

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 17th July, 2002

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.190

SUBDIVISION OF BOMONYAMA SUB-LOCATION

Mr. Deputy Speaker: Is Mr. Omingo not here? We will leave his Question until the end. Let us move on to the next Question.

Question No.198

PROVISION OF PASSENGER BUSES AT AIRPORTS

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

- (a) whether he is aware that the Kenya Airports Authority (KAA) does not have passenger buses at both Jomo Kenyatta International Airport (JKIA), Nairobi and Moi International Airport (MIA) Mombasa, and that there were passenger buses at JKIA before; and,
- (b) when the Authority will reinstate passenger buses at JKIA and provide the same services at MIA.

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

(a) Yes, I am aware that the KAA does not have passenger buses at both JKIA and MIA. At the moment, KAA does not consider the services of the buses necessary.

(b) In that regard, it does not intend to re-introduce the passenger buses at both airports, though those services were there in the past.

Mr. Anyona: Mr. Deputy Speaker, Sir, I cannot understand that! We seem to be going backwards. Could the Assistant Minister explain the circumstances that led to the termination of those services and why they cannot be re-introduced? He should give us some reasons!

Mr. Samoei: Mr. Deputy Speaker, Sir, as I said, before 1978, there used to be passenger buses that provided apron services at the old Embakasi Airport, prior to the opening of the JKIA. The buses were not found necessary when the operations moved to the new airport. The reasons that I was given from the KAA were that the configuration of the new terminal building was such that those services would not be possible. There were no passenger boarding bridges available. I was also told that the airport can provide that service if it has remote aircraft packing, relative to the terminal building.

Mr. Deputy Speaker, Sir, the MIA in Mombasa has eight and three boarding bridges respectively. That cannot facilitate the use of buses. However, though the KAA has said that it is not considering the use of buses, they are considering making provisions in the airport terminal building, so that, in future, if that need becomes absolutely necessary, they will do so.

Mr. Twaha: Mr. Deputy Speaker, Sir, there is a very beautiful Very Important People (VIP) lounge that has been built at Unit Three at the JKIA. But, nine times out of ten, when a VIP goes there, the keys are not available! Could the Assistant Minister ensure that the keys are available when the VIPs arrive at the Airport, so that they can use the facilities?

Mr. Samoei: Mr. Deputy Speaker, Sir, I quite agree with the hon. Member that, that, in most cases, happens to be the case. The VIP lounges are locked when they are supposed to be in use. I will inform the KAA of that fact.

Mr. Deputy Speaker: Mr. Assistant Minister, if you travel regionally, all Kenya Airways planes are parked on the apron. They do not come anywhere near the bridges. So, when you get out of those aircrafts when it is raining, surely you do need some transport to take you to the terminal building, given that they do not even have enough umbrellas!

Mr. Samoei: Mr. Deputy Speaker, Sir, I have said that when the airport buildings at JKIA were being constructed, those provisions were not made. I have also said that they do not have enough bridges. But the KAA is considering to avail that facility in future.

Mr. Anyona: Mr. Deputy Speaker, Sir, you can even see the Assistant Minister himself is not convinced by what he is saying! Apart from anything else, you need that service for two very important reasons. One, if you want to attract tourists, you do not want them to walk through the rain or darkness in some backward country, and expect them to come back. So, that is a very important reason why we must make our airports attractive.

Secondly, there is a question of security. If people disembark from the aircraft and they are walking, how do you know where they are going! So, how do you guarantee security?

Mr. Samoei: Mr. Deputy Speaker, Sir, I would like to correct the impression created by Mr. Anyona that we are a backward country! We may be a third world country, but I think the word "backward" is a bit obnoxious!

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I did not say that we are a backward country. Of course, we are not backward. I said that we are behaving like a backward country. So, could the Assistant Minister tell us why he is behaving as if Kenya is a backward country?

Mr. Samoei: Mr. Deputy Speaker, Sir, I am satisfied that the hon. Member did not mean to say that we are a backward country.

The security of our airports, including that of passengers, is well above average. I think we have a very good security network. However, I admit that we would improve the facilities of our airports if we made provision for this service; it would give us extra leverage over other countries. I have noted the sentiments of Mr. Anyona. I will ensure that the Kenya Airports Authority receives them.

Mr. Maitha: Mr. Deputy Speaker, Sir, could the Assistant Minister tell the House whether the designer of Jomo Kenyatta International Airport (JKIA) did not provide for bus transport within it? Really, we should not have accepted such a design. If our neighbouring countries have airport facilities with a bus transport system within them, why not Kenya? So, could he confirm or deny that the designer of JKIA erred by not providing for a bus transport system within it?

Mr. Samoei: Mr. Deputy Speaker, Sir, as I said, this provision was not in the design of the airport terminal. However, this is an extra facility which can be added onto the already existing facility. I have said that the KAA will look into this issue.

Mr. Otita: Mr. Deputy Speaker, Sir, our airports appear to be the worst in Africa. When it is raining, and it happens that some passengers have heavy hand luggage, they suffer so much. It is, in fact, time we upgraded our airport facilities to international standards. What immediate plan does the Assistant Minister have to change the face of the JKIA?

Mr. Samoei: Mr. Deputy Speaker, Sir, indeed, the KAA has a five-year plan, which started last year, to renovate and upgrade our airports. We will, therefore, see changes in the next three to four years. We have already upgraded the parking slots at the JKIA. We are now looking into the runways and the other facilities which make up the airport. Shortly, we will have an airport of a status which befits this country.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the Departmental Committee on Energy, Communications and Public Works visited the Airport in Nairobi to inspect expenditure worth Kshs3 billion. The Committee realised there was no provision for buses at the passenger terminal, or a provision for any other thing. Does the Assistant Minister have other plans to include these important extras, which have not been taken care of in the Kshs3 billion expenditure?

Mr. Samoei: Mr. Deputy Speaker, Sir, I did say that there is a five-year master plan for the improvement of our airports. Mr. Angwenyi has actually referred to the already funded phases of this master plan, from last year to date. It is in our interest that JKIA is in the best condition possible; it is the face of our country. We will, therefore, act with due diligence to ensure that it is up to the required standard.

Mr. Deputy Speaker: Could you ask the last question, Mr. Anyona?

Mr. Anyona: Mr. Deputy Speaker, Sir, the Assistant Minister says that some of these things were not in the design. The truth of the matter is now known to Kenyans. When the JKIA was ready for commissioning, it was discovered that there had been some flaws, which had caused the omission of these services. Investigations were supposed to be conducted to establish what had happened so as for corrective action to be taken. What happened to the intended corrective action? For a long time, certain parts of the airport were not opened for that reason. So, something must have happened, which we are not aware of. There seems to have been corruption involved!

Mr. Samoei: Mr. Deputy Speaker, Sir, that is an observation by the hon. Member. I do not think I have anything to say about it.

Mr. Deputy Speaker: Let us proceed to Mr. Gatabaki's Question.

Question No.120

PAYMENT OF INTEREST ON TBS

Mr. Deputy Speaker: Is Mr. Gatabaki not here? We will come back to the Question.

Let us proceed to Capt. Ntwiga's Question.

Capt. Ntwiga: Mr. Deputy Speaker, Sir, before I ask the Question, I would like to inform you that I have not received a copy of the written reply to it.

Question No.417

LIQUIDATION OF FARMERS CO-OPERATIVE SOCIETY

Capt. Ntwiga asked the Minister for Agriculture:-

- (a) whether he is aware that Chuka Farmers Co-operative Society Limited is under liquidation;
- (b) how much money the Society owes its creditors;
- (c) who the liquidator is and what the terms of his appointment are; and,
- (d) how many assets the liquidator has so far disposed of.

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

Mr. Deputy Speaker: Order! What happened to the written reply to the Questioner?

The Assistant Minister for Agriculture and Rural Development (Mr. J.D. Lotodo): Mr. Deputy Speaker, Sir, my Ministry Headquarters was supposed to bring to Parliament about 15 copies of the written reply.

Mr. Deputy Speaker: I do not know about the Ministry. I know about the Assistant Minister, who is you!

The Assistant Minister for Agriculture and Rural Development (Mr. J.D. Lotodo): Mr. Deputy Speaker, Sir, I think his copy is up there.

Mr. Deputy Speaker: It is up where?

The Assistant Minister for Agriculture and Rural Development (Mr. J.D. Lotodo): In the office of the Clerk of the National Assembly.

Mr. Deputy Speaker: Order! Order! The Clerk of the National Assembly has no interest in keeping documents which belong to hon. Members. Of course, his business is to supply hon. Members with documents. So, I will not accept that excuse. I will now ask the Clerk of the National Assembly to bring in the register in which his officers record all the written replies to Questions they receive from Ministries. If the register does not show that the reply to this Question has, indeed, been received from your Ministry, I am afraid, we will have to take action against you.

The Assistant Minister for Agriculture and Rural Development (Mr. J.D. Lotodo): Mr. Deputy Speaker, Sir, as far as my Ministry is concerned, the answer is supposed to be submitted to the office of the Clerk of the National Assembly. Therefore, there must be a problem somewhere.

Mr. Deputy Speaker: We will establish that in a few minutes.

Mr. Assistant Minister, you may now answer the Question.

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

- (a) I am aware
- (b) The society owes its creditors Kshs137,823,638.
- (c) The liquidators of the society are M/s Wachira Irungu & Associates, Certified Public Accountants of P.O. Box 46671, Nairobi. Their terms of reference are as set out in Section 65 of the Co-operative Societies Act; Act No.12 of 1997.

(d) So far, the liquidators have disposed of nine assets.

Capt. Ntwiga: Mr. Deputy Speaker, Sir, in response to the part of the Question on the liquidators' terms of reference, the Assistant Minister has referred us to Section 65 of the Co-operative Societies Act. I wanted to know how much money the liquidators will realise after disposing of the assets. In the meantime, how long are the liquidators

going to be in office? They behave as if they are part of the employees of the society.

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, I have just said that the liquidator of the society is Mr. Wachira Irungu, an Associate of Certified Public Accountants of P.O. Box 46671, Nairobi. The society's creditors are owed Kshs136,823,638.

Mr. Sungu: Mr. Deputy Speaker, Sir, it appears that Government Departments in this country always go for the easy way out. Liquidators in Kenya are just like undertakers of business. They do not do anything. They do not help the collapsed companies to come up. Miwani Sugar Company is an example of companies going down because of this kind of thing. I would like to know who these creditors are, that are owed Kshs137 million. Could the Assistant Minister name them?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, the list of the creditors is attached to the written answer that I have just given to the hon. Questioner. It is too long and, therefore, hon. Sungu can read it later.

Mr. Mutahi: Mr. Deputy Speaker, Sir, the Assistant Minister has already said that some of these assets have been disposed of. How much has been raised and how much has been paid as liquidator's fees?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, nine assets have so far been disposed of. They are as follows:- A lorry worth Kshs410,000, a pick-up worth Kshs405,000, a tractor worth Kshs520,000, a Suzuki van worth Kshs540,000, which was not bought, a plot in Chuka Town worth Kshs1.8 million, a 0.6-hectares plot worth Kshs20,000; 2.6 hectares of land worth Kshs690,000, a 3.2-hectares piece of land worth Kshs250,000 and a posho mill worth Kshs37,000. The total cash received was Kshs4,582,000.

Mr. Deputy Speaker: And the liquidator's fees?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, the liquidator's fee was Kshs3,984,426.

Mr. Waithaka: Mr. Deputy Speaker, Sir, the trend in this country is that when we put companies under liquidation, it is as if we hand over their assets to the liquidator. You have just heard that after disposing of some properties worth Kshs4 million, the liquidator has taken over Kshs3 million. That makes it look as if the property belonged to the liquidator, instead of the liquidator collecting money and paying debts owed by the society.

This has not only happened to the Chuka Farmers Co-operative Society Limited. If today you ask who is the owner of Protection House, you will be told that it belongs to Mr. Omondi-Mbago, the liquidator, who has been collecting money and using it without paying debts owed to those who had taken insurance policies from the Kenya National Assurance Company. Could it be put clearly that liquidators should only go into companies to manage their assets and not to loot them?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, it is not the liquidator alone who took the Kshs4 million. The breakdown is as follows:- Liquidator's fees - Kshs1.9 million, conveyancing fees - Kshs1,350,000; Staff payments - Kshs476,426, Chuka Housing Co-operative Society - Kshs213,000 and Gitonga Aritho Valuers took Kshs45,000. This brought the total to Kshs3,984,426. So, it is not the liquidator alone who took Kshs4 million.

Mr. Keriri: Mr. Deputy Speaker, Sir, you have just heard the Assistant Minister say that a conveyancing fee of over Kshs1 million was paid. He has also talked about valuation fees. Why was this over Kshs1 million conveyancing fee paid when the assets were put under receivership?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, I suppose this was money paid as legal fees by the company.

Mr. Sungu: On a point of order, Mr. Deputy Speaker, Sir. You have heard an hon. Member say that the Registrar-General now owns a lot of properties. Could he be asked to substantiate this allegation? This is one of way of maligning names of people who are barely concerned in this Question.

Mr. Deputy Speaker: Order! Mr. Sungu, if you live in this country, you know that the Registrar-General liquidates a lot of companies. So, he is not being maligned. The hon. Member has just clearly stated that the Registrar-General performs that duty, and whether he does it properly or not, that is not the issue here.

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

Mr. Deputy Speaker: Order!

Mr. Keriri: On a point of order, Mr. Deputy Speaker, Sir. Are you satisfied that the Assistant Minister answered my question? I asked him about the conveyancing fees and he has just stood up and said that he supposed that this was legal fees. Is that an answer?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, I suppose the conveyancing fees include all the costs the liquidator incurred while trying to consult professionals. That is how that figure arose.

Cap. Ntwiga: Mr. Deputy Speaker, Sir, the Assistant Minister has said that the liquidator disposed of assets worth Kshs4 million and took almost the whole amount of money as liquidation expenses. So, what is the liquidator doing now that he has disposed of all the assets? Could the Assistant Minister order the liquidator to leave?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, I agree with the hon. Member that the liquidator has finished his work and, therefore, he should leave.

Mr. Deputy Speaker: Mr. J.D. Lotodo, I have now established that no written reply has been received from your Ministry. The Clerk of the National Assembly keeps a record of all the replies, the day and the time they are received. No such thing has happened in respect of Question No.417. So, please, make sure in future that replies are delivered to the National Assembly.

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, I will comply.

Question No.177

MISAPPROPRIATION OF MR. RIMBA'S
COMPENSATION MONEY

Mr. Maitha asked the Minister for Labour:-

- (a) whether he is aware that a labour officer in Mombasa allegedly misappropriated Kshs240,000, which came into his possession as payment of workman's compensation for Mr. Fondo Gona Rimba;
- (b) whether he is further aware that the officer has not remitted the money in spite of Mr. Fondo's efforts to get his money since 1999; and,
- (c) what action he is taking to have the money paid and the officer prosecuted.

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

- (a) Yes, I am aware.
- (b) Yes, I am also aware that the money has not been remitted to the dependants of Mr. Fondo.
- (c) I have taken action by reporting the matter to the police for further investigation and action vide my letter dated 2nd August, 2000. Meanwhile, I have instructed my officers to process the payment of Kshs240,000 payable to the dependants.

Mr. Maitha: Mr. Deputy Speaker, Sir, this is a very sad story. Mr. Fondo lost his eyesight in an accident at his work place. He was supposed to be paid Kshs240,000 through the labour office. A labour officer took the money.

Mr. Deputy Speaker: You have already asked that. The Question tells us that a labour officer took the money.

Mr. Maitha: Mr. Deputy Speaker, Sir, the Minister for Labour has said that he reported the matter to the police two years ago, and the police have not taken any action. Mr. Fondo is dead and his dependants have not received the money. When will the Minister pay this money to the late Fondo's dependants rather than tell us stories?

Mr. Ngutu: Mr. Deputy Speaker, Sir, I have already issued the necessary instructions and the money is going to be paid any time from now.

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, the Labour Office in Mombasa is notorious for misappropriation of funds. What action has the Minister taken against this officer who misappropriated these funds other than reporting to the police because this is an open case?

Mr. Ngutu: Mr. Deputy Speaker, Sir, this man has already been removed from the service through retrenchment and the police are following him until they apprehend him. Otherwise, currently, he has gone underground and when he will be apprehended he will be taken to court.

Mr. Muchiri: Mr. Deputy Speaker, Sir, you have heard the Minister say that the officer has been retrenched. How will the Government recover the money if it has retrenched the officer and paid him all his dues? **Mr.**

Ngutu: Mr. Deputy Speaker, Sir, I am sure he will have benefits from his years in service and the Government will recover the money from that. Otherwise, currently, we are paying the money out of special funds.

Mr. Oloo-Aringo: Mr. Deputy Speaker, Sir, I rise to make a statement; I did not rise to contribute. Is that the right thing to do?

(Laughter)

Mr. Deputy Speaker: No! We are still in Question Time.

Dr. Kulundu: Mr. Deputy Speaker, Sir, the Minister has said that they hope to recover this money from the officers' benefits if there are any. Does he know that, that would go against the provisions of the current Retirement Benefits Act?

Mr. Ngutu: Mr. Deputy Speaker, Sir, the Government has taken the necessary action to ensure that all rules and regulations are followed.

Mr. Kariuki: Mr. Deputy Speaker, Sir, you have heard hon. Members complain that this practice is habitual and that similar cases exist in other places. What is the Minister doing to ensure that such cases do not arise? How do

you ensure that officers do not pay themselves? What systems have you put in place to ensure that cheques are written directly to the beneficiaries rather than writing them to officers?

Mr. Ngutu: Mr. Deputy Speaker, Sir, we are making sure that when this money is received at the Ministry, it is dealt with by a responsible officer who ensures that it is paid to its rightful owner.

Mr. N. Nyagah: Mr. Deputy Speaker, Sir, since there have been complaints from the hon. Members from that area, could the Minister tell this House what action he has taken against this particular officer who misappropriated the funds? Is he still in employment? Is he still in the same station?

Mr. Ngutu: Mr. Deputy Speaker, Sir, I have already answered that question.

Mr. Maitha: Mr. Deputy Speaker, Sir, the reason why the Minister is evading this Question is because the officer who misappropriated these funds is related to him.

Mr. Deputy Speaker: Order! Hon. Members, this House will not be used for heroics and political grandstanding. Ask questions that you get information from and not to malign people. What is wrong if he is related to the Minister? You also have relatives! Do you not have them? Some of whom may have done worse!

(Laughter)

Mr. Maitha: Mr. Deputy Speaker, Sir, could the Minister tell me when he will bring the cheque to this House, since it has taken very long in Mombasa for it to be processed, so that I can collect it on behalf of the family which is suffering at the moment?

Mr. Ngutu: Mr. Deputy Speaker, Sir the Ministry has issued thousands and thousands of cheques and I will make sure that this cheque is given to the hon. Questioner.

Mr. Deputy Speaker: Next Question, hon. Kiunjuri!

Question No.063

MEASURES TO MINIMIZE ACCIDENTS
ON THIKA-MAKUYU ROAD

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

(a) how many road accidents have taken place between Thika and Makuyu towns for the past two years; and,

(b) what immediate steps he is taking to ensure that these accidents are minimised.

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

(a) A total of 201 road accidents occurred between Thika and Makuyu towns during the last two years.

(b) I have communicated to the Traffic Police to enhance speed checks and defective vehicle checks since they are the main causes of the accidents.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, the answer is definitely misleading. We have lost lives all over the nation and if these are the measures the Assistant Minister is taking, then we will have no vehicles running on the roads. The real reason is that during the rainy season the road surface becomes very smooth and that is when the accidents occur. Could the Assistant Minister tell this House how many people have died as a result of the 210 accidents that have occurred? Secondly, what action is he taking to ensure that the surface of that road is roughened?

Eng. Rotich: Mr. Deputy Speaker, Sir, it is true that the road is smooth, but we are going to do surface-plating to make it a bit rough this financial year. However, fatal accidents in Makuyu are 40 and in Thika 14. This brings the total of fatal accidents in the two towns to 54. Serious accidents are 45 in Makuyu and 20 in Thika bringing the total in the two towns to 65. Slight accidents are 56 in Makuyu and 25 in Thika bringing the total to 81 in the two towns.

Mr. Ndicho: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say that he has instructed the Traffic Police to ensure that this does not happen. The problem is not with the police. The problem started when this road was constructed and the engineers who were supervising this road were compromised by the contractor. In fact, both engineers died on the same road on different dates. Could the Assistant Minister assure this House and the motorists who use that road that, that section of the road will be roughened so that accidents are minimised?

Mr. Deputy Speaker: Hon. Ndicho, being a Christian you know that all the rough places should be made smooth!

Eng. Rotich: Mr. Deputy Speaker, Sir, we expect to do the surface-plating this financial year. However, we

have three main causes of accidents which are: Drivers; vehicle defects and pedestrians. The road is very smooth and we wanted to make it like that. Maybe it is too smooth and we need to make it a bit rougher.

(Laughter)

Mr. P.K. Mwangi: Mr. Deputy Speaker, Sir, I think what the Assistant Minister is saying is quite misleading. That section between Thika and Sagana has caused so many accidents. The reason being that the last work which was done by HZ and TM Contractors was quite shoddy.

Mr. Deputy Speaker: Ask your question!

Mr. P.K. Mwangi: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us how much he has allocated for that purpose during this financial year?

Eng. Rotich: Mr. Deputy Speaker, Sir, the meetings are going on to allocate funds. So, I am not able to say how much money has been allocated for that purpose. By next week, we shall have completed the meetings.

Mr. Keriri: Mr. Deputy Speaker, Sir, the Assistant Minister knows very well that when this road was done, he and I were in the Ministry. He was an officer and I was an Assistant Minister. There were complaints, from the beginning, since this road was made. Is the Assistant Minister saying he is going to recarpet this road or resurface it because the two are different? If he is going to recarpet the road, there must be some money set aside in the Estimates. I think he should be able to tell us how much that money is. It is not just a small allocation because the whole road has a problem. I have had three accidents on that road because it is slippery.

Eng. Rotich: Mr. Deputy Speaker, Sir, as I said, we are not able to say exactly how much money it is going to be. But the meetings are going on now and they will end on Friday next week. The problem on the road is called "bleeding". There is too much tar or tarmac. That is the main problem. So, during the hot sun, there is "bleeding". But we are going to surface-dress it in order to suck the bleeding. So, we are putting a surface dress on top to stop such bleeding during this financial year.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, during this era of multipartyism, we require every vote and most of our voters are dying on that road. Could the Assistant Minister tell this House why HZ Contractors were issued with a certificate of completion while the section between Makuyu and Sagana, which they are supposed to do, was not done? When will they complete the road?

Mr. Mwalulu: On a point of order, Mr. Deputy Speaker, Sir. Mr. Kiunjuri is complaining that he is losing voters on that road. Is it in order for the hon. Member for Laikipia East to see human beings only in terms of votes?

(Laughter)

Mr. Deputy Speaker: I will forgive you!

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, why was HZ Contractors issued with a certificate of completion before the road was completed? What action is the Assistant Minister taking to ensure that the work is completed?

Eng. Rotich: Mr. Deputy Speaker, Sir, the contractor was not HZ Contractors. It was somebody else.

Mr. Deputy Speaker: Order! Order! The name of the contractor is irrelevant. The fact of the matter is: Why was the completion certificate issued when the road was not properly completed?

Eng. Rotich: Mr. Deputy Speaker, Sir, it is true that it is not HZ Contractors. We took action against the officer who did the work. He was sacked. Unfortunately, the other one passed away. So, something was done.

Hon. Members: He passed away on the same road!

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

Question No.127

IMPLEMENTATION OF COMMUNITY SERVICE ORDER ACT

Mr. Sungu asked the Attorney-General when the Government will implement the Community Service Order Act, to avoid overcrowding of prisons and to help improve public utilities such as rural access roads.

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

The Community Service Order Act came into force on 23rd July, 1999 vide Legal Notice No.100 of 1999. The Act is implemented by the Government through the Judiciary and the Probation Department.

Mr. Sungu: Mr. Deputy Speaker, Sir, with profound respect to the Attorney-General, I think he missed the gist of my Question because we know that the Order came into force sometime back. But this is about implementation of the Order on the ground. In Kisumu and Nyando, and anywhere I know, there is not a single project that has been done under this programme. Would the Attorney-General kindly name any community project that has been done under this Order in Kisumu and anywhere else in the province?

Mr. Wako: Mr. Deputy Speaker, Sir, I am informed by the National Community Service Order Committee that, as far as Nyanza Province is concerned, this year alone, 6,295 persons have been referred to do community service. They do all sorts of jobs supervised by the chiefs in the area.

Mr. Anyona: Mr. Deputy Speaker, Sir, just like it used to be the case with the prisons, this Service is likely to be abused, where the DCs and other people will use them either to do their own work or they will be paid to get them work for other people. Who draws up a programme of work that is followed? Is there such a programme?

Mr. Wako: Indeed, there is such a programme. It is very clear in the Act which was passed by this august House that the work to be performed during the Community Service must be on public projects and not on private projects like the ones that have been mentioned by Mr. Sungu in his Question. We have the National Community Service Order Committee chaired by Justice Oguk, a judge of the High Court. Also, we have a fulltime Organising Secretary to the Committee, Mr. Rieche, who until, recently, was the Senior Principal Magistrate at Busia. Prior to that, the fulltime Secretary is now a judge of the High Court, who supervises this programme on an on-going basis. I am aware that at the district and divisional levels, there are committees which deal with that, basically, composed of the DO, the Probation Officer, the Prisons Officer and a representative of the Ministry of Roads and Public Works. The committees are in place and they advise on the type of work that should be done by these persons who are serving Community Service Order.

Mr. Muiruri: Mr. Deputy Speaker, Sir, I think the Attorney-General is not very specific about this very important Question. When he says that a judge of the High Court, like Justice Oguk, is involved in the implementation of this programme, would he get the time? Would the Attorney-General consider establishing a body to draw up its programme? We only see these prisoners in the DCs' offices and houses.

Mr. Deputy Speaker: Those are public places!

Mr. Muiruri: Would the Attorney-General be specific?

Mr. Wako: The chairmanship of the National Committee is not a full time job. The chairman is there to chair the National Committee meetings. On the National Committee, we have very key Ministries which are involved in some public projects. As I said, we have the Ministries of Roads and Public Works, Health, Education, Science and Technology and others on the National Committee which are involved in public projects in one way or another. The representation at the national level is replicated at provincial, district and divisional levels. In other words, those Ministries are involved even at those levels, not forgetting the Provincial Administration, the Probation Department and the Prisons Department which are supposed to ensure that they actually work on public projects and determine the number of hours that they are supposed to work under the order made by the court.

This Committee has full time employees. As I mentioned the Secretary and other officers are full time employees overseeing this matter.

Mr. Gitonga: Mr. Deputy Speaker, Sir, in the past, the Government has employed people to open up access roads in the rural areas. Why can these convicts not be employed to do these access roads in the rural areas so that we know that they are doing specific public projects?

Mr. Wako: In fact, they ought to be deployed to do the type of work that the hon. Member suggests they do. The construction of public access roads has been specifically mentioned in the Act as the kind of work that they should be doing. If it is not being done in your area, I suggest you contact the local committee which will ensure that whoever has been charged with that responsibility, does it.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the jails are highly congested, especially in Nairobi. Could the Attorney-General order this Commission to deploy these prisoners to remove garbage in Nairobi and clean up Nairobi River and Nairobi Dam?

Mr. Wako: Mr. Deputy Speaker, Sir, I have no powers to order the Commissioner to do that, but that can be brought to his attention. As you are aware, the intention of the Act was to try to help de-congest the overpopulated prisons. To some extent, they have succeeded although the problem is still there; I do admit. For example, in 2000, 33,526 persons throughout the Republic, who ought to have gone to prison were put on Community Service Order Bill. Nine thousand, one hundred and thirty six were women and 23,388 were men. In 2001, the persons referred to undertake Community Service Orders were 34,791 of whom 5,970 were women and 28,821 were men. To some extent, therefore, one can say that in view of this high number of persons who have been placed on the Community Service Order Bill, this has helped decongest prisons since they would all be in prison. I am the first to admit that we

still have a lot to do to decongest our prison population.

Mr. Kombo: Mr. Deputy Speaker, Sir, part of the reason why prisons are over-congested is because cases of prisoners in remand are not cleared as quickly as possible. You will find people who have been in remand for years without their cases being heard. What is the Attorney-General doing about the plight of such people who have been in remand for years?

Mr. Wako: Mr. Deputy Speaker, Sir, I do agree that this is a very serious problem, but it is being tackled. I do send officers to prisons on a regular basis so that if somebody has been on remand for a period which is considered sufficient enough, and if he is found guilty of the crime, he will not be sentenced to that period or half of that period. I have terminated thousands of those cases. His Excellency the President, during national holidays, through his exercise of mercy, also does commute a number of sentences and people are released in thousands. We are also addressing the issue of delays of cases in courts. There is currently before this august assembly, the Criminal Law (Amendment) Bill which also tries to address some aspect of this, in particular the hearing of murder cases which I admit, do take years because the police do not have the necessary equipment to type committal bundles which are necessary for the hearing of a case. Some police stations do not have the capacity to type committal bundles. So, we are trying to do away with the issue of committal bundles. The Government is also trying to look at ways of expanding prison facilities in this country despite financial constraints.

Mr. Sungu: Mr. Deputy Speaker, Sir, as usual this is a case of a well intentioned Act which is not being properly utilised to help this country. I have no problem with the National Committee; it is superb. They have put the rules down. The problem is with the implementation at the ground level. I would like to kindly ask the Attorney-General to put some measures in place so that these public projects are done. We leaders at the local level have on numerous occasions asked that these people clean access roads, hospitals and so on, but we do not see them in action.

Mr. Deputy Speaker: Now that you have made your speech can you ask your question?

Mr. Sungu: I would like to ask the Attorney-General to outline the steps he will take to ensure that this system goes into smooth operation.

Mr. Wako: Mr. Deputy Speaker, Sir, I will draw the attention of the National Committee to the sentiments of the House and in particular on the issue of the projects that should be done in the rural areas because the projects are very clear in the Act and they ought to be following that procedure. In Kisumu area, for example, this year alone, 6,295 persons have been made subjects of the Community Service Orders. They would otherwise have gone to Kodiaga and other prisons in the area. If you are not seeing the effect of that on the ground, then I would ask the Committees to ensure that, that is done so that they are seen to be working on the ground.

Mr. Anyona: Mr. Deputy Speaker, Sir, are you satisfied that instead of the Attorney-General telling us of the work that was performed, he is telling us about numbers? They could have been sitting there, doing nothing or have been hired by individuals. What did they do? Give us a list of the projects they did.

Mr. Wako: All these people are engaged in public projects such as the access roads, health centres, buildings constructions and so on. They are involved in all these areas. If the effect is not being felt on the ground, then I will ask the necessary people involved to ensure that the impact is felt on the ground.

Mr. Deputy Speaker: Order! Mr. Attorney-General, if you get returns as to the numbers involved, why do you also not ask them to give a return on the projects undertaken? Then, you can give us what happened in 2000/2001. He does not have to do it now; he can do it later!

Mr. Omingo's Question for the second time!

Mr. Omingo: Mr. Deputy Speaker, Sir, I am sorry for having come late. Last night, I underwent a one-and-half hour's ordeal of armed robbery in my house. It takes a lion's heart to be here this morning and God's grace to be alive. So, I am only pleading with the Minister of State, Office of the President, in charge of internal security to move in and give security to hon. Members.

Mr. Deputy Speaker: Order, Mr. Omingo! I can only express, on behalf of the House, most sincere sympathies for all your tribulations.

Mr. Omingo: Thank you, Mr. Deputy Speaker, Sir.

Question No.190

SUBDIVISION OF BOMONYAMA SUB-LOCATION

Mr. Omingo asked the Minister of State, Office of the President, when Bomonyama Sub-location will be sub-divided into Nduru and Getono sub-locations for easier administration.

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

The proposal to subdivide Bomonyama sublocation has been deferred severally by the District Development Committee (DDC) for lack of proper justification based on population, security, geographical consideration and distance from the nearest administrative centre.

Mr. Omingo: Mr. Deputy Speaker, Sir, it is also painful to get such an answer after last night's experience. But, nonetheless, in the rationalisation programme--- The census that was conducted allowed a subdivision of district and divisions. Sixty thousand people for a division; 20,000 people for a location and 5,000 for a sublocation. Bomonyama sublocation alone has got 12,000 adults and there is a big river between the two sublocations being proposed to be created. Could he consider---

Mr. Deputy Speaker: Order, Mr. Omingo!

Mr. Samoei: Mr. Deputy Speaker, Sir, while I sympathise with the ordeal that my friend, Mr. Omingo, went through last night, the Question that I am answering this morning has nothing to do with the events of last night. The correct population as per the last census for Bomonyama sublocation is 8,868 persons. He has correctly indicated that the provision of a new sublocation is that we must have a minimum of 5,000 people. Going by the census, if we subdivide this sub-location, we would have less than 5,000 people. That was a basis for the disqualification of the subdivision of this sublocation. However, I will assess the current population. If it meets the regulations, I will give due consideration and ask the District Development Committee (DDC) to make such recommendation.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I like this Assistant Minister; he is straightforward most of the time. He says things directly, even when he wants to be the President of Kenya.

(Laughter)

But during the by-election, when Mr. Omingo was elected, the Government assured, from the highest authority in the land, that this sublocation will be subdivided - because there is a big river; the Gucha River - into sublocations. Why can this good Assistant Minister not implement that directive issued from the highest authority to the people in South Mugirango?

An hon. Member: You are not supporting him! **Mr. Samoei:** Mr. Deputy Speaker, Sir, I do believe that Mr. Angwenyi is making reference to a statement by His Excellency the President. That being the case, I have also undertaken that we will give due consideration to this sublocation because I do believe that it now does meet the necessary regulations. The census figures that I have given on population were the last census which is quite some time now. I do believe that we do have more than 8,000 people in that area, and we will give due consideration for the subdivision of this sub-location.

Mr. Omingo: Mr. Deputy Speaker, Sir, whereas that suits my soul for a while, I will also ask the Assistant Minister to confirm as to when this could be done. Two, the other consideration is the geographical location and the distance from the chief. Could he please confirm when this could be done because it will give me a bit of calmness?

Mr. Samoei: Mr. Deputy Speaker, Sir, having said what I have said, I want to request Mr. Omingo to be patient because I have undertaken that before this House, and it will be done. I want to request him to expedite the process of the recommendation from the DDC so that I can take up the matter.

Question No.120

PAYMENT OF INTEREST ON TBS

Mr. Deputy Speaker: Is Mr. Gatabaki not here still? The Question is dropped!

(Question dropped)

Questions by Private Notice!

QUESTIONS BY PRIVATE NOTICE

CONFISCATION OF FISHERMEN'S PROPERTY

Mr. Wanjala: Mr. Deputy Speaker, Sir, the written reply that I have is not signed by the Assistant Minister.

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 Uganda Security Officers on Kenya waters in Lake Victoria near Osieko Beach, on 23rd June, 2002, confiscated several motor boat engines as follows:-

1 Motor boat engine 10 H.P. Marina - Mr. Peter Kamala;

2 Motor boat engine 15 H.P. Yamaha - Mr. Jackson Otiende;

1 Motor boat engine 25 H.P. Yamaha - Mr. John Obingo;

1 Motor boat engine 25 H.P. Marina - Mr. Raphael Ogwaro;

2 Motor boat engines 25 H.P. Evinrude - Mr. James Nadebu Omondi; and took them to Khama Island?

(b) What urgent measures is he taking to save the Kenyan fishermen from harassment and also re-claim their engines?

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

Yes, I am aware that various boats belonging to Kenyans were impounded by Ugandan authorities on diverse dates. Measures have been taken to sensitize fishermen on the need to keep within the Kenyan waters unless authorised to cross into Ugandan territory. Patrols have been augmented to ensure that Kenyan fishermen are not harassed while in Kenyan waters. The Provincial Administration in Busia, Kenya, and their Ugandan counterparts are discussing ways to resolve the issue of the impounded engines.

Mr. Wanjala: Mr. Deputy Speaker, Sir, this issue of harassment by Ugandan security officers in Lake Victoria is now very serious today. Kenyan fishermen are suffering at the hands of Ugandans---

Mr. Deputy Speaker: Order, Mr. Wanjala! Ask your question!

Mr. Wanjala: Mr. Deputy Speaker, Sir, in view of the harassment in the lake, could the Assistant Minister tell this House why the Government has reneged on giving security around the lake; that is, to send askaris to the lake in order to protect the Kenyan fishermen? When the President was in Migori, he assured fishermen that there would be askaris, but up to today, they have not been sent.

Mr. Samoei: Mr. Deputy Speaker, Sir, what Mr. Wanjala is saying is true; that, we do not have yet marine police on site. However, I want to confirm to this House that we have acquired six new speedboats which should be in Port Victoria in a month or so. We have marine personnel who are now going to effectively man our Kenyan waters in order to make sure that our fishermen are properly informed that they are within the Kenyan borders and nobody harasses them.

Dr. Oburu: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for the measures that he has taken to enhance security in the Lake, but I would like him to tell me whether he is aware that most of these boats arrested by the Ugandan authorities were arrested in the Kenyan waters and not in the Ugandan waters. They intrude into Kenyan waters. Also, is he aware that, that island where they are, up to the time of Independence, was in Kenya and it is part of the Kenyan island which we are claiming? We want to know what measures the Government is taking to return some of these islands which are being claimed by Uganda.

Mr. Samoei: Mr. Deputy Speaker, Sir, the boats in question were held by Ugandan personnel after they were duly served with seizure notices. Unfortunately, we have not had proper guidance for our fishermen, and some of the time they do stray unknowingly into Ugandan borders. Now that I have said that we will have our own marine police to properly give guidance to our fishermen, so that they know, for sure, that they are within our borders, this problem should be behind us shortly.

Mr. Sungu: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has avoided answering the question about the island which belongs to Kenya and not Uganda, where Kenyan fishermen are being arrested. Is he in order to avoid answering that question?

Mr. Samoei: Mr. Deputy Speaker, Sir, I think I have made comments with regard to this island issue before, when a Question was raised by Dr. Oburu. This issue is under discussion between our Kenyan provincial administrators and those of Uganda. Issues of borders and boundaries are very sensitive, and we are handling this issue knowing that it is a very sensitive issue. I am hopeful that we should be able to conclude the matter.

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

Mr. Deputy Speaker: Mr. Muchiri, they are talking about fish!

(Laughter)

Mr. Muchiri: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is deliberately avoiding to answer this question: To whom does this island belong and to whom did it originally belong before the Independence of Kenya and Uganda and where are the boundaries?

Mr. Samoei: Mr. Deputy Speaker, Sir, that is the only spot where we have issues of where exactly the boundaries are. We have similar issues along the Kenya-Sudan border as well. We are handling these issues as a Government, and we are in discussion with the Ugandan authorities over the island issues. Shortly when we conclude these discussions, we should be able to know whether the island is within our Kenya boundary or outside.

Mr. Wanjala: Mr. Deputy Speaker, Sir, it is true that Ugandans have been coming to Kenyan waters, and to prove this, on Sunday 14th, July, fishermen in Budalangi in Kenyan waters killed a Ugandan *askari* and carried his gun to Port Victoria Police Station. The Port Victoria policemen went to the lake and confirmed that the fishermen had been in Kenyan waters. At the moment, the Ugandan *askari* is recuperating in Port Victoria Sub-district Hospital. Could the Assistant Minister tell this House what plans he has to provide fishermen in Budalangi Constituency with guns in order to protect themselves against the Ugandan *askaris* who have kept on attacking them? They should provide guns to homeguards who reside in cattle rustling prone areas.

Mr. Samoei: Mr. Deputy Speaker, Sir, we have no plans with providing homeguards, or so to speak, fishermen with guns. However, as I have said, we have plans to make sure that our waters are patrolled by marine police. That process is in top gear, and within a month or so, we should be able to have our policemen on that border.

Mr. Deputy Speaker: Next Question!

Dr. Kulundu: Mr. Deputy Speaker, Sir, I have not received a written reply to this Question.

ACCESSIBILITY OF ANTI-RETROVIRAL DRUGS TO KENYANS

Dr. Kulundu: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Medical Services the following Question by Private Notice:-

(a) Is the Minister aware that millions of Kenyans cannot access cheap anti-retroviral generics despite the enactment of the Industrial Property Act?

(b) How many anti-retroviral drugs have, so far, been registered by the Pharmacy and Poisons Board since the enactment of the Act?

The Assistant Minister for Health (Dr. Wako): Mr. Deputy Speaker, Sir, it is true the hon. Member has not received a written reply. I am requesting the indulgence of the House to answer this Question on Tuesday next week, since the answer is not ready today.

Dr. Kulundu: Mr. Deputy Speaker, Sir, this Question has been with the Ministry for the last three weeks. Could the Assistant Minister kindly tell us why he does not have an answer?

The Assistant Minister for Health (Dr. Wako): Mr. Deputy Speaker, Sir, it might be true that the Question has been with the Ministry for the last three weeks, but it requires that we make consultations with other Ministries, like the Attorney-General's Chambers. So, we will answer the Question on Tuesday next week.

Mr. N. Nyagah: Mr. Deputy Speaker, Sir, the question of Kenyans dying as a result of HIV/AIDS is very grave in this country. We know that within two days a Question by Private Notice should be answered, and according to Dr. Kulundu, the Ministry was furnished with this Question three weeks ago. In view of the fact that there are very many controversial issues involved in this particular Question, could the Assistant Minister answer this it tomorrow, because, I am sure he can do it?

The Assistant Minister for Health (Dr. Wako): Mr. Deputy Speaker, Sir, it is true that this Question is very controversial and lives of Kenyans are involved. It is the concern and the policy of the Ministry to provide the anti-retroviral drugs, but, like he has said, there is a lot of controversy with regard to the Act, and we would like to request the indulgence of the House to answer the Question on Tuesday next week.

(Question deferred)

POINTS OF ORDER

MINISTER'S FAILURE TO TABLE DOCUMENTS

Mr. Muiruri: On a point of order, Mr. Deputy Speaker, Sir. On 11th April, 2002, I put a Question, No.160 to the Minister for Agriculture and he promised to lay on the table some documents concerning the construction of Gachege Tea Factory in my constituency. The Minister promised to lay on the table documents involving a French company called M/s Proparco and KTDA. Up to today, he has not done it. I have raised this matter in this House

several times, and each time he has promised to lay the documents on the Table.

Mr. Deputy Speaker, Sir, the last time was again on 3rd July, 2002, when he promised to lay the documents on the Table the following Wednesday which was supposed to be on 10th July, 2002. The Chair intervened and put the matter to the Deputy Leader of Government Business to take up the matter with his colleague, and he nodded in agreement. That means that this House has taken up the matter with the Minister for Agriculture and he has not tabled the documents. What happens when the Chair's orders are defied by a Government Minister? Could the Chair order, warn or expel Dr. Godana and his Assistant Ministers from the House until they produce those documents?

Mr. Deputy Speaker: I would like this message to be transmitted to the Minister for Agriculture: That this afternoon before we start debating his Vote, he must give us an explanation as to why those documents have not been laid on the table. The Assistant Minister who answered this Question originally, requested me to allow him to bring those documents on Tuesday, which was yesterday, but he did not do anything of the sort. So, this afternoon, before we embark on discussing his Vote, he must give us an explanation. Will that message be transmitted to the Minister for Agriculture?

COMPENSATION TO MR. GICHERE

Mr. Ndicho: Mr. Deputy Speaker, Sir, last week on Wednesday, I rose on a point of order requesting the Attorney-General to issue a Ministerial Statement and tell this House and the country, why a gentleman named Mr. Wallace Gichere, a former journalist with *The Kenya Times* newspapers was thrown from the fourth floor of his house by police officers and he sustained some severe injury. Mr. Gichere has been camping outside the Attorney-General's office because he has not received compensation. The Attorney-General promised Mr. Gichere's lawyers that he would be compensated accordingly, but nothing has been done. Mr. Gichere has been on hunger strike for a whole week. He collapsed yesterday and was taken to a hospital. Does the Attorney-General want this gentleman to die so that he can pay compensation to his wife and children? Why can he not pay him the compensation money?

Mr. Deputy Speaker: Order! I think the Attorney-General is ready to respond to your request.

MINISTERIAL STATEMENT

COMPENSATION TO MR. GICHERE

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, on Wednesday 10th July, 2002, Mr. Ndicho asked me to make a Ministerial Statement on Mr. Wallace Gichere who was camped outside the Attorney-General's Chambers.

On the night of 5th October, 1991, Mr. Wallace Gichere, a photo-journalist suffered severe injuries as a result of an incident that occurred at his flat number 217 at Buru Buru Phase IV Estate in Nairobi. On 20th June, 1995, almost five years later, a statutory notice of intention to sue the Government dated 14th June, 1995, by Mwangi Mbuthia and Company Advocates acting for Mr. Wallace Gichere, was received by the Attorney-General. The police denied that they threw the plaintiff through the window of the said flat. The police stated that Mr. Gichere elected to jump from his bedroom in an effort to avoid meeting the waiting police officers who had gone to arrest him. Liability was also denied because the claim was time-barred.

A complaint on this matter was received by the Standing Committee on Human Rights (Kenya) who, after investigating the matter, recommended that Mr. Gichere should be compensated for the severe injuries he suffered. The Government, in view to its commitment to uphold and protect human rights, accepted the recommendation of the Standing Committee On Human Rights (Kenya). Without prejudice, negotiations with a view to reaching an amicable settlement out of court on the issue of damages was then entered into. By 6th November, 2000, they had failed. I, consequently, wrote to the advocate acting for Mr. Gichere in these terms:

"I refer to previous correspondences and discussions. It is the considered view of this office that your quantification of the claim at Kshs245,950,048 plus damages and interest costs, is colossal and inordinately too high. Any counter offer that we may put forward cannot be beyond seven figures. I am, therefore, in doubt whether it is worthwhile continuing with negotiations as it may be difficult to reach an amicable settlement in view of the wide difference on what each side considers as reasonable.

In the circumstances, the best course of action would be for the court to assess the damages."

Mr. Deputy Speaker, Sir, I wrote another letter dated 15th December, 2001, to the advocate acting for Mr. Gichere. Mr. Gichere wrote me a personal letter and I replied to correct some misunderstandings. That letter is dated 16th December, 2001 and in it, I clarified the misunderstandings. I must say Mr. Gichere was happy that I had

clarified that misunderstanding. I informed him that the Government had accepted liability. The misunderstanding was whether or not the issue of liability was still an issue. So, I clarified to Mr. Gichere and he was happy with it. I clarified that liability was not an issue because the Government had accepted it. The only issue is the quantum of damages payable. So, I suggested that they go to court because of the wide discrepancies in the two figures.

However the advocate, acting for Mr. Gichere wanted us to continue negotiation without prejudice and I applauded them for that. I am happy that they wanted us to see really if we could not reach a solution rather than going to court. Although it was made clear in the letter dated 25th March, 2002 that whatever proposals must be based on the normal legal principles pertaining to damages relating to personal injuries, they should be specific and supported by legal authorities.

I am glad to report that Ms. Lucy Njiru, the advocate for Mr. Wallace Gichere and Mrs. V. Onyango, Deputy Chief Litigation Counsel in my Chambers have been meeting to negotiate and discuss this issue. I have further requested both to finalise their discussions expeditiously. Once they finalise their discussions, I will then be in a position to know whether they have reached a reasonable figure which I can recommend to the Government to pay or whether the matter should be fixed for hearing in court for assessment of damages.

Mr. Ndicho: Mr. Deputy Speaker, Sir, I really thank the Attorney-General for the comprehensive reply. One thing I would like to refute is the police report that Mr. Gichere threw himself out of the window. No sane person can throw himself out of a window from the fourth floor of a flat, knowing the consequences. It is not true that Mr. Gichere threw himself from the fourth floor of the flat. He was thrown down by the police officers who had gone to arrest him. The only problem in law, as Mr. Wako said, is that the claim was filed when it was time barred. The Attorney-General is talking of a seven digit figure. The highest seven digit figure would be Kshs9,999,999. Why does this Government not offer that figure to Mr. Gichere as part of his compensation? If there will be a dispute between his lawyers and the Government then he can be paid the rest.

Mr. Deputy Speaker: Order! Mr. Ndicho, really you are not Mr. Gichere's advocate. Are you?

Mr. Ndicho: Mr. Deputy Speaker, Sir, I am not.

Mr. Deputy Speaker: His advocate is already engaged in litigation.

Mr. Ndicho: Mr. Deputy Speaker, Sir, I am the advocate for all Kenyans. It is known!

Mr. Deputy Speaker: Order! This is a specific case!

Mr. Maitha: Mr. Deputy Speaker, Sir, I rise on a point of order to request for a Ministerial Statement from the Minister for Environmental on why he gave a licence to Tiomin Kenya to mine titanium---

Mr. Deputy Speaker: Order! You have jumped, the gun! Mr. Wako, please, respond to Ndicho's question.

Mr. Maitha: Oh! He has not finished!

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I think at this stage, the issue as to whether Mr. Gichere jumped, or whether he was tortured, is not really an issue because liability is not now in dispute. The Government has, in its wisdom, accepted liability. That is not an issue. The issue of the claim being time-barred, again, is not an issue because the Government, out of its generosity of spirit, has said that, that shall not be a ground to bar the claim of Mr. Gichere. As to the issue of how much, I would ask the hon. Member to go by your wisdom. The discussions are taking place right now. I would not want to jeopardise those discussions.

(Mr. Wanjala passed on a newspaper to Mr. Omingo)

Mr. Deputy Speaker: Order! Mr. Wanjala, you know that the rules forbid hon. Members to bring newspapers into the House, and you have passed one to Mr. Omingo! Mr. Wanjala, will you take that newspaper out of the Chamber now!

(Mr. Wanjala took the newspaper out of the Chamber)

Mr. Muchiri: Mr. Deputy Speaker, Sir, my question to the Attorney-General is: Why does he not sit down and sort out the problem once and for all rather do it in the manner the lawyers do it? Lawyers keep on meeting, and yet the client is suffering.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, if there is one case on which I have spent a lot of time, then it is this case. We have hundreds or thousands cases of this nature. If I were to spend everyday on these cases, I would not even have time to come to Parliament. We have officers and procedures are being followed to solve these cases. I have spent quite a bit of my time on this case more than any other case. I had to make a telephone call from London, where I was when I heard that this victim was outside my Chambers and we had a very amicable discussion. So, I would like to ask him to be patient and leave the matter to the lawyers. I am not handling the case,

and we will finalise it very soon.

POINT OF ORDER

ISSUANCE OF LICENCE TO TIOMIN KENYA LTD.

Mr. Maitha: Mr. Deputy Speaker, Sir, I rise on a point of order to ask the Minister for Mineral Exploration to issue a Ministerial Statement on why he issued a licence to Tiomin Kenya Ltd. to mine titanium in Kwale District, Coast Province. We, in the Coast region, are peaceful Kenyans and do not want to clash with the Government. But the situation has worsened now. The Government has gone round in circles and issued licence to Tiomin Kenya Ltd., which is taking our natural resource---

Mr. Deputy Speaker: Mr. Maitha, what is it that you want the Minister to do?

Mr. Maitha: Mr. Deputy Speaker, Sir, I would like the Minister to give a Ministerial Statement on why he issued a licence to Tiomin Kenya Ltd. to mine our natural resource.

Mr. Deputy Speaker: Order! Are you asking the Minister to tell you why he exercised the powers given to him by our laws?

Mr. Maitha: No, Mr. Deputy Speaker, Sir. **Mr. Deputy Speaker:** Order! If the Minister has acted illegally, that is a different matter, but if he has acted within the law, we cannot ask him to come here and explain why and how he exercised his authority. That is not right!

Mr. Maitha: Mr. Deputy Speaker, Sir, he issued the licence illegally, and that is why I would like him to make a Ministerial Statement.

Mr. Deputy Speaker: Order! If he acted illegally, take him to court! But you should phrase your question differently and I will give you a chance.

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

Mr. Deputy Speaker: I am still dealing with one!

Dr. Ochuodho: Mr. Deputy Speaker, Sir, my point of order is related to the one he has raised.

Mr. Deputy Speaker: He has not raised one yet! Mr. Maitha, do you want the Minister to explain the circumstances under which he issued that licence when there was so much controversy surrounding that issue?

Mr. Maitha: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Thank you!

MINISTERIAL STATEMENT

CLOSURE OF KIMG'OROR AND NDALAT HEALTH CENTRES

The Assistant Minister for Health (Dr. Wako): Mr. Deputy Speaker, Sir, last week, Mr. Sambu, while asking for a Ministerial Statement on the malaria epidemic, wanted to know whether Ndalat and King'oror Health Centres were closed, and if they are closed, he wanted us to open them.

Mr. Deputy Speaker, Sir, the Provincial Medical Officer of Health is visiting the area and will give the report as soon as he is back. I would like to inform the House that the Provincial Health Management team visited both health centres on 11th July, 2002 and confirmed that the two health centres were operational. Patients were getting treatment, there were adequate drugs and they were supplied with anti-malaria drugs by the Ministry of Health.

Mr. Sambu: On a point of order, Mr. Deputy Speaker, Sir. It is sad that when we are discussing people's lives, a Government Minister chooses to mislead the House. I come from that constituency and I was there on Sunday. King'oror Health Centre - and the Assistant Minister does not pronounce the name properly - was started by the late Bishop Muge and the Anglican Church. The Government has been posting staff to that health centre. This health facility is now closed because the clinical officer and the nurses posted there by the Government were withdrawn. Why do we not admit this? The health centre at Ndalat is operational but the Government staff have also been withdrawn. Both of these health institutions have not received any Government kit up to now. It is better to be sincere when we are dealing with people's lives. That is a fact.

The Assistant Minister for Health (Dr. Wako): Mr. Deputy Speaker, Sir, what the hon. Member has said is not true. It is true that King'oror Health Centre was closed for a while, but it was re-opened one month ago. This

health centre has got two nurses, a committee in place and is supplied with anti-malaria drugs by the Ministry of Health. In the case of Ndalat Health Centre, it has one nurse and attends to about 20 patients---

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

Mr. Deputy Speaker: Mr. Koskei, the Assistant Minister is responding to a point of order.

Proceed, Mr. Assistant Minister!

The Assistant Minister for Health (Dr. Wako): Mr. Deputy Speaker, Sir, as I have said, Ndalat has got a nurse and attends to about 20 patients per day. This health centre is also supplied with anti-malaria drugs by the Ministry of Health. This health centre has a refrigerator from KEPHIS and carries out vaccination.

Mr. Koskei: On a point of order, Mr. Deputy Speaker, Sir. If an hon. Member of Parliament actually says that a health centre in his constituency is closed, who actually has the facts right? Is it the hon. Member of Parliament who represents the area or the Government Minister?

Mr. Deputy Speaker: Order! The Speaker has no gauge to determine who is telling the truth and who is not. Really, in a matter like this, why does the hon. Member and the Assistant Minister not agree to visit those health centres? Mr. Assistant Minister, could you consult with that hon. Member, agree on a date to visit the two health centres and then come and tell us what you have found on the ground?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, on the same issue, I remember the Minister for Public Health saying that there is medicine---

Mr. Deputy Speaker: Order! That issue is closed! The Assistant Minister and the hon. Member will visit those two health institutions and come and tell us what they have found on the ground.

POINTS OF ORDER

DELAY IN ALLOCATING TIME TO CONSTITUTION OF KENYA (AMENDMENT) BILL

Mr. Oloo-Aringo: On a point of order, Mr. Deputy Speaker, Sir. I rise to demand a Ministerial Statement from the Chairman of the House Business Committee on the delay in allocating time---

Mr. Deputy Speaker: Order! Mr. Oloo-Aringo, you should demand that Ministerial Statement from the Leader of Government Business because the Chairman of the House Business Committee does not answer Questions here.

Mr. Oloo-Aringo: Mr. Deputy Speaker, Sir, we had agreed that I will raise this point---

Mr. Deputy Speaker: Mr. Oloo-Aringo, I agree with you but I am saying that you should direct it to the Leader of Government Business!

Mr. Oloo-Aringo: Mr. Deputy Speaker, Sir, I request a Ministerial Statement from the Leader of Government Business and the Chairman of the House Business Committee---

Mr. Deputy Speaker: That is better!

Mr. Oloo-Aringo: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Leader of Government Business and Chairman of the House Business Committee on the delay to allocate time to the Constitution of Kenya (Amendment) Bill, 2000, which is on the calendar of this Parliament. The memorandum, which I have already given to the Chairman, on Private Members' business and Parliamentary time, focuses on the blatant discrimination in allocating Parliamentary time to the Constitution of Kenya (Amendment) Bill before this House. This Bill was first published in the *Kenya Gazette*---

Mr. Deputy Speaker: Order, Mr. Oloo-Aringo! You are now making a statement! The point is that the Leader of Government Business should come and explain to this House why that Motion has not been given priority. So, could you transmit that to the Leader of Government Business to---

Mr. Oloo-Aringo: Mr. Deputy Speaker, Sir, but I would also like to explain---

(Mr. Ndicho sat on Prof. Saitoti's seat)

Hon. Members: Ndicho! Ndicho!

Mr. Deputy Speaker: I am familiar with imposters like Mr. Ndicho!

(Laughter)

But Mr. Attorney-General or any Minister, who is here, please, inform the Leader of Government Business that this

matter is urgent and, if possible, he should issue a Ministerial Statement tomorrow afternoon.

INSECURITY IN GUSII DISTRICTS

Mr. Angwenyi: Mr. Deputy Speaker, Sir, last week I sought a Ministerial Statement with regard to insecurity in the Gusii districts of Nyamira, Kisii and Gucha. The Minister promised to give a response within one week, but two weeks later, I have not received a response. I seek the indulgence of the Chair, that the Minister issues that statement because the security situation in that area is deteriorating very fast.

Mr. Deputy Speaker: Mr. Samoei, Mr. Angwenyi requested for a Ministerial Statement with regard to insecurity in the greater Kisii. What do you have to say about that?

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, I have seen a report from Kisii which is being put together. I am sure the Minister will be able to issue a Statement tomorrow.

The Assistant Minister for Health (Dr. Wako): Mr. Deputy Speaker, Sir, I wanted to confirm that we will visit the two health centres. But the Minister for Public Health is visiting all the malaria-affected areas, starting today for the whole of this week. I will request him to visit Kimng'oror and Ndalat Health Centre.

Mr. Deputy Speaker: You should inform the local Member of Parliament so that he can also be present.
Next Order!

MOTIONS

INTRODUCTION OF POLITICAL PARTIES BILL

Mr. Kombo: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-
THAT, in view of the need to enhance multiparty democracy in this country; and realising that most political parties are faced with serious organisational, management and financial crisis; this House do grant leave to introduce a Bill for an Act of Parliament entitled The Political Parties Fund Bill to provide for public funding of parliamentary political parties.

(Mr. Kombo on 10.7.2002)

(Resumption of Debate interrupted on 10.7.2002)

Mr. Deputy Speaker: Order, hon. Members! This Motion had already been moved and seconded. I will now propose the Question.

(Question proposed)

Mr. Kihoro: Mr. Deputy Speaker, Sir, I stand to support the Motion as moved by Mr. Kombo.

Mr. Deputy Speaker, Sir, politics in this country is like a good house, a car or a good job. It should not be made the preserve of a few. It is the inherent right of every Kenyan to practise politics in a practical way. That can only be done by forming political parties. Our people see politics today as "food". We have not had good politics in the past and this country has been ravaged for a long time by hunger, disease and politics is the measure of the societal wellbeing in every country. I support this Motion on the basis that we need to form political parties to advance the causes we believe in; and to eliminate political illiteracy and ensure that people make informed decisions about their economic welfare. It is important to support political activity throughout the five-year period of the life of a particular Parliament. It is very clear that a lot of political activity is being practised just before elections. It is important to have systematic political activity and this can only be done if there is sufficient funding for the political parties. It is not sufficient to say that those who subscribe to a certain political view will form a political party and from there be able to support it on the basis of the membership fees that they are able to levy. That is not adequate and it amounts to just passing the buck.

It is important that a certain proportion of the money that is required to run these political parties from renting offices, hiring personnel, providing transport and recurrent expenditure on the part of these political parties is supported by the State. Unless we do so, we are going to have the ten millionaires, that J.M. Kariuki talked about a long time ago, running political parties in this country and eventually calling the tune and submerging this country in chaos and political speculation from time to time. None has got a better right to be the President of this country just because they come from a certain gene or certain tradition of wealth. They have no right! We are all equal politically.

That is why it is important to provide the tools under which we can be able to advance and sell our views to Kenyans.

Mr. Deputy Speaker, Sir, a formula should be found of allocating this money to the political parties that are formed. In the last ten years, we have had the experience of having brief case parties, where certain people form political parties, move from office to office and eventually, have declined between the elections. I know that we already have almost 48 parties in this country. But we support the parties that are genuinely doing their work. I do not subscribe to the view that every political party registered at the Attorney-General's Chambers should get funding. That will be an abuse of the process. We want a certain measure of public support before the party can get public funding. That is important. I know it will be difficult to start if we do not have immediate support. It is also important to have a formula that is going to be acceptable and will ensure that there is a certain measure of public support before a political party gets that funding. That measure, I believe, must be certain public support. A good indicator would be the votes garnered by a political party during an election. As soon as a party garners about 1,000 votes, then a party is entitled to a certain ratio of the money that is contributed by the taxpayers in this country. Unless we do so, it is going to be very difficult to support multiparty democracy in this country.

Mr. Deputy Speaker, Sir, we know that a party like KANU might not have a lot of difficulties like the other new parties which were formed in the last ten years. KANU has got other alternative types of funding. I know that they get rent from the Kenyatta International Conference Centre (KICC) which is a public asset but since they are in power today, they have been able to manipulate. This is an acknowledgement by KANU that it is important to have certain funding to be able to support political activity. I do not agree with a lot of KANU's political activity in this country. Nonetheless, they use money from time to time to support these activities and it is important to know that part of that money is coming from a public asset. That is something that needs to be rationalised by the political party as we go into the next elections. As it is now, some of the political parties have been supported by subscriptions from their members on monthly basis. Members of Parliament are supporting many of our political parties today. Some councillors also make some contributions. But I do not think this is desirable. It is important to accept that a Government essentially, must have political parties that support or oppose its ideology. On that basis, it is important to have a certain part of the public taxation in this country going towards supporting these political activities.

Mr. Deputy Speaker, Sir, we are not going to be an exception if this Motion is adopted by the House. Our neighbours like Uganda and Tanzania have accepted the practice. But there could be problems in Uganda. But it is true that a certain proportion of public funds in Tanzania goes towards supporting political parties in that country. Viable multiparty democracy can only thrive when there is a level playing field in terms of financial support. Without that kind of support, it will be very difficult for political positions to be articulated and to have a vibrant democracy in this country. It is true that we could a multiparty democracy on paper, but eventually end up in having another one-party state in practice.

Mr. Deputy Speaker, Sir, with a single-party state, we know it could have access to public resources, without having acknowledged the fact that, that could be happening in this country. It could have support in terms of public assets without having acknowledged it, but that could be a reality. We want a level playing field so that politics become an opportunity for all in order to give guidance to the country.

The political needs of this country demand that we have political parties that are vibrant and with independent sources of income. We do not want to have a situation where some political parties get a lot of foreign funding. As soon as we start having a lot of foreign funding, that would be an inroad into our sovereignty and we could even have political parties in this country taking a position that is so foreign and outrageous to our people. But, nonetheless, they have to do so because they have succumbed to the financial largesse of their foreign masters. We do not want that to happen in this country; we want independent political parties in terms of support from the people of this country through the amount of money that they pay every year in form of taxes which amounts to Kshs240 billion per year.

Mr. Deputy Speaker, Sir, Kenya is one of the countries with the most highly taxed citizens in the world! There should be a certain measure of saying that maybe Kshs1 billion should go to funding political activities in this country, just to make sure that those who have got political-know-how, and those who cannot manage political parties, are not denied that opportunity because they might not have the wherewithal, in terms of financial resources to manage these political parties.

With those remarks, I beg to support.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I am responding to this Motion on behalf of the Government.

I beg to support the Motion, but with amendments. The amendments I am proposing in line four are as follows:- the word "Fund" should be deleted. In line three, between the words "introduce" and "a Bill" the following phrase should be inserted, "in consultation with the Attorney-General". In line five, between the words "for" and "public", the words "for the registration of political parties and other related matters, including" should be inserted; so that the entire Motion, as amendment, will read as follows:

"THAT, in view of the need to enhance multiparty democracy in this country; and realising that most political parties are faced with serious organizational, management and financial crisis, this House do grant leave to introduce, in consultation with the Attorney-General, a Bill for an Act of Parliament entitled "The Political Parties Bill" to provide for the registration of political parties and other related matters, including public funding of Parliamentary political parties."

Mr. Deputy Speaker, Sir, I think the proposed amendments are self-explanatory. Let me now respond to the Motion with the proposed amendments.

First of all, if I may just speak on the issue of funding of political parties. This is an extremely important matter, particularly the funding of Parliamentary political parties. I agree entirely with the sentiments that have just been expressed by the hon. Member for Nyeri Town, Mr. Wanyiri Kihoro, that foreign funding should be discouraged as it really undermines our own internal political debates, and makes us start looking for other things for ourselves. This is a basic principle, not only just for Kenya, but even for other countries.

I know that, in the United States of America, for example, foreign funding is not acceptable for political issues such as this; whether it is for political parties or whether it is for election campaigns. It is not acceptable so much so that, when Bill Clinton and his Democratic Party were perceived to have received some money from China, he was almost impeached for it. This is because in America, when it comes to political issues, they must be sovereign. We must determine our own political decisions in this country without any interference from outsiders because outsiders will only serve their own interests which they pursue. We Kenyans have our own interests and we must pursue them as Kenyans without any interference from outside countries.

Mr. Deputy Speaker, Sir, even within America and United Kingdom, for example, funding of political parties is permitted from private sources. A number of regulations are put in place to ensure that no single individual contributes the entire amounts or controls the funding of a political party in an election. There is a limit to which any corporation or individual can contribute to a political activity of this nature, even within the country itself.

Mr. Deputy Speaker, Sir, I was in Europe recently and there is a great debate in United Kingdom now as to how much corporate bodies can contribute to the political parties. This is because it is felt that corporate bodies contribute to political parties in furtherance of their own business interests. Therefore, they tend to compromise the Government when it is elected. For example, if a corporation helps in the campaign and they have a particular business interest somewhere, the Government may have a say in that interest. The Government which came into power as a result of the contribution from this corporate body, can be heavily compromised in making decisions not in favour of the country's national interest, but in favour of the corporate business community. Even today, in United Kingdom, there is a debate on how much they should permit on funding of political parties. In fact, there is also a debate that, maybe, there should be greater funding from the public coffers to political parties in order to discourage political parties from getting funding from corporate bodies. That is apart from the limits to which any individual can contribute to a political party. So, the issue we are discussing is an important one, and it must be faced by this nation and, that is why the Government is supporting this Motion.

Mr. Deputy Speaker, Sir, the Constitution of Kenya is very clear that Kenya is a multiparty democratic State. A multiparty democratic state presupposes political parties and political organisations. Therefore, it is incumbent upon us to have a vibrant democratic state to ensure that political parties, which have demonstrated a measure of support in the country, by some of their members being elected to this august House, which will make fundamental decisions for the country, are supported, maybe, in the proportion of their representation in the House. But those are the issues that must be mapped out in the legislation. How will the contributions to the political parties be made and to what extent should a political party expect from the coffers. Of course, at any given time, depending on the economy and the availability of resources, the cake may be big or small. But even if it is small, how would that small cake be distributed among the parliamentary political parties? That is very fundamental!

Mr. Deputy Speaker, Sir, strengthening of our political parties is not just confined to the funding. There are very many other issues that must be provided for in the law. Hence, the amendment that I have proposed to widen the scope a bit. We should not restrict ourselves to funding, but widen the scope of political parties and how we can ensure there are viable political parties in this country.

Mr. Deputy Speaker, Sir, there are issues of registration of political parties. Currently, political parties are registered under the Societies Act. Under that Act, political parties, religious organisations and social welfare organisations are registered. In other words, that Act provides for a whole range of societies which have different objectives, and whose criteria for registration really ought to be different. Time has now come when we should have an Act focused on the registration of political parties, taking care of the needs of political parties. That is why I felt that whatever Bill comes, it should tackle the issue of registration. Who should be responsible for registration? The seminar I attended last weekend recommended that an autonomous body ought to be responsible for registration. So, those are some of the issues that have to be provided for in the legislation.

Mr. Deputy Speaker, Sir, there are other issues. For example, can anybody just apply and he is registered? Should there not be some underlined values which every party must support in order to be registered? I am reminded that way back in the late 1970s and early 1980s, there was a party in West Germany called the Red Brigade Party, which was committed to overthrowing the social status structure as it then was, through violent means and revolution. That was part of its constitution. It applied to be registered as a political party in West Germany. The West Germany authorities refused to register them and they appealed to the European Court on Human Rights. The court said that West Germany was right in refusing to register that party because it was committed to the overthrow of democracy itself! In other words, you cannot use democracy to overthrow democracy! If you may recall, Hitler came to power through democratic means. So, the question, therefore, arises: Should there not be some underlined values, objectives and norms which every political party in this country must ascribe to before it is registered? On the issue of ethnicity, we now have over 40 political parties. Forget about ethnicity but most of those political parties are actually personal political parties. They are not beyond personal political parties, whose membership is just the officials, who go round every cocktail saying: "I am the chairman of this and that!" But they are personal political parties. Should we allow over 40 parties to be registered in Kenya and deceive ourselves that they are actually working or should we have some sort of criteria?

Mr. Deputy Speaker, Sir, I remember in 1994, I published a Bill called the Registration of Political Parties Bill, in which, apart from subscribing some values, we stated that registration would be automatic. But it would be a temporary registration and after a specified period - I think it was 180 days or more - the officials had to come and demonstrate that they had some measure of support, even one person in Nyeri, Busia, Garissa and so on. They were supposed to show some measure of support throughout the country. But that never saw the light of the day. That Bill actually followed the proforma Bills that had been adopted at the Commonwealth Ministers for Justice, whereby it was suggested that we must try to encourage national parties in countries, rather than personal parties, ethnic-based parties and so on. So, should we have some mechanism on that? I am not saying it should be there, but I am saying that there are issues which have to be looked at, discussed and agreed upon, and which could be part of the overall Political Parties Bill. So, when we talk about the registration of political parties, those are some of the issues that we are talking about.

At the last weekend's seminar that was organised, and which I had the privilege to close, they also discussed that issue and stated that, such a Bill should detail the procedures and the criteria for registration of political parties as well as the procedure and criteria of distributing whatever funds are available between parliamentary political parties. They also said that there must be mechanisms in place to ensure that parties are accountable for the actions of their members and supporters. They also said that there should be mechanisms in place which will include the level of accountability within the political parties. In other words, to ensure that as we espouse to democratic principles nationally, even within our own political parties, there is a democratic process within the political parties themselves. Those were the views that were discussed at the meeting that I closed yesterday. There are many other issues that can be discussed.

Mr. Deputy Speaker, Sir, I am supporting this Motion as amended because our own Constitution has said that Kenya is a multiparty democratic State and, therefore, we must ensure in our laws that, that organisation, which is really critical to democracy - and that is the political party - is strengthened and given the enabling legal environment to operate properly, and that those political parties which really are not serving the purpose of a multiparty democratic state are also discouraged, without stifling the freedom of expression of the people generally.

With those few remarks, I beg to move that the Motion be amended as proposed, and ask my dear friend, Mr. W.C. Morogo, to second me in that proposal.

The Minister for Roads and Public Works (Mr. Morogo): Mr. Deputy Speaker, Sir, we are now in the tenth year of our second multiparty era. It is only fair that we revisit some of these issues in order to strengthen multiparty democracy in Kenya.

Mr. Deputy Speaker, Sir, this Motion, as amended, stands to give more power to our political parties. Currently, Kenya has so many political parties, some of which are not playing any important role in addressing the needs of our people. So, I support this Motion. If a system of registration of parties, that evaluates the aspirations of those parties is introduced, we can end up with fewer but very strong parties which can articulate the needs of the people.

I believe that democracy is not only about having parties that can only help to divide our people and bring chaos in our country. So, I believe that if we come up with a system of registration that will evaluate political parties' aspirations, we shall be moving in the right direction. This is very necessary. If you look at some organisations in the country today, you will realise that they are playing politics; they are acting as if they were political parties.

Our churches, for instance, have forgotten their role of ministering to the souls of people; they are instead playing politics. However, since they are not expert in this area, they only assist in causing more confusion in this land.

It is, therefore, important for us to have in place a registration system, so that we can eliminate unnecessary organisations. It is, for instance, common knowledge that most non-governmental organisations (NGOs) in this country solicit for funding from overseas for community development and also play the role of political parties. We should, therefore, very strongly support this Motion, so that we can have a system of political party registration and by which political parties will be required to articulate their political aspirations in relation to the needs of our country.

Mr. Deputy Speaker, Sir, I support the proposal to fund our political parties. If we register a few, but stronger parties, it will only be fair that they are funded from within, of course, within the limits of the available resources. Funding of political parties will also solve the problem of party ownership by individuals who happen to have abundant resources, or by external forces. As the saying goes, he who pays the piper calls the tune. This saying will be very relevant if we allow our parties to be funded by people other than ourselves. Our political parties should be home-grown. Kenyans are best placed to address their own needs since they understand each other's culture; they know their needs. Our parties, therefore, should be home-grown, so that we do not have external influence which sometimes tends to divert our attention as it interferes with our cultural values.

This Motion is, therefore, timely. It has come at a time when all of us are in agreement that we should strengthen our multiparty democracy, so that we can head in the right direction in addressing the needs of our people.

With those few remarks, I beg to second the Motion as amended.

*(Question of the first part of the amendment,
that the words to be left out be left out, proposed)*

Mr. Kibaki: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this debate. I rise to support the Motion.

I am pleased that the Attorney-General has come out in favour of this Motion. That is, indeed, very welcome. He has talked about consultation. You and I will agree that these consultations should be held as speedily as possible. This matter has been debated, quite often, over a long period of time. All that which requires to be contained in the Bill is well known. The proposed consultations, therefore, should be held within the next fortnight. The Bill can actually be ready within that span of time. It is necessary to rush up the exercise because we have suffered immensely from promises by the Government, which always led to inordinate delays in introducing such matters. This is an urgent matter. Therefore, since the Attorney-General supports this initiative, we should be through with the consultations being talked about within the next fortnight, so that the Bill can be ready soon and be brought here. Since the House is in agreement that the Bill is necessary, the Mover of this Motion should have his draft Bill ready. If the Government delays in initiating the consultations, the Mover of this Motion should bring his draft Bill, so that we can pass it. We do not want the Attorney-General's proposals to be a gimmick for holding us back from what we want to do.

Regarding the guiding principles for political parties that the Attorney-General has proposed should be included in the proposed Bill, I would like to say that it has always been a mistake around the world for any one to arrogate to himself the power to define the liberties of others. We are working on a new Constitution, which should address basic fundamental principles and guide all other laws that will be passed in this country. So, in the Bill that will come, there need not be provision for guidance of political parties. We should insist that anybody who may wish to register a political party obeys the Constitution. He should, for instance, say that he intends to achieve his objectives through peaceful means, and that he will obey the Constitution.

Once one commits himself to the Constitution, one should face no other limitations. As we all know, whenever we try to define "liberty" everybody has his own opinion. "Liberty" should not be defined in any manner other than what the Constitution provides. The people must have the freedom to pursue the objectives they may want to pursue so long as they do not limit similar freedoms being enjoyed by other citizens, and so long as they do not violate the Constitution. That would be enough. We do not want anybody else to try and impose his or her opinions as to what is right.

Mr. Deputy Speaker, Sir, you heard some hon. Members in the Government side say that NGOs should not take part in political activities. As you know, if allowed, the Government will place a lot of limitations on NGOs. Not a single institution, be it an NGO or a church organisation, should be forbidden from commenting on the political development of this country. After all, politics is about life. It is about the freedoms you should enjoy, your right to pursue your interests and seek a proper livelihood. Therefore, politics should not be defined exclusively by an individual for all of us. Everybody should be free to say what our political life should be like. So, everybody, whether in the church or elsewhere, has the freedom to describe what he thinks are the rights of the ordinary citizen. No one should limit them. Equally, in a political party, as long as I do not interfere with anybody else's freedom, as stated in the Constitution, I should have total freedom.

Mr. Deputy Speaker, Sir, secondly, with regard to funding of political parties, other parts of the world have

taken the number of votes a party gets during an election and have used this as a guide to fund political parties. I do not think we want to invent the wheel again. We can just use the same guide. It is adequate. This method recognises that it is members of the public who have the right to judge how much they like a particular political party. The only way in which people can show their support for a party is by the votes they cast for it during an election. We should use that as a guide. We should not use anybody else's definition. The public should be let to make its judgement in an election, so that what we can describe here is what proportion of that vote will be regarded as the minimum before a political party is eligible for funding.

The way the Motion is worded gives the impression that we shall fund only parliamentary political parties. In other words, we shall only fund the parties that will be participating in Parliament. This is a limitation, but I suppose it is a reasonable beginning. Only parliamentary parties should be funded originally.

With regard to the registration of political parties, it was mentioned that we should have an autonomous body to register them. In many other parts of the world, the institution which supervises elections also registers parties. But I am hesitant in saying that our present Electoral Commission of Kenya (ECK) should have these additional powers to register political parties, because it is only a toy of the Government. But in other parts of the world where you have genuinely independent electoral organisations, which supervise elections properly without corruption, and supervises the designating of constituencies, can be suitable to register political parties. Our present ECK cannot play this role as we all know. Members of the ECK have been appointed by one man and are not doing anybody else anywhere any good.

Finally, I know that we will have to talk about the amount of money that should be given to the political parties from the Budget. It is important that the amount of money given should make a difference. If you say you are financing political parties and give so little money to these political parties that they will be unable to maintain even one office, then you will not be effective in your objective. Therefore, we should say, for instance, that 10 per cent of the nation's Budget should be allocated to fund political parties. This should be a specific figure. It should not be left to the Minister for Finance to fix. This is because in different years, he will have a lot of problems looking for money to finance other institutions. He will forget that political parties are essential institutions for democracy, and should be given priority.

So, I believe that in the law that we will establish, we should discuss and state that we shall allocate, at least, 10 per cent of the Budget to the funding of political parties. This will provide a guide. Otherwise, if we leave the issue to the Minister for Finance to decide, that will not be good. This will be too risky because as the economic situation changes, certain political parties will get money from other evil sources, such as stealing. For example, KANU has stolen Kenyatta International Conference Centre (KICC), and it is now using the resources from it to finance its activities. I say KANU has stolen KICC because I was the Minister for Finance at the time when KICC was constructed. In fact, we have an hon. Member here who was an Accounting Officer in the Ministry of Finance then. Even the then Government Architect is still living in Kenya. This project was funded by Kenyan taxpayers. It was built as a public institution. The Government has acknowledged that it financed its construction. But it has been stolen and appropriated to a political party, which now uses the money it collects as rent from it to oppress Kenyans. This is totally unacceptable. I am sure there will be no other future Government that will accept that kind of crime to persist into the future. KICC was built as a national institution to be used for international conferences and not to be appropriated by a party which does not even serve the public of Kenya.

With those few remarks, I beg to support.

Mr. Deputy Speaker: Hon. Members, for proper management of our business, we should put the question on the amendment, and then we can debate the Motion as amended.

*(Question of the first part of the amendment,
that the words to be left out be
left out, put and agreed to)*

*(Question of the second part of the amendment,
that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Question of the Motion as amended proposed)

Mr. Ndicho: Mr. Deputy Speaker, Sir, Mr. Kombo is my good friend. Today, he has brought this Motion that is being supported by both KANU and the Opposition, a very rare thing in this House. I want to declare my interest in this regard. I have a Motion in this House calling for the abolition of all political parties whose funding we are now

calling for.

We have got 48 political parties in this country, and only eight out of them are in this House. Forty political parties are outside and we do not know what they are doing. Kenyans are today confused by the many political parties. They do not know which ones to follow. They do not know which political party will get them out of the economic and political quagmire that we are in today.

I want to give a recent example of the so-called "Saba Saba Day". During the last "Saba Saba Day", some Kenyans were taken to Kamukunji by one political party. Another political party went to pray at the All Saints Cathedral and another one went to a church along Jogoo Road. Hon. Matiba asked Kenyans to attend prayers for the Saba Saba Day, but he was nowhere to be seen. We are taking Kenyans for a ride. I agree that it is good for Kenya to be a multiparty democracy, but I beg to borrow a leaf from the Republic of Uganda, which is a partyless state. I believe that it is only a partyless state that can bring sanity and unity among Kenyans today. Kenyans are today divided along political parties.

We have got 42 tribes in this country and, therefore, having 48 political parties means that, at least, every tribe has got its own political party. People from a certain tribe follow the leader of their party. Especially, we in the Opposition should protect Kenyans from KANU's oppression. By our failure to unite, the Opposition has given KANU a chance to once again defeat us. This is another challenge. This year we are having elections again and if we are going to have so many political parties from the Opposition fielding different presidential candidates, that will be a sure way of allowing KANU to defeat the Opposition again. I do not know what we in the Opposition will be telling Kenyans as to why we do not unite for a purpose and then provide direction. Even if we were to fund these parties, I believe that the solution of unity of Kenyans will not be found by funding political parties.

Mr. Deputy Speaker, Sir, instead of funding political parties in this country, we should know why there are so many stalled projects. Why do we not fund education, health and infrastructure? Why do we not increase teachers' salaries? Why do we not get more money from the Consolidated Fund to address those issues that are affecting Kenyans? Why do we not create more employment opportunities for the youthful Kenyans who graduate from universities and schools and cannot get employment opportunities instead of taking billions and giving them to politicians? Let them fund their own political parties. If they cannot, then let them go to hell. We cannot get more money from our depleted economy to fund political parties. That is why I declared my interest because I brought a Motion here intended to abolish all these political parties including KANU and my own party, the Social Democratic Party (SDP), so that we have a partyless State. When Kenyan leaders want to contest in presidential, parliamentary or civic elections, it is not the political party that will be considered but an individual's merit. We do not want the next President, hon. Member of Parliament or councillor to be elected because he belonged to this party or that.

Mr. Munyasia: On a point of order, Mr. Deputy Speaker, Sir. It appears as if hon. Ndicho has started discussing his forthcoming Motion on establishment of a partyless State. Is he in order? He should restrict himself to what this particular Motion states.

Mr. Deputy Speaker: It is rather difficult. I mean, he is opposing this Motion. I do not know what logic he will advance when he is moving his own Motion.

(Laughter)

Mr. Ndicho: Mr. Deputy Speaker, Sir, I know that currently I am a lone voice in this House because when KANU and Opposition unite to defeat my Motion, I will be in a lot of problems. However, we have not been told by both the Mover and the hon. Member who is proposing these amendments how the funding will be carried out. Will it be done annually or will it be done once Parliament convenes for the first time? Will each party be given Kshs10 per vote as it happens in Germany?

Mr. Deputy Speaker: No! This Motion is merely seeking leave of the House.

Mr. Ndicho: Fine, Mr. Deputy Speaker, Sir. However, I would like to say that it is not necessary at the moment to start funding political parties. I thought that the first agenda would be to unite Kenyans so that we elect people on their own merit rather than on the strength of their own political parties.

Mr. Deputy Speaker, Sir, since political parties are currently being registered under the Societies Act, it, therefore, does not stop the churches from seeking the same treatment since they are also registered under the same Act. Other organisations will also appeal to the Attorney-General in order to be funded. Where are we going to get all this money from? I would even propose that, instead of funding political parties, we fund churches because they have to do Harambees every Sunday. If we give every church in this country about Kshs500 million every year, those churches and those politicians will not be called for Harambees every Sunday to raise funds to construct a church, buy pews or to buy a plot. Each church will have its money and conduct its own business. So, instead of funding political parties, let us fund churches so that I can be exempted from attending Harambees every other weekend.

Mr. Deputy Speaker, Sir, the Leader of the Official Opposition talked very eloquently about the issue of the Kenyatta International Conference Centre (KICC) which has arisen many times. I will give a proposal. Instead of KANU owning the entire building, why can it not give every political party a floor? That is being selfish for KANU to take the entire building which was constructed with public money. So, let KANU take the first floor, DP the second floor, SDP the third floor, FORD (K) fourth floor and NPK the fifth floor.

Dr. Ochuodho: And SPARK the sixth floor!

Mr. Ndicho: The hon. Member is telling me that he wants the sixth floor. I do not have any problem with that building. Therefore, that will now stop this selfishness by KANU. Since that building was constructed with public funds, KANU should consider, from next week, giving all political parties a floor each so that instead of those parties spending money in renting offices in other buildings, they will use that money elsewhere.

Mr. Katuku: On a point of order, Mr. Deputy Speaker, Sir. Is the speaker on the floor in order to keep on confusing this House? At one point he is saying we should not fund political parties while at another point he is saying KANU should give out KICC to other parties. Could he be consistent in one way?

Mr. Deputy Speaker: Order! If you want to contradict him, stand up, let me recognise you and then you can make your contribution.

Proceed!

Mr. Ndicho: Mr. Deputy Speaker, Sir, I am not talking about the future; I am talking about the present circumstances because currently KICC is dominated by KANU. If his National Party of Kenya (NPK) does not have an office at all anywhere then he should defend himself and be given an office where they will be meeting to talk about their own issues.

Mr. Katuku: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to say that NPK has no offices when he knows that he and I are members of one party called SDP and that NPK has an office in South C?

Mr. Deputy Speaker: Order! Hon. Ndicho is merely confessing that SDP does not exist anymore!

Mr. Ndicho: Mr. Deputy Speaker, Sir, I never said that. I just said that hon. Katuku is my friend and he is about to join a party called NPK. He left the SDP at a time when we really wanted to strengthen it. So, if my Motion, which seeks to create a partyless State in this country, is defeated, then let us limit the number of parties. Let there be a legislation for limiting the number of parties in this country because there are people who really use political parties for business. They register one today and tomorrow they sell it. There are also some people who are also looking for parties to buy. We should stop this business of registering parties for the purposes of doing business. They are there and we know them. My own party was bought for Kshs3 million from the late Makau. We know other political parties which have been sold.

Mr. Deputy Speaker: Let the late hon. Makau rest in peace!

Mr. Ndicho: Mr. Deputy Speaker, Sir, yes, let the late hon. Makau rest in peace. So, let it go on record that the hon. Member for Juja is vehemently and vigorously opposed to this Motion so that the little money we have can go to other worthy projects instead of being used to fund political parties in this country.

With those few words, I beg to oppose.

Dr. Anangwe: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. Let me say from the outset that, I support the Motion as amended. Looking at the Motion, there are very strong presuppositions, which I agree with; that one, we need to enhance multiparty democracy. Two, that political parties in Kenya are faced with financial, organisational and management problems. Whereas in principle, we should support the idea that parliamentary political parties should be funded, we need to discuss very critically the guidelines. I know that in other countries political parties are funded by the State. It has also been floated on the Floor of the House that the criteria should be the number of votes garnered by a political party. When the guidelines come onto the Floor of the House for debate, I think we need to be more stringent. In fact, we need to raise the conditions such that, for a political party to qualify for funding, it must have won an election and formed the Government so that today, if KANU lost, it would still be entitled. The new party that would take over, would also be entitled to funding so that we have meaningful political parties that are in contention. We should not be financing a party simply because it has secured one seat to Parliament and tomorrow, it says it is entitled to funding. I think it is still an open debate and I do not think that the Attorney-General did foreclose what guidelines should be included and which ones should not. But when the moment comes, this is a matter that we should pursue.

Mr. Deputy Speaker, Sir, the process of democracy takes many forms and the way we are arguing here and debating, is as if multiparty is the only form of democracy. There is also the plural democracy where interest groups within the civil society stake out their claims using the informal channels in order to put pressure on the Government to come out with policies that favour them. The other course is the multiparty one and this is different. This is where interest groups permanently put in place mechanisms like political parties in order to secure power for themselves in

coalition with other groups. That is what is in the USA. A political party is formed as a mechanism or a tool to secure power. It is placed within the political milieu. It is not an extension of the State. It is an intermediary organization. As it were, it is a non-state organization whose purpose is to aggregate and articulate policy demands and channel them to the State. So, we have to be very careful when we design a Motion of this kind lest we, by law, be converting such organizations into adjuncts of the State.

Mr. Deputy Speaker, Sir, in respect of political parties in Africa and particularly in Kenya, they tend to take a different dimension. I know an argument has been put that some political parties are tribal. Let me extend the argument further. To say that a political party is tribal, it means it does occupy total space within that particular tribe and commands absolute following. Sometimes that is not the case. You have one tribe, but there are several political parties. I do not know whether in that particular respect, it has become a clan party or a tribal party. So, we have also to qualify this assertion that it is a tribal party. In many cases, political parties rotate around individuals and I agree with the Attorney-General that there are individual parties. Today, an individual who is in KANU, because he wishes to secure State power, turns up tomorrow and forms his party. In the process, he creates a base, which means it is starting from somewhere. It did not come from the tribe itself. You form it as an individual political machine and you seek out political support from the population. The life of that particular party is tied to your life. If you collapse today, that is the end of that particular party. I agree that we should be more stringent with the registration of parties. Indeed, we should be asking: When a party assumes a title, is that particular rubric describing the reality of that particular party or it is just a smoke-screen behind which, an individual is hiding in order to seek political power? The names of many parties can as well be substituted with the names of their leaders, so that if it is the Democratic Party, it is Kibaki's party. So, Kibaki is DP and DP is Kibaki! The same case with FORD-K, probably.

Hon. Members: And KANU?

Dr. Anangwe: KANU is different! It has outlived and outgrown that kind of description, to which I will return in due course. That is the reason why many of these political parties are rootless. They have no social basis for their existence. They have no ideologies. They just exist to serve individuals. They are tools for individuals. That drives me to the point I was going to raise in relation to this funding. That is why we have to be very strict. If we are going to say that parties are going to be funded by the State, we have to scrutinise these parties and ensure that the ones we are funding are political parties *per se* and not individual political machines. If you finance an individual political machine, that money will end up in the pocket of that individual. So, we are going to take taxpayers money to give to an individual. We have to be very strict and we need accounts and mechanisms for accountability. What systems are in place? Many of these political parties do not even have accounts. They are financed from the individual pockets of the people who sponsor them. So, we have to be careful on this particular matter.

The other implication of funding political parties is that we are going to convert them into extensions of the state. They are going to become like departments of government. I do not know whether that is in the interest of political parties because he who pays the piper calls the tune. The regulations will be here and the guidelines will be put in place. We have already said within this particular Motion: "In consultation with the Attorney-General". We do not know the conditions the Attorney-General will attach if they are going to be financed. If the Attorney-General is going to attach conditions, of course, he will expect you to dance to the tune that he may wish to put for you. The other adverse implication for funding political parties is that, it is going to reduce the accountability of these organisations to their political constituencies in the sense that now they know that they will not be beholden to those people who have been financing them. The State can bail them out. They are going to turn out into some elite organisations that are even more rootless in relation to the political process. So, we have to balance between these two. Should we leave political parties to be financed by the corporate bodies and the individual members, or should we turn them into State organisations? We have to be very careful. The larger implication is what Mr. Ndicho said. Our taxpayers are already burdened in the sense that we are not even able to collect enough revenue to finance our Development Vote!

Mr. Wamalwa: On a point of order, Mr. Deputy Speaker, Sir. I really hate to interrupt the eloquent Dr. Anangwe. But he said from the outset that he was going to support this Motion, but he has done nothing but oppose it since he started. Is he in order, or is he taking the House for a ride?

Dr. Anangwe: Mr. Deputy Speaker, Sir, I said I had to qualify my support and it is along the same line. The hon. Member has interrupted me, but I beg to support.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I do thank you for giving me the opportunity to support this Motion very strongly. For a long time countries have talked about running democratic regimes. Even when they were dictatorships, they described themselves as the peoples' democratic State of such and such, without really knowing the universal standard of democracy. I suppose this is what led George Bernard Shaw to say that democracy is just a long word beginning with a capital letter. This was because in most cases, those States who professed to be democratic were dictatorial in practice.

We would like to take democracy as a serious vehicle to serve the people in accordance with their wishes and

their true representatives. Democracy may not be the most perfect form of Government, but it is the most accepted form of Government worldwide today, and so far, it is the best of all the systems that are available to us. Democracy, therefore, presupposes that people who hold a certain opinion or political persuasion are free to espouse that opinion either through a political party or individually. Since most State laws prescribe that to be elected to the legislature, you must belong to a political party, it, therefore, calls for a proliferation of political parties.

In 1964, I had the opportunity to represent Kenyan students on the Students United Nations in New York and at that time we had just become Independent. The question that was asked most was how come most of Africa was opting for a one party State. At that time, being a convert of a strengthened KANU with the dissolution of KADU and linking up with KANU, my explanation was that there could be democracy in a one party State, provided there was latitude for internal opposition and tolerance for those who dissented on certain views. The argument against that was that, in a one party State, the party and the State become synonymous so that if you were thrown out of a party you were literally an outlaw. I argued against this, only to experience it when I came to Parliament in 1979. We had at that time a one party State by law; a *de jure* one party State, as opposed to the previous regime where there was no law prohibiting the formation of other parties.

Section 2(a), therefore, made Kenya a *de jure* one party State where you had no say, but to obey the laws of KANU. This led to a lot of disagreements in this State and excesses in a lot of spheres until the clamour for multiparty democracy came again. One area where it was obvious that multi party democracy would help was in terms of Government expenditure. For a long time, under one party, the PAC was shy to question the activities of the Government and certain Ministers when it came to public expenditure. So, the return of multiparty democracy to this country was a big step in the preservation of the rights of the individual and we would like multi party democracy to stay in Kenya.

For multiparty democracy to survive and stay in Kenya, the political parties that have been established must be funded.

They must have funds to travel around the country, sell their ideas and obtain a certain chunk of support countrywide and not just from the tribe of its leader. This is why funding becomes a crucial matter, that the parties do have enough funds to procure at least one four-wheel drive vehicle to drive around the country selling their ideas. The attempt by KANU to take over the Kenyatta International Conference Centre--- I am sorry that speaking at this late hour I am bound to repeat some things other hon. Members have said. The case of the KICC has been with the PAC for many years, especially the years when I was the Chairman of that Committee. It was an obvious example of a totalitarian attempt to take over what belongs to the whole country to and give it to a party because it was the only party in existence at that time.

If we are to be fair, the KANU Government must relinquish the ownership of KICC because that is the property of all Kenyans. It is the commonwealth of all Kenyans. We reached a situation where one party had access to a lot of funds while other parties had no funds whatsoever. The danger was that the smaller parties that had no access to funds were going to wither and die away and, therefore, we would be forced to go back to the one party State again. For multi party democracy to survive in Kenya, parties must be funded. I can see by natural evolution that eventually, this country will have two major parties and a few parties of conscience. I can see that most of the Opposition parties will win the next general election. I even heard Dr. Anangwe say that the NAC may win the elections and undertake certain things that he does not agree with. It is almost a matter of time now for the NAC to win the elections. He was worried about KANU being funded when it is in the Opposition. We can assure him that we will consider funding KANU when they are in the Opposition.

There was talk of a no party State. A no party State is perhaps the biggest pretence that we see on the African political landscape today. Even those countries which claim to be no party States have political movements which are practically a one party state in those particular countries. So, let us not deceive ourselves. For example, in Uganda there are those who support the Uganda Peoples Congress (UPC), the Democratic Party and the Movement. To talk of a no party State in that community is a misnomer. In any case, in a no party State, you are just going back to a dictatorial regime, where the leader will suffer no opposition from anybody.

I would like to see the funding of political parties extended to the funding of presidential candidates. In the United States of America, if somebody shows through the primary exercise that they can garner a certain percentage of votes, they qualify for federal funding for their bid to become president of that country. We would like to see this extended to this country so that one person who is in power does not amass all the money that he can get hold of, and those opposing him have nothing whatsoever. There should be some kind of equity in this exercise, so that there is fair play between the rich and the not-so-rich, but who may have the right ideas to run this country. We would also like to see companies and industries come up without any fear to support the parties they feel have the right industrial programme for this country.

At the moment, you will hear of KANU dinners at the Hotel Intercontinental and all the companies,

particularly those who have enjoyed Government favours in the past, rush over there and fill the KANU coffers with a lot of ill-gotten money. KANU then goes ahead to clobber the rest of this country with that money. I feel that we should create an atmosphere where anybody in this country, be he African, Asian or European can stand up openly and say: "I support such and such a party because I believe in their ideals."

Mr. Deputy Speaker, Sir, we would like to see the industrial sector doing what happened in England. For a long time, the industrial sector supported the Conservative Party. When Tony Blair hit the steel industry, the industrial sector saw that he had a programme to revive and revitalise the industrial state of the country. He had many progressive ideas, and they all supported him. In fact, he reversed roles with the Conservative Party, where more industries supported the Labour Party. We would like to see industries in this country free in their support for the political party of their choice.

Right now, having talked to most of these industries - if they were free to support a political party - I do not think that today, KANU would get any cent from the industries. All the money would go to the NAC. We hope to encourage them to give all their money to the NAC, because this is the political party of the moment, and this is where the country is going to.

With those few words, I beg to support.

Dr. Ochuodho: Thank you, Mr. Deputy Speaker, Sir. I also stand to support this Motion as amended. I begin from the premise that in the next ten years, we are likely to see only two or three major political parties or movements. I base that on the realisation that the trend seems to be that of mergers, absorption, alliances and coalition. So, I predict that ten years down the line, we are likely to have two or three major political blocs.

In supporting the Motion as amended, I also want to note the concern about the leader-based political parties as opposed to issues of political parties. In this regard, one former Cabinet Minister did allude to the fact that most political parties do not present their accounts. Perhaps, what the hon. Member was not aware about is that the converse is true; that, no political party, to the best of my knowledge, apart from the Democratic Party of Kenya (DP) has been filing its accounts with the Registrar of Societies, and KANU is most notorious in this regard. Over the past 15 years, nobody has ever seen a published financial report of the ruling party. Unfortunately, that is the trend with many political parties with the exception of the DP. The DP gets credit for that. I am hoping that when this Bill eventually comes to the Floor of the House and we pass it, all political parties that are going to benefit, will ensure that there is accountability in that respect.

Talking about leader-based politics, in a situation where it is left to the leader of a political party to finance a political party, you will find that there cannot be internal democracy because, as many have said, "he who pays the piper calls the tune." If we are going to have real democracy based on issues, then, it makes a lot of sense that political parties are financed. I may disagree with some of the previous contributors to this Motion, in terms of what should be the conditions for a political party to qualify for funding. While I do accept that the criteria should be the number of votes that the political party leader did achieve in the previous elections, I would not want to limit ourselves to Parliamentary parties. The reason being that, and this has happened in several other parts of the world, you will find that there may be a political party which does not have a Parliamentary candidate but has got a lot of civic leaders. In the process, therefore, it has a lot of clout in controlling the trends in the country, especially in the rural areas, or outside the headquarters.

It is in that regard that I would want to plead with my colleagues that Parliamentary parties should not only be considered for funding. When we talk of Parliamentary parties, at any rate, that is a contentious term because to some people, one could argue that "parliamentary" means at least seven hon. Members or five hon. Members or even one single hon. Member. But the point is: Why make the limit be five instead of four? It is in that regard that I think, the limit for what constitutes a Parliamentary party is arbitrary and, therefore, I would propose that any political party that gets at least one per cent of all the votes cast should qualify for funding. Of course---

Mr. Deputy Speaker: Order, Dr. Ochuodho! That will come in the Bill.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I would appreciate if the drafter would consider it when it gets to that stage. I appreciate the amendments that the Attorney-General is making, that the Bill has a wider mandate than just looking at public funding of political parties. It should also look at the registration of political parties. I would even go a step further to suggest that, that the same Bill looks into the dissolution of political parties, so that parties do not just get dissolved at the whims of an individual, and we end up with "orphans" like myself without involving the owners of the party. I hope the Bill will not only look at the registration of parties, but also dissolution of the party so that the members who are supposed to be the people owning the party are consulted.

Mr. Deputy Speaker, Sir, I also take issue, in particular, with the registration process. Even as we discuss this Motion, we are aware that the United Democratic Movement (UDM) has to date been denied registration on very flimsy grounds. I would like to re-assure those whose parties have failed to get registration, that they are lucky, because there is NAC which provides refuge for such persons. Recently, as you may be aware, UDM joined NAC. There is that agreement, in order to counter KANU's tricks of denying parties registration. There is an avenue through the National

Alliance for Change to still partake legal political activities without being a registered political party. It is in that regard that Saba Saba Asili, UDM and hopefully other unregistered groups like IPK, which has been denied registration may find refuge in NAC. I think it makes more sense that parties register freely. Because, denying UDM registration is a violation of their democratic right or their freedom of assembly.

I know there are many other parties which have been denied registration. We do not want to end up in a situation like that of Safina, in 1997, which was denied registration until the last minute. I agree with the amendment that is being proposed that the Bill also takes consideration of registration and dissolution of political parties.

Mr. Deputy Speaker, Sir, I also want to take issue with the hon. Member who contributed to the Motion this morning and said that churches should stay out of politics. Unfortunately this happens to be a university senior lecturer in Political Science. In my understanding, this person should be better placed to understand what politics is, and the connection between church and politics. As a very religious person, I know the Bible says that it would be wrong for a religious leader to sit back when he or she sees the children of God being molested, like KANU is currently doing. I would like to tell those who are opposed to religious leaders participating in politics, that they better understand what politics is, as it relates to religion. One would even argue then, why do political leaders not leave religious matters to the religious leaders? Why do they not stop going to churches and mosques? I think that is a wrong argument and I think that the religious leaders should be allowed to continue participating in the political dispensation of their country like they have done in the past.

Finally, I would like to propose that when the Bill is being drafted, it also considers the electorate code, especially as it relates to political violence and the demand for political parties to comply. This should be accommodated in what would turn out to be a Political Parties Bill. The reason I say this is because, whereas we have that electoral code, we know that despite the pleas by the Electoral Commission of Kenya, that parties sign and comply with it, they have never taken it seriously, and particularly the ruling party. One would have expected that no other party other than KANU would comply with that requirement; that they would sign the electoral code.

I beg to support the Motion as amended.

Mr. Deputy Speaker: There are only ten minutes left for this Motion, and, therefore, I will now call upon the mover to reply.

Mr. Deputy Speaker: I will call upon the Mover of the Motion to reply.

Mr. Kombo: Mr. Deputy Speaker, Sir, before I make my final remarks, I would like to cede three minutes of my time to Ms. Karua.

Mr. Deputy Speaker: Order! There are only 10 minutes left for you to reply and not for other hon. Members to contribute. The Mover is allotted 10 minutes to reply. If you want to have less minutes, change the rules!

Mr. Kombo: Mr. Deputy Speaker, Sir, can I then donate some of my time---

Mr. Deputy Speaker: There is no argument about it!

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. Previously, in this same House, hon. Members have been allowed, in their reply, to cede minutes to colleagues to help them in replying. Are we retracting from that rule? Is there discriminatory application of the rules in this House?

Mr. Deputy Speaker: Order! I will not relent. That is the rule; it was, is and shall be!

Proceed, Mr. Kombo.

Ms. Karua: You are over ruling even the Speaker!

(Dr. Godana quickly withdrew from the Chamber as his mobile phone rang)

Mr. Katuku: On a point of order, Mr. Deputy Speaker, Sir. How do you deal with such a case?

Mr. Deputy Speaker: Well, the power that the Speaker has in respect of this incident is that he should send the hon. Member out for the rest of this morning sitting. Since Dr. Godana has withdrawn from the Chamber, and even if he were here, and I send him out for only 20 minutes, he will not feel the gravity of his misbehaviour.

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

Mr. Deputy Speaker: You are eating into Mr. Kombo's time.

Mr. Munyasia: The usual thing has been that the hon. Member stands up to apologise if his mobile phone rings in this House. Will the Chair ask the Minister to apologise when he comes back?.

Mr. Deputy Speaker: Order! He is not here to apologise! We will deal with that issue when Dr. Godana comes to this House.

Proceed, Mr. Kombo!

Mr. Kombo: Mr. Deputy Speaker, Sir, I want to take this opportunity to thank all those hon. Members who

have contributed in support of the Motion. I also want to thank the Attorney-General for seeing the light and supporting the Motion in the manner that he did. The amendments he made, are amendments that we can live with---

(Dr. Godana entered the Chamber)

Mr. Deputy Speaker: Order! Dr. Godana, your mobile phone rang in the Chamber.

The Minister for Agriculture (Dr. Godana): Mr. Deputy Speaker, Sir, I apologise profusely. I forgot it because I do not normally come with it. I do not normally carry it, I leave it in my car. Today, somehow, I forgot it. Indeed, when it rung, I thought it was from the pockets of my colleagues and I asked them who among them was carrying it. But I sincerely apologise to the House.

Mr. Deputy Speaker: Order! We have got only 15 minutes to go before this sitting ends. So, sending you out of the Chamber will not serve any purpose because you will not feel the gravity of your misbehaviour. So, I will forgive you, but, please, next time do not come with it.

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

Mr. Kombo: Mr. Deputy Speaker, Sir, it looks like Dr. Godana did that deliberately to eat into my time.

However, having thanked all hon. Members who contributed to this Motion, what came out is the realisation that we all accept the fact that for democracy to be sustained, multipartyism is an essential factor in this country. Most of my colleagues did say that funding and strengthening of political parties will safeguard them from undue influences. I think this is a very important factor. When you have one person having a tight grip on a political party, you cannot see democracy around at all, but all you see is autocracy and dictatorship. And we have seen it in this country. We have seen this happen in this country many times. So, we know that by strengthening the political parties, we shall be self-governing.

Mr. Deputy Speaker, Sir, I think my colleagues also pointed out that they do not want to go back to the one party State at all. So, the aspect Mr. Ndicho was propagating of a partyless state--- I think a partyless state is just another name for a single party. Strengthening political parties to ensure that we do not go back to a single party era, whether you call it partyless or whatever name you give it, is something we should think about seriously. In terms of individuals being strong party supporters, I think our colleagues on the other side of the House have suffered tremendously until the merger came up. Before the merger between KANU and NDP, they could not say anything against their party chairman. But now, at least, they can speak and contradict their party chairman. So, you can see the value of having strong political parties.

Ms. Karua: On a point of information, Mr. Deputy Speaker, Sir. I would like to inform the hon. Member that the KANU/NDP affair was a swallow and not a merger.

(Laughter)

Mr. Deputy Speaker: First of all, hon. Members, there is no such a thing as "point of information"! Secondly and more importantly, expressing an opinion is not information!

Mr. Kombo: Mr. Deputy Speaker, Sir, what also came up was that strengthening political parties will discourage the party in power from misusing state machinery. When the NAC also comes to power, our friends who are currently in the Government will have sufficient funds within their kitties and they will not be forced to use state machinery. In fact, we will make sure that such controls are put in the Bill to ensure that nobody ever uses or misuses state machinery.

The amendment will give rise to competitive politics which are essential in curbing corruption which has been rampant in this country. The amendment will also promote fairness, level playing field, so on and so forth. These are some of the issues which have been raised by hon. Members and I am quite happy with them.

The Attorney-General, in his amendment said that we consult with him, and the Leader of the Official Opposition pointed out that these consultations should not be an excuse for delays in bringing the Bill before the House. We do have a draft Bill ready. So, if the consultations will be used at all to delay the Bill being brought before the House, we will bring the Bill before the House for debate. Probably, what we intend to do is to hold a one-day workshop with hon. Members of Parliament so that we can go through this Bill together and the consultations are not limited to the Attorney-General alone, but other Members of Parliament so that we have their input.

Mr. Deputy Speaker, Sir, those hon. Members who had fears about transparency and accountability, I would like to inform them that we have put these issues in the draft Bill. When we were moving the Motion, we did not talk about the Bill, as you rightly pointed out to Dr. Ochuodho, because I am just seeking leave to introduce a Bill for an Act of Parliament. But those fears have been catered for in our draft Bill. There will be transparency and accountability in the management of the funds. We have even outlined how those funds will be managed and audited.

Again, we have given the qualifications of the person who will manage the funds. All this has been included in the draft Bill---

Mr. Deputy Speaker: Mr. Kombo, you do not have a draft Bill because you have not got leave yet! You have just got a proposal.

Mr. Kombo: Mr. Deputy Speaker, Sir, that is correct. When we will debate the actual Bill, we will discuss those issues.

In countries like Germany, for example, a political party is well defined and that is why we accepted the amendments of the Attorney-General to include all the matters related to political parties, so that a political party should be one which participates and plays politics. In Germany, a political party which stops competing in politics is de-registered. So, these are some of the proposals we will introduce.

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

*(Question of the Motion as amended
put and agreed to)*

Resolved Accordingly:

THAT, in view of the need to enhance multiparty democracy in this country; and realising that most political parties are faced with serious organisational, management and financial crisis, this House do grant leave to introduce, in consultation with the Attorney-General, a Bill for an Act of Parliament entitled The Political Parties Bill to provide for the registration of political parties and other related matters including public funding of parliamentary political parties.

INTRODUCTION OF PALM INDUSTRY BILL

Mr. Maitha: Mr. Deputy Speaker, Sir, I beg to move:-

THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled the Palm Industry Bill, in order to help develop coconut farming in Kenya.

Mr. Deputy Speaker, Sir, I wish to thank this House for accepting a Motion which I brought to this House sometime back on coconut farming which is grown in tropical areas, including the Coastal region. I am seeking the leave of this House to introduce a Bill, entitled the Palm Industry Bill. The Kenya Government has been spending Kshs7.2 billion to import palm oil which can be grown locally. We grow coconut locally and hence, we can also grow palm in this country. Research on coconut and palm farming has already been done in this country. We can grow those commodities. To rescue the Coastal people from the jaws of poverty, the Government, should come up with ways and means to help over 150,000 coconut farmers who grow coconut trees in over 43,000 hectares within the Coastal region.

Mr. Deputy Speaker, Sir, in bringing this Motion to the House, the Government, through the Ministry of Agriculture organised a stakeholders meeting in Mombasa on coconut and cashewnut farming. We discussed the way forward and agreed that the Government should come up with a policy paper especially on crops found in the Coastal region. However, I have brought this Motion because the Government has been making the Coastal people poorer and poorer by not minding their welfare.

Mr. Deputy Speaker, Sir, in the year 2000, the Government allowed an international workshop to be held in Kenya, dubbed the World Coconut Workshop for Africa. Many countries, including ten from Africa attended that workshop. The Kenya Government was amazed to find that countries like Cameroon, Benin and Malaysia derive over 40 per cent of their Gross Domestic Product (GDP) from the coconut industry. Kenya can produce over 80 per cent of the palm oil required for industrial use from the Coastal region. Industries like Bidco and Unilever could benefit from coconut farming. But the Government has not done anything to support the palm industry.

Mr. Deputy Speaker, Sir, with regard to research, little has been done about the development of palm industry. Right now, the KARI or the research people have listed the coconut tree at zero per cent nationally. When you go to the Coastal area, they have listed it as number 14 out of 15 items which are being researched on in the region. While the Government has been preaching on how to reduce poverty of its people, it has, in fact, not encouraged the Coastal people by denying them their right of owning the palm industry. It is a crop we produce and it is plenty in the Coastal region. The Government has sometimes been forced to accept to bring good Bills into this House. For instance, the other day they were forced by the coffee farmers to come up with a better Bill for the coffee farmers, as well as the tea and sugar-cane farmers in Kenya.

Mr. Deputy Speaker, Sir, you will find that crops like bixa, cashewnuts and others, are not enlisted as export crops, while tea and coffee have managed even to find their way into the international market. In fact, the Government

has even been forced to realize that such crops fetch good money. We have a problem with the Government with regard to research on this commodity, because it has done very badly to the Coastal people, especially to the coconut industry.

In 1978, the President of this country stopped the people of the Coast Province from tapping toddy which is one product of the coconut tree. The coconut tree has over 52 products, but toddy is one product which has made the coastal people rich. In fact, it is a natural thing, which is tapped and sold by the coconut farmers. The President banned the tapping and selling of this product. When he banned the tapping of this product, he did not give any other alternative, knowing that there was no processing of copra. A lot of toddy, which was produced after the ban got rotten because there was nobody to purchase and process it. It was a sad affair where all the people who were growing the coconut tree did not have any other alternative, but to stay without getting anything as a way of reducing their poverty.

Mr. Deputy Speaker, Sir, in countries like Malaysia and our next neighbour here, the Seychelles, toddy has been processed in big factories and, it is being sold even in Kenyan supermarkets, like Nakumatt. It is being processed in factories and it is made in a way--- We even showed it to the Minister for Agriculture and Rural Development when he visited the Coastal region and he was even surprised to see that the same can be processed and sold in our supermarkets. We even showed him how products of the coconut tree could be processed in order to help the coconut farmer in the Coastal region.

We want to help the farmers in the Coastal region to come up with cottage industries which will alleviate poverty among our people. For a long time our people at the Coast have been made poor and branded lazy. We do ask ourselves, how come the Coastal people are termed lazy, if they have tall coconut trees? Who planted those tall trees, if they were lazy? This is a very bad trend of affairs, where our people are branded lazy. You should ask yourself why the tall trees are grown in this area!

Mr. Deputy Speaker, Sir, because our people want to prosper like any other people, there are very many industries which have come up in this country. But, the Ministry of Agriculture and Rural Development has taken too long to come up with a palm industry at the Coastal region. There is even an attempt to take over this Motion so that the Government brings the Bill by itself.

ADJOURNMENT

Mr. Deputy Speaker: Order! Hon. Members, it is now time for the interruption of our business. This House, therefore, stands adjourned until this afternoon, at 2.30 p.m.

The House rose at 12.30 p.m.