But then, if we say we will pay every Tom, Dick and Harry who has helped a chief to sort out a problem at one time, that would be a waste of Government resources. At the end of the day, the same people are used by the chiefs to form kangaroo courts. The same people are used by the chiefs to sort out matters that fall under the chief's jurisdiction. You find that there is a huge hue and cry from the people, saying that those old men should not be allowed to partake in those cases.

So, that is why I am saying that if a system is going to be found, whereby certain people of repute within a certain community are appointed and asked to work voluntarily to solve some of the problems that afflict the community, that would be in order. But, on the other hand, I do not believe that the same people should be paid. If you are going to do that, you would encourage corruption. Cases where you hear that chiefs demand goats and chickens arise because they need to give food to those people. So, why should we have people who, at the end of the day, sit at the chief's place and are given lunch? The chief will have no option but to turn to the same villagers to help him.

Mr. Temporary Deputy Speaker, Sir, I believe the Motion as it is, which is urging the Government to pay those people, is not in good spirit because they do not serve any useful purpose. The Government should look into that issue. You will find that chiefs in my constituency have taken up those roles and there are serious complaints. That is why I said that we should set a limit on the age of chiefs and assistant chiefs that are being employed. It should not be

like what is happening now, where the DC and his local DOs interview the chiefs who are supposed to be employed. I think it is a wrong process because the DCs and the DOs probably end up recommending persons who are not fit to be employed as chiefs. So, if a system was found, whereby those who intend to be employed as chiefs and assistant chiefs are interviewed by the Public Service Commission (PSC)---

The Assistant Minister, Office of the President (Mr. Samoei): On a point of order, Mr. Temporary Deputy Speaker, Sir. Once again, Mr. Koske is making very outrageous statements to the effect that DCs and DOs recommend persons who do not qualify. In effect, it is hon. Members of Parliament who push and armtwist the Provincial Administration to employ their friends and relatives who do not qualify. When we resist those attempts, we are accused---

Mr. Koske: Mr. Temporary Deputy Speaker, Sir, you heard clearly what my friend has said. He accused Mr. Kibicho of not substantiating. He has also made allegations that hon. Members in this House push the Provincial Administration to employ chiefs and assistant chiefs. I think it is in order for the Chair to ask him to substantiate and give the names of Members who pushed for chiefs and assistant chiefs to be employed. If he fails to do that, I ask him to withdraw those allegations because it is dishonourable for him to say so, and to impute improper motives on hon. Members!

The Temporary Deputy Speaker (Mr. Muturi): Proceed, Mr. Munyasia!

Mr. Munyasia: Am I given the opportunity to contribute?

The Temporary Deputy Speaker (Mr. Muturi): Yes!

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir---

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. We cannot allow Mr. Samoei to get away with it! He has specifically said that Members of Parliament have pushed the Government to employ their friends and relatives as chiefs. Could he substantiate or withdraw those allegations now?

The Temporary Deputy Speaker (Mr. Muturi): For the time being, Mr. Munyasia is the one on the Floor!

Mr. Koske: On a point of order, Mr. Temporary Deputy Speaker, Sir. I was still on the Floor! I had not finished my time! I was still waiting for Mr. Samoei to respond because he made allegations against Members of Parliament! I thought you were going to ask him to substantiate and that is why I sat down! I did not know that you were not going to ask him to do that.

The Temporary Deputy Speaker (Mr. Muturi): No! That is not the procedure! Proceed, Mr. Munyasia!

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Mr. Samoei is very keen on listening to what other Members are saying and if anyone touches his nerve, he really stands up here and demands an apology or withdrawal. He imputed improper motives that Members of Parliament armtwist the Provincial Administration to employ their friends. In the same vein, we demand that he substantiates, or if he cannot do that, withdraw and apologise to the House! It is as simple as that!

The Temporary Deputy Speaker (Mr. Muturi): Order, hon. Members. Mr. Samoei stood on what he thought was a point of order, but the ruling from the Chair is that it did not amount to a point of order! So, he need not substantiate anything on that. It was merely an allegation!

Proceed, Mr. Munyasia!

Mr. Munyasia: I wish to support this Motion. A number of people who have contributed to this Motion do not appear to know what the chiefs and the assistant chiefs do. I am a son of a former village elder appointed by the chief and so, I am speaking from a vast amount of experience about what those people do. It is in that light that I support this particular Motion. Those old men appointed by the chiefs and assistant chiefs are not for *ad hoc* duties. They are usually appointed for a certain period and my father stayed as a village elder for 30 years, during which time he should have been paid! What they do is not merely to organise the villagers to dig trenches. They do many things.

The Assistant Minister, Office of the President (Mr. Haji): On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Muturi): Do you want the information?

Mr. Munyasia: Yes! He was a former chief! No! He was a Provincial Commissioner!

(Laughter)

The Assistant Minister, Office of the President (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, I think the hon. Member will agree with me that, because his father was an elder for 30 years, that is why he became a Member of Parliament. He obtained that leadership from the experience of his father!

Mr. Munyasia: I thank him for that information! He knows that they are not for *ad hoc* duties and that they

are appointed for certain duties. What they do helps a great deal to keep law and order in the villages. People who complain after small fights end up at the village elder's home. The village elder with other old men in the village do settle those particular disputes. Those wives who are beaten by their husbands in the middle of the night run and seek refuge at the village elder's home. The following morning, the village elder calls the husband to answer to those particular issues. Those who are caught committing adultery, and they are many, are saved from death by being taken to the village elder. Those who complain that their daughters have been made pregnant by some other villager's son normally take the problem to the village elder who helps to settle the disputes among them. Those who want to buy land go to the village elder who records that transaction, together with his committee. Many times they are called upon, when there are disputes regarding land purchases, to give testimonies and they usually settle the matter. The evidence is taken very seriously. Thieves who are caught either stealing crops or doing anything else are brought to the village elder.

The village elder is not there merely to organise the digging of trenches. That is long past. They still have valuable duties which help this Government to keep law and order. What we should be asking is this: Why should these people do all this work for nothing at all? They must get some payment for being disturbed in the middle of the night and taking their time to settle disputes in the villages. Many times, they ask those who bring disputes before them to bring a hen or something that can be converted into money for sharing with the other old men who assist them. If the accused is poor and cannot give them that hen, then he will not get justice. That is why we are saying that instead of having these people demand payment from the people they are serving, the Government which they are serving should make some little payment to them.

Mr. Temporary Deputy Speaker, Sir, at times, when assistant chiefs go for leave, this Minister knows there are no arrangements for anyone else to take over their duties. In such cases, some assistant chiefs even promote some of these people to senior *Mukasa*; that is, senior village elder. The senior village elder is usually appointed to act as assistant chief. These acting assistant chiefs might work for a whole month without payment. That is not fair. If the assistant chief is being paid for those duties, why should the senior village elder not be paid?

The Assistant Minister, Office of the President (Mr. Samoei): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is misinforming this House because there is no provision in the Civil Service Code of Regulations for any person who is not a member of the Civil Service to act in any capacity. If an assistant chief is on leave, we do provide for an assistant chief of the next sub-location to act on his behalf. There is no provision for elders or headmen to act as assistant chiefs.

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, you can see that this Assistant Minister is not familiar with what happens in his own Ministry or this country. There are no assistant chiefs who come from other sub-locations to act in the neighbouring sub-locations. It is the senior village elders who act on their behalf. That is a fact. He should investigate and he will find this out.

These chiefs and assistant chiefs, especially the young ones who Mr. Koske was talking about, should continue with the practice as in the past where only respectable old people were appointed as village elders. The village elder must be a respectable person, of an age recognised as an elder. He should be a person who knows the community's tribe or customs, and one who can help settle matters according to customary law. It should not be like the current practice where a 25-year old chief or assistant chief appoints young men who can help look for girlfriends for him. This happens many times and we have had scandals where an assistant chief is caught in a senior village elder's home with someone's young wife. That is what should be avoided. Otherwise, these people are doing a good job.

The chiefs and their assistants should not misuse the services of these otherwise well-serving Kenyans, who go out of their way to do a good job. For example, you will find that after the village elders have persuaded people to raise money for Harambee and they hand over this money to the chief for onward conveyance to the project, the chief takes a quarter of that amount. We have had cases where a chief gives orders to about 24 village elders that each one of them must raise Kshs2000 from his people for a certain Harambee. If he does not raise the whole amount, he must top up that amount so that the chief ends up getting Kshs2,000, from every village elder. This amounts to Kshs48,000. When the chief goes to the major Harambee he will say that his friends, village elders and him have raised Kshs10,000. The old men do not know where to go to. They only murmur: "But, I raised Kshs2,000 so, where has the rest of the money gone to?" They have no way of saying that that particular chief must pay back that money. This amounts to abusing these otherwise well-serving Kenyans, who should be considered for some payment. I would like to end by saying that those who did not know, these are old men that keep law, order and peace among people. They are the small courts that we have at the grassroots level and they should not do all this work for nothing. Thank you.

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to oppose this Motion.

I am opposing this Motion on three considerations. First and foremost, I believe the most valuable things in life are usually free, just like the oxygen we breathe. The institution of village elders was put in place to assist the chief

to arrive at a consensus and make informed decisions as far as villagers are concerned. If we start paying them according to the jobs they do, how shall we determine the kind of jobs they will do? This negates the whole business of trying to reform the Civil Service, particularly the institution of the chief. As a country, we are heading towards participatory governance. The provision of that section was to enable the chief to be assisted by some people. I imagine that the kind of people who are supposed to assist the chief should be senior members of that particular community. They should be people who are basically a living testimony of the history of the village and can inform and deliberate upon all the issues that affect that particular village. It is on that basis that I think they should not be paid.

I also oppose this Motion because it negates the whole business of Government retrenchment. At a time when we are retrenching people, and the Government has not even been able to pay the ones who were retrenched, how do we justify paying people who have been doing a good job? It is not fair. They should not be paid. As a nation, we should encourage the spirit of voluntarism. We should encourage opportunities where people can offer their services, for example, post-retirement services. For example, we should encourage people who have worked in the Civil Service and the private sector to be village elders when they retire, so that they can bring their experiences and the opportunities they have realised to bear in the villages. So, I do not think we should waste a lot of time on this particular Motion. In fact, we should call upon the Mover, my good friend, hon. Muchiri, to withdraw this Motion so that we can actually get going with serious issues of the House.

Mr. Temporary Deputy Speaker, Sir, however, I would like to just mention about the role of the chief. The office of the chief is very important, and particularly in rural Kenya where they play an important role. I still believe that they can be used as agents of development to become that focal point where we can co-ordinate our development efforts. However, we need to put enough checks on them so that when they are appointed, these assistants are not only friends and relatives of the chief, but are actually party to an elaborate process, so that they can represent a wider interest of the community as possible.

As obtains now, these persons are just friends of the chief. These are people who cannot give a contrary opinion to what the chief has said. These are people who the chief uses as agents of repression of the local communities. I think this is what we should reject. I think this is why they should not be paid so that they are there on voluntary basis. They should offer free services, intellect, knowledge and information. People who should assist the chief should be people who are willing and ready to make contributions and sacrifices to their communities. They should not be reduced to mere people who are providing paid labour.

Mr. Temporary Deputy Speaker, Sir, the chief also plays an important role where I come from in terms of curbing cattle rustling. The people who are supposed to assist the chief should be able to help him. If we know people are going to raid a neighbouring community, they should act as a source of intelligence so that this old age tradition of cattle rustling comes to an end.

Dr. Kituyi: But all chiefs are cattle rustlers!

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): I have not heard of that one. We need to ensure that these people really offer voluntary services as we do when we are distributing food aid, because we only appoint relief committees that are really voluntary. This is to ensure that the resources are actually available, and in this particular case, food aid is distributed properly. That has helped the NGOs that have been distributing food in training members of these particular communities. I think we should call upon the Government to ensure that the village elders who assist the chiefs are equally trained so that they know what their role is.

I wish to oppose the Motion. Thank you.

Mr. Mwenje: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Motion which has been brought here by my brother, Mr. Adolf Muchiri, who also doubles up as my neighbour and my very good friend. Unfortunately, I have to oppose this Motion.

I will oppose this Motion because I do not believe, and I am not convinced by any standard [**Mr. Mwenje**] why on earth we should pay the chief's assistants or whoever they are. If anything, this Motion should be amended so that we do away with the chiefs, DOs, and the Provincial Administration. Indeed, the DP Constitution, which is coming in place and which is going to start working very early next year, says clearly that we will do away with the PCs, DOs and all these chiefs. Why then should we even have these people who assist the chiefs?

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to disrupt the hon. Member who is opposing this particular Motion. However, is he in order to mislead this House by quoting the DP Constitution and stating that it will come into effect next year before the outcome of the elections, and when he is fully aware that after the Kasarani Conference, New KANU is the party for the future?

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, some people tend to think that they are the only ones who were in Kasarani. DP was in Kasarani before KANU went there. That is the day when I was elected the Deputy National Treasurer in charge of operations.

(Laughter)

However, KANU tends to think that after they have messed themselves up in Kasarani and thrown out the people who would otherwise have steered KANU to somewhere, then they have steered it to somewhere.

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. While I appreciate the argument of hon. Mwenje - I even think he is more correct than hon. Ethuro in their exchange right now - could you help us to reduce the deafening noise in our ears?

(Applause)

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, the volume is mine and I will use it to the maximum. Hon. Dr. Kituyi has nothing to do with my voice!

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is what we call noise pollution in the House and so can you reduce it?

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, some of these points of orders are simply not getting anywhere. I do not support the idea that those people engaged by the chiefs should be paid even a penny. If a chief is not able to exercise his duties without them, let him resign tomorrow. A speaker said if we are retrenching those who are employed properly in this Government because we do not even have money to pay them, why should we pay people who are idlers, who sit next to the chief's office? They just sit there and backbite everybody, discuss politics and anything that is happening in a given location, and earn for doing nothing. If anything, I would like to ask hon. Samoei to order all chiefs to ask those fellows to move away from the chief's office and go and do some useful jobs elsewhere. They are idlers! They only discuss politics. In Nairobi, some of them are grabbers and we do not need them at all.

The Assistant Minister, Office of the President (Mr. Samoei): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think it is very cruel for hon. Mwenje to refer adversely to persons who have rendered voluntary and valuable service to this country. Hon. Munyasia has just confirmed that as a result of him being a son of an elder, he is a responsible leader in this country today.

(Applause)

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, then, let hon. Samoei pay them. If he says they are useful, then he is not supporting the Motion. Could he now start supporting the Motion officially instead of partly supporting it and then partly opposing it? Where does he belong? We are not going to have bats in this House. You should be either a bird or an animal. Where does Mr. Samoei stand? This is where he contradicts himself. I am being very clear in my mind of what I want. Let him not interrupt me every other time.

The Assistant Minister, Office of the President (Mr. Samoei): On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Mwenje has made his point, but I am opposed to payment being made to these elders. They provide voluntary service. They are not demanding for any payment. I am opposed to their payment, but I am not opposed to their service.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I have said that they should never be paid, and even that voluntary service they are doing is not being seen at all. If they are doing any service, then the Government should pay them. If the Government admits here that they are doing some service, there is no voluntary and free service, and thus let them be paid. My understanding is that there is no service that they are offering, and that is why I am saying that they should be removed and not paid at all. I know their job is simply backbiting. They do nothing.

Mr. Temporary Deputy Speaker, Sir, one other thing that I have also seen here, and particularly in Nairobi, is that, when a vacancy for a chief arises, the PC employs some administration policemen and even his former aides. I want to ask the Government, through Mr. Samoei who is here, to revoke the appointment of all those APs who had been employed irregularly as chiefs, when those vacancies were not advertised. They do not know how to handle the public---

The Assistant Minister, Office of the President (Mr. Samoei): On a point of information, Mr. Temporary Deputy Speaker, Sir. I wish to inform Mr. Mwenje that the posts of assistant chiefs and chiefs are open to any Kenyan.

An hon. Member: Even criminals!

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Temporary Deputy Speaker, Sir, those Kenyans who qualify, be they teachers, former policemen or whoever should be given those positions. There is no discrimination whatsoever.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I said that the posts have never been advertised. The APs are employed directly from the Office of the President as assistant chiefs.

The Temporary Deputy Speaker (Mr. Muturi): Mr. Mwenje, you are lying and, therefore, you should sit down!

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. As Mr. Samoei was standing up, did you hear Dr. Kituyi shout: "This boy who stole the procession way"? Is it in order for Dr. Kituyi to say that to an honourable Assistant Minister?

An hon. Member: But it is true!

The Temporary Deputy Speaker (Mr. Muturi): The Chair did not hear that! Continue, Mr. Mwenje!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, let us not try to create some confusion. Some people are now high in politics and they are wondering what is going to happen. Let us concentrate on what we are doing. If somebody is not comfortable in his own constituency, let him not bring it here. We know that three-quarters of the Members in this House might not even come back, but let us concentrate on what we are doing.

Mr. Temporary Deputy Speaker, Sir, we want the Government to follow the laid-down procedure of employing people. When a vacancy arises, it should be advertised. Let them not even employ *wazees*. We want a commitment from the Government that all those APs who have been employed as chiefs or assistant chiefs will be removed and those vacancies advertised, so that we can have proper employment.

At the moment, the problem we have is a lot of excitement where some people tend to think that things can be done their way. Let it also be known that we will not allow DOs and chiefs to be used in politics for particular people. Some chiefs are employed purposely to do particular jobs for particular people in the Government. That is not right. We are soon heading for elections and we are not worried of who is merging with who, because we know that we are ready. I want to say it here openly that soon, the National Alliance for Change will take this Government and rule it properly. There was no election that was held at Kasarani for all those people who were given seats. The whole world knows there was no election at Kasarani. It should be clear to everybody that the Democratic Party will soon take the Government, and there will be proper Government and there will be no chiefs at all.

With those few remarks, I beg to oppose.

The Assistant Minister, Office of the President (Mr. Samoei): I wish to thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to respond to this Motion on behalf of the Government.

Chiefs and their assistants are entrusted with the day-to-day running of their locations and sub-locations respectively. The task of assistant chiefs and chiefs among other things is to maintain law and order, a job which I can say with a lot of confidence in this House that they have discharged with a lot of dignity and respect. Chiefs and their assistants have also contributed immensely to mobilising communities and the public in community development of primary schools, secondary schools, dispensaries and other community engagements that have taken place in this country. We should give credit where it is due. Chiefs and their assistants have done a commendable job. In the performance of their duties, they have done very well. They have acted as a link between the Government and members of the public. On petty differences between members of the public in various parts of the country, chiefs and their assistants have assisted in sorting out issues that would otherwise have been very complicated if they went to court.

Mr. Temporary Deputy Speaker, Sir, in the execution of their duties, chiefs and their assistants are mandated by law to seek the assistance of persons in the community. Such persons are not necessarily given those tasks to perform on a permanent basis. However, sometimes, because of the excellency with which they perform such duties, persons given such duties by chiefs and their assistants have performed them for a long time. The public appreciates that certain experienced persons in our society, commonly called elders and all other names, have given voluntarily, very valuable and important duty to our country. We do owe these people a lot as Kenyans because they have performed such duties with due diligence and without payment. I do not think it is correct for us to assume that for any person who has done anything for the community, there must be payment. I do not think it is correct to commercialise every assistance given to other Kenyans and to say that any person who has given this or that assistance to the chief or to the assistant chief, or indeed to any hon. Member here, is entitled to some payment. I think it is incumbent upon all of us, especially for the duties the chiefs and their assistants perform of maintaining law and order, and of mobilising community activity, to provide as much voluntary service as possible. Indeed, we do encourage members of the public with different skills and experiences to give voluntary service to the community and Kenya.

Mr. Temporary Deputy Speaker, Sir, I will single out elders, people who have great hope in this country and who have given very valuable service to this country for commendation. They have done a good job as opposed to what many people may say. We do have, in the members of the Provincial Administration, and not necessarily chiefs or their assistants, even senior persons of this country, cases of persons who do not perform their duties as expected. Indeed, as and when we have noticed that elders or even chiefs or their assistants are not performing their duties as

they should by law, we have taken the necessary action. Fortunately, I can report to this House that they are a minority. A majority of our chiefs, their assistants, elders and all persons who have provided voluntary service to the Provincial Administration and to the Government have done very well. I am proud of what they have done, and I will urge hon. Members that, as and when they notice persons who are supposed to be providing voluntary service asking for payments in whatever form, these are persons who should be dismissed from those service with immediate effect.

Mr. Temporary Deputy Speaker, Sir, paying persons who provide voluntary service to the Government, and who are in their thousands, is impossible. We have more than 6,000 assistant chiefs, and each of them has between ten to 20 elders working under him. Simple arithmetic shows that we will be required to pay about 100,000 people. Adding another 100,000 to public service is a nightmare. It would be impossible for the Government to pay them.

It is not even thinkable that we can pay salary to these people. In any case, these are people who have given voluntary service without being coerced, and have done so well. Maybe, by paying these people, we will erode the dignity with which they have been providing this service. Indeed, many of the people in this category of the Provincial Administration (PA) provide this service because they are proud of the communities they come from. They are proud to be involved in the maintenance of law and order, and to be associated with mobilising the communities they come from. The pride with which they provide this service supersedes any mode of payment we could even think of.

So, for the betterment of the PA, and in the interest of community service in our country, we would rather let the people who work under the chiefs and assistant chiefs continue providing voluntary service. I agree with hon. Members that the age of chiefs and their assistants needs to be considered. Indeed, as an administrative measure, we have given instructions to district commissioners and district officers to engage persons who have stable families, and who are responsible for their families as chiefs and assistant chiefs, without generalising that every young person is inexperienced, and that he cannot be a chief or an assistant chief. We have young men and women who serve in these categories of the PA despite their age, and they serve with distinction.

Mr. Temporary Deputy Speaker, Sir, I am surprised that my friend, Mr. Muchiri, who is a member of the Democratic Party (DP), which does not believe in the PA in the very first place, has brought this Motion here. Mr. Mwenje said that they intend to--- It is good that they will never have a chance to turn their intentions into reality. A hundred years is a very long time for them to wait before they can govern this country. So, I doubt the motive of bringing this Motion here since the DP does not believe in the PA. We would like to run the PA the way it is because it is the way it works better. Any alterations to the PA, especially in the direction proposed by Mr. Muchiri, would be disastrous. Doing what the hon. Member has proposed would be adding insult to injury, considering the country's current state of the economy.

As hon. Members have said, we are reducing the number of civil servants. It has been a very painful exercise to cut down on our Civil Service. It would be unfortunate that at this point in time, we would again want to bring into the Civil Service another 100,000 people. It would negate every gain that we have made in the exercise that we have so painstakingly undertaken to reduce our Civil Service, so that it becomes leaner and more efficient. With those remarks in mind, I would like to urge this House to reject this Motion because it is unworkable.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Speaker, Sir, thank you for giving me an opportunity to make my contribution to the Motion before the House.

I would like to say from the onset that I am opposed to this Motion. Even as we speak, the PA is not properly designed to serve the public. We, in fact, need some fundamental reforms in respect of the PA to be able to make it effective in serving Kenyans. To propose that, in its present form, some other lay officers should be given salaries is to ask for too much from Kenyans. We know that most chiefs, assistant chiefs, district commissioners, and other members of the PA, are not properly trained to deal with the welfare problems that are affecting Kenyans.

Mr. Temporary Deputy Speaker, Sir, what we need to do currently is to restructure the PA to make chiefs and assistant chiefs more receptive to the needs and problems affecting Kenyans; they need better training. A lot of the so-called "headmen" and other persons who help assistant chiefs and chiefs are so ill-trained and improperly picked that it would be an abuse of the Kenyan public to say that they should be paid an allowance from the Exchequer. So, this Motion ought to have proposed reforms to the PA, to make its officers of use to Kenyans. If we, for example, transformed our chiefs into welfare or development officers, we would have grassroot-based officers who would give adequate information to the Government. The Government would undertake development from the communities' perspectives.

Some Motions were previously brought here by hon. Members in the Opposition, particularly those from the Official Opposition party, seeking to scrap the offices of chiefs and assistant chiefs. So, it is a great surprise to those of us on the Government side that the Opposition side proposes that what they wanted scrapped should now be remunerated.

With those few remarks, I oppose the Motion.

Mr. Kariuki: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. I stand here to support the Motion which is long overdue. There are no more free things. The late President talked about there being no free things. I do not know why this Government is talking about availing of a voluntary service. Who is there to offer voluntary service? These are times that are hard, when such elders are supposed to be working in their own shambas. They have got children in school, and we expect them to work free of charge. How will that happen, unless you are extorting for services free of charge? Have you heard of anywhere in the world where people volunteer services and they are expected to be there between 8.00 o'clock and 5.00 o'clock in the evening, or even being called late in the night, as Mr. Munyasia talked about? It is totally unacceptable anywhere in the world for people to be forced to offer free labour unless they are slaves.

The Assistant Minister for Environment and Natural Resources (Mr. Kimkung): On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Muturi): Mr. Kariuki, do you need the information?

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I do not need the information. I would have liked to be informed but, unfortunately, I have very little time left. I have only ten minutes left, unless he wants to help me, but not to attack me. If he attacks me, then I will be on him.

The Assistant Minister for Environment and Natural Resources (Mr. Kimkung): Mr. Temporary Deputy Speaker, Sir, I am a member of the Rotary Club. We do give voluntary services and we do not get any pay for it. So, that is just one of the organisations that give voluntary service.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, that is a totally irrelevant piece of information because, like the Charity Sweepstake or SOS, you can do that if you are rich enough, or you have enough time to offer such help to the nation. But here we are talking about poor elders in the rural areas, who have got children in school, and have to eat and drink. Yet we are expecting them to sit there for 30 years, like Mr. Munyasia's father. That is expecting too much. We are not in the age of enslavement, and that is indirect enslavement of our people. We would expect the Government to be kind enough to offer some honoraria to these people. The Assistant Minister should be talking about how much money they will give to such elders, not them to offer free services.

Time is money, and these old people are very knowledgeable. If I retire and become one of those village elders, you will expect a very brainy person who can offer free service. I would have also expected, if at all I am going to offer that free service, to be given something in return. The issue here is: How many people are going to be appointed as the elders? Its the number, not 20---

The Assistant Minister, Office of the President (Mr. Samoei): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member for Kiharu is misleading this House. We are talking about voluntary service. There is a difference between voluntary service and free services.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, it appears as though the Assistant Minister does not know what he is talking about because he has specifically said that assistant chiefs and chiefs may employ people who can assist them. What does the word "employ" mean? That provision does not say that he or she can volunteer. So, I think the same Government here does not seem to know what is expected of them. The Government is supposed to employ people, not people to volunteer. The Government is supposed to be applying for those services, not forcing elders to offer them. The meaning of the word "employ" here is very categorical.

The Assistant Minister, Office of the President (Mr. Samoei): On a point of order, Mr. Temporary Deputy Speaker, Sir. The Member for Kiharu is misleading this House. There is no law that I know of in this country that says that. He is reading from the Order Paper. The Chief's Authority Act does not provide for employment of chiefs and their assistants. The operative word is "voluntary;" that these people can assist their assistant chiefs, and they do it voluntarily. They are not forced by anybody. The issue of enslavement does not arise here.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I do not know where the Assistant Minister has quoted that from because I am quoting from Cap 128, the Chief's Act, subsection 7. It talks specifically about chiefs employing people; not chiefs requesting people to offer services free of charge. There is nothing like that. This is the Act. I wonder which other Act he is quoting from. Therefore, if you are talking about employment, let us talk about employment and ask ourselves how much those to be employed should be paid, not saying that you will employ them free of charge. Where did you get that from? Is it from the Labour Act? We have never heard of anything like offering of free service, yet you are employed. This is a major contradiction.

If I may proceed without further interference from the other side, we know that the chiefs we have in this country at the moment are extortionists. They run kangaroo courts in the rural areas just because of this type of behaviour by that side of the House, where the Government expects free things. They want people to offer free services everyday. That is not possible. That is why we are saying that from now on, the Government should, at least, budget something for these village elders. We have been very charitable, and we cannot continue to be so anymore. If

anything, if we did away with them---

The Minister for Vocational Training (Mr. I. Ruto): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member has continued to mislead the House that the assistant chiefs are employed. These people are engaged to offer the traditional services of the elders. It is a voluntary service; it is volunteered advice and guidance. It is not employment in the terms of salaried work. When we use the word "employment"--- We can even employ a tool to do something. The word "employment" does not necessarily mean paying a salary.

The Temporary Deputy Speaker (Mr. Muturi): Order, hon. Members! Maybe, to put the matter to rest, I will just make a quick reading of the section:-

" A chief or assistant chief may employ any person or persons subject to his jurisdiction to assist him in carrying out the duties imposed upon him by this Act or otherwise by law and any persons so employed may carry out and give effect to any lawful order given by a chief or assistant chief."

I think, hon. Members, we can end this debate by saying that the information being given was contradictory. The Act is clear, but what needs to be interpreted is the term "employment."

Mr. Kariuki: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for that clarification. It appears as though the other side of the House does not read the Act. They just want to quote things which are---

The Minister for Vocational Training (Mr. I. Ruto): On a point of order, Mr. Temporary Deputy Speaker, Sir. I hope you have not ruled on the meaning of the word "employment" as used in that particular Act. Otherwise, we will need a proper interpretation.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, you are not supposed to be making rulings on this matter; you are supposed to elaborate and educate people like the Minister who seems to be illiterate as far as the Act is concerned. I think it is important that they get enlightened by reading through Acts like this before they come to this House and mislead.

If I may continue---

The Minister for Vocational Training (Mr. I. Ruto): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Muturi): Let it be a point of order!

The Minister for Vocational Training (Mr. I. Ruto): Mr. Temporary Deputy Speaker, Sir, is it in order for the hon. Member to imply that certain hon. Members are illiterate? We have gone to all the schools that he has gone through!

The Temporary Deputy Speaker (Mr. Muturi): That is out of order because all hon. Members are literate.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I never made the insinuation that the Minister is illiterate unless he alleges himself to be because I said that he could be illiterate as far as this particular section of the Act is concerned, and if that is so, I sympathise very much with him. This is because it will be important for him to study through the Act before making any insinuations.

If I may continue, I was saying that it is important for us to note that the elders out there require to be reasonably remunerated. I was doing my simple arithmetic and arguing that if only these people were paid Kshs100 per sitting, at least, that would be a half allowance which would help them to have a single meal in the rural areas. That will work comfortably to around Kshs200 or Kshs300 million a year, which this House normally earns in a month. That is not asking for too much. I think we should not be talking about voluntary service, but rather say that the Government does not have money, in which case the Minister for Finance will then put it in the next Budget, so that these people can be remunerated. We are talking about people who offer very valuable service because they are the people who vote us to this House.

Mr. Temporary Deputy Speaker, Sir, it is true, as another hon. Member alleged that---
I beg to support the Motion.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I wish to state three things---

The Temporary Deputy Speaker (Mr. Muturi): Order, Mr. Angwenyi! Do you have permission to take the time of Mr. Muchiri? If yes, Mr. Muchiri should have sought leave of the House to surrender part of his time to you!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, Mr. Muchiri has surrendered part of his time to me.

The Temporary Deputy Speaker (Mr. Muturi): Has he surrendered part of his time to you?

Mr. Angwenyi: Yes, he has surrendered part of his time to me.

The Temporary Deputy Speaker (Mr. Muturi): How?

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, I sought leave of the House to surrender three minutes of my time to Mr. Angwenyi.

The Temporary Deputy Speaker (Mr. Muturi): That is fine, Mr. Angwenyi.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, the village elders are the roots of Government in this

country. They are the ones who know our people. They are the ones who register persons, record deaths and births. They are the ones who are charged with keeping law and order at the village level. Where elders do not exist, chaos abounds like we had in Kariobangi and Kibera. These people need to be compensated. Schools pay their Boards of Governors members some allowances. Those who manage health centres are paid some allowances.

Mr. Temporary Deputy Speaker, Sir, our Government supports the tenets of capitalism. It does not support the policy of slavery! This is not a communist state! This is a country where you pay for the services you receive! These people are the ones who moderate the repressiveness of the Provincial Administration.

Mr. Temporary Deputy Speaker, Sir, organs like the Electoral Commission of Kenya employed thousands of people without advertising those positions. So, these people, who give valuable cultural services should be paid.

With those remarks, I beg to support.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, it is not in dispute that these elders offer good services to this Government. The only issue here is that this Government is claiming not to have the money. The Assistant Minister was trying to go about it the other way round. He said those elders give voluntary services. It is true that those people have never known that they are being employed by chiefs and the assistant chiefs. They are ignorant of the law. It appears that very many people in this country are ignorant about that section of the law. That section of the law says the chief can employ. The word employ means to hire and pay. It does not mean otherwise! The Ministry concerned should talk to the Minister for Finance, so that they can get the money to pay those people, who number between 60,000 and 100,000. If the Government does not require their services, they should instruct the chiefs to terminate them immediately. The Government should be prepared to pay if these elders move to court.

Mr. Temporary Deputy Speaker, Sir, it is unwise for Members of Parliament to come here and say they cannot pay for the services of those people and that they should be giving voluntary services. Members of Parliament ought to be giving voluntary services! Why is it that when Members of Parliament travel to their constituencies, they come here to claim mileage allowances? Why is it that Members of Parliament cannot come to sit in Parliament free of charge? I have never heard of people who are supposed to be giving voluntary services. Voluntary services were only given in this country during the time of the State of Emergency in 1952. In an independent country, the Government must pay for whatever services it receives from anybody, be it a native or a foreigner.

Prof. Anyang'-Nyong'o: On a point of information, Mr. Temporary Deputy Speaker, Sir, I want to request you to ask the hon. Member on the Floor to allow us time to vote on the Motion because I can see time is almost up.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, this Government is paying a lot of money to Permanent Secretaries (PSs). One PS is being paid Kshs500,000. Why? How is the Government able to pay an individual Kshs500,000 while it has said it cannot afford to pay village elders, who are demanding only Kshs100 or Kshs200 per sitting?

Finally, I want to urge the Minister not to take advantage of the ignorance of our people because they do not know the law and tell them that they are providing free services. Before these elders are engaged by the chiefs, the Chief's Authority Act should be explained to them. We have no quarrel with the chiefs. They are civil servants and it is easy for the Government to control them, but it cannot control the people the chiefs have engaged. The Minister has talked about the Code of Regulations for civil servants, but it does not cover the appointees of the chiefs; it covers the chiefs only.

Mr. Temporary Deputy Speaker, Sir, the issue of the elders sitting in the chief's office and discussing a lot of politics there was raised here. Politics is a way of life in this country and all over the world. But I am glad that the Minister has appreciated that these elders are giving a good service to the people of the Republic of Kenya. So, he should not reject the Motion. In fact, the Government should support the Motion. From the Minister's reply, it was clear that he almost supports the Motion, but possibly, he has been directed to come and oppose it. The Motion is for the wellbeing of the people of this country.

Mr. Temporary Deputy Speaker, Sir, one hon. Member here said that village elders are supposed to assist the chiefs officially. Every Kenyan is duty-bound to maintain law and order. The chiefs do not just appoint elders to assist them; the relevant section of the law refers to the appointment of people by chiefs.

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

(Question put and negatived)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Muturi): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until this afternoon, at 2.30 p.m.

The House rose at 12.30 p.m.