

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 26th April, 2000

The House met at 9.00 a.m.

*[The Temporary Deputy Speaker
(Mr. Poghisio) in the Chair]*

PRAYERS

ORAL ANSWERS TO QUESTIONS

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, before I ask my Question, I would like to state that I have not received the written reply.

Question No.061

SUBDIVISION OF NAVAKHOLO DIVISION

Dr. Kulundu asked the Minister of State, Office of the President, why the Government has not subdivided Navakholo Division into five locations; Lurambi Division into six locations, and Kakamega Municipality into four locations as recommended by the Kakamega District Development Committee.

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I think the reply was sent. I will check from my registration book and confirm whether it was sent.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. There was a categorical ruling yesterday by Mr. Speaker, that this Parliament will not allow civil servants to sabotage the work of Parliament. It is quite clear, even from the Press, that Ministers are not in control of their Ministries. This is because, where a Permanent Secretary defies a Minister of Government, it means that there is no Government in that case, and we cannot allow this kind of thing to happen. Could it be ascertained, one way or the other, whether the answer was sent? It is not supposed to be sent by the Minister, but by his officers. But this Parliament must adhere, once and for all, to yesterday's ruling by Mr. Speaker.

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I have nothing more to say. I know it was sent, and I will confirm it from the dispatch book.

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, based on Mr. Speaker's ruling yesterday---

The Temporary Deputy Speaker (Mr. Poghisio): Just a moment! We want to confirm.

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, even if it arrives now, the Minister must apologise.

The Temporary Deputy Speaker (Mr. Poghisio): We are still checking, but in the meantime, we could proceed to the next Question. It is very important that we know that this was sent to Parliament. We will leave that Question for the moment.

Question No.020

PUBLICATION/IMPLEMENTATION OF KOECH COMMISSION REPORT

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

- (a) how much money was spent on the Koech Commission on the status of education in Kenya;
- (b) if he could give a breakdown on the nature of expenses incurred by the commission; and,
- (c) when the Report will be made public and implemented.

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

- (a) The commission of inquiry into the status of education in Kenya spent a total of Kshs138,989,760.
 (b) The breakdown of the expenditure is as follows:-

[The Minister of State, Office of the President]

<u>Item Description</u>	<u>Total(Kshs)</u>
Honoraria	59,368,000
Meals	4,746,400
Transport Operation	13,229,960
Travelling/Accommodation	39,082,800
Postal/Telegrams	2,025,000
Printing/Publishing	8,600,000
Purchase/Stationery	2,700,000
Advertising/Publicity	7,390,000
Computer Expenses	1,340,000
Rents/Rates	5,651,420
Furniture	1,050,000
Purchase of Equipment	2,640,000
Maintenance/Rent of Equipment	3,755,480
Total	<u>138,989,760</u>

- (c) The Report was made public by the Minister for Education on Wednesday, 12th April, 2000.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, this is a very important Question. The subject matter of the Question is currently being debated by Kenyans. As the Report states, the 8-4-4 system of education has outlived its usefulness. It has overburdened our children. They have become "donkeys". Now, could the Minister tell this House when the Report is going to be implemented, considering the amount of money we have spent in collecting the views of Kenyans about our education system?

Mr. Sunkuli: Mr. Temporary Deputy Speaker, Sir, the House will appreciate that this Question touches on my Ministry to the extent of the setting up of the Commission and its operations. The Minister for Education has explained the reason why the Report may or may not be implemented.

Nobody has ever said that the Report will not be implemented. The Hon. Member is a representative of the people as much as I am. All we are saying is that this was a Commission that the Government appointed, and it has made findings, some of which we find difficult to implement because they will not be implemented by the Government. The Government does not actually finance education other than by employing teachers. The rest of the things, including buildings at the schools, will have to be done by the parents themselves. If you propose a system of education that states that pupils must go from standard one to form four, you must ask: "Where will the extra classrooms come from?" This is the question that the Government is simply asking. But that is not my concern.

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could I be in order to ask the Chair that in view of the fact that the Minister has said that this should be in the docket of the Ministry of Education, this Question be directed to the Minister for Education? The most important part of this Question is the implementation of the Koech Report.

The Assistant Minister for Education, Science and Technology (Mr. Karauri): On a point of order, Mr. Temporary Deputy Speaker, Sir. Will I be in order to ask that part "c" of this Question be directed to the Ministry of Education, Science and Technology as the Minister has suggested?

The Temporary Deputy Speaker (Mr. Poghisio): The Minister has said that this Question falls directly under the Ministry of Education, Science and Technology. Maybe, he can explain to what extent?

Mr. Sunkuli: Mr. Temporary Deputy Speaker, Sir, if I may just clarify, according to the structure of the Government, the setting up of commissions is the responsibility of the Office of the President, but if the hon. Member wants to ask a specific Question about the content of the Koech Report, that will go to the Ministry of Education, Science and Technology.

Mr. Shill: On a point of order, Mr. Temporary Deputy Speaker, Sir. We know very well that most of the commissions are set up by the Office of the President. The purpose of this is so that they can loot. Is it in order that the Minister has said that this Question should be directed to the Ministry of Education, Science and Technology when, in the first place, it is the Office of the President that sets up these commissions?

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Shill! If you want to rise on a point of order, please, be on a point of order and continue on a point of order. I think you are now moving into an argument and a question. It does not become a point of order by putting the words, "Is it in order".

Mr. Sunkuli: Mr. Temporary Deputy Speaker, Sir, I just wanted to inform my hon. friend that the reason why commissions fall under the Office of the President is because the Commissions of Inquiry Act states that commissions of inquiry will be appointed by the President. The Office of the President has nothing to do with the expenditure of these commissions.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I directed my point of order to the Chair to make a ruling on whether this Question should not be referred to the Ministry of Education, Science and Technology, so that part "c" of the Question can be answered satisfactorily.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Obwocha, the bulk of the Question has been dealt with, and only part "c" is remaining.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, then you can rule on part "c".

The Temporary Deputy Speaker (Mr. Poghisio): Okay, let the Ministry of Education, Science and Technology say something about it.

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Mr. Temporary Deputy Speaker, Sir, a similar Question has been filed to the Ministry of Education, Science and Technology by hon. Dr. Ochuodho. It will be dealt with in detail when it appears on the Order Paper.

An hon. Member: When?

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): When it appears on the Order Paper.

Mr. Keriri: Mr. Temporary Deputy Speaker, Sir, I do not want to go back on this, but I want to raise this point of principle. The Minister in the Office of the President has said that the implementation of this Report will cost a lot of money, and the burden will be borne by the parents. The Minister knows, if he cares to find out, that when we started the 8-4-4 system of education, a report was released and it was implemented in such a hurry. Parents were asked to go and build classrooms for carpentry, home science and for everything else. The parents went ahead and built all these classrooms. Have the parents been asked and refused to have this Report implemented? The way to do that is by bringing a Sessional Paper in this Parliament to say what should and should not be implemented.

The Temporary Deputy Speaker (Mr. Poghisio) Order! I think we are getting into argument over things that are not related to a particular Question. The Question should be reframed and directed to the relevant Ministry. You cannot just direct part "c" of the Question only to the Ministers for Education and Science and Technology. If there is a Question already coming in, maybe, you can ask Mr. Obwocha to raise a Question for the Ministry of Education, Science and Technology, which is more relevant to that. I think we need to proceed from here.

Mr. Kiunjuri: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am the Assistant Minister for Education in the Shadow Cabinet. However, are the Ministers and Assistant Ministers, both from the Office of the President and the Ministry of Education, Science and Technology in order to contradict the President that they are doing something to implement the Koech Report, when the President himself has said that they will not implement the Koech Report?

Mr. Sunkuli: Mr. Temporary Deputy Speaker, Sir, we are not contradicting the President. The President has had occasion, and we have had occasion too, outside this House to say that the Press, which fully supports the hon. Member's political party, has twisted what the President said. The President did not say that the Report will not be implemented.

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

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Kiunjuri! Mr. Kiunjuri, you cannot be on a point of order when the Chair is on its feet. Hon. Minister, are you sure you cannot answer part "c" of the Question? If you cannot answer it, then we can make a ruling.

Mr. Sunkuli: Mr. Temporary Deputy Speaker, Sir, in all fairness, the portfolio of education falls under another Minister. The hon. Member should reframe Part "c" of the Question and then the Question should be put as a new Question to the correct Ministry.

The Temporary Deputy Speaker (Mr. Poghisio): This Question can now be deferred and redirected to the correct Ministry.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, let it be deferred and directed to the Ministry of Education, Science and Technology.

(Question deferred)

Question No.056

ADJUSTMENT OF TEACHERS' SALARIES IN NDHIWA

Mr. Ojode asked the Minister for Education:-

(a) what causes delay in effecting salary adjustments for teachers who have been promoted on merit in Ndhiwa Constituency; and,

(b) whether he could explain why teachers' in hardship areas, who were paid arrears, are being forced to pay back the money.

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

(a) The delay in effecting salary adjustments for promoted teachers in Ndhiwa Constituency and elsewhere in the country arose mainly between 1995 and 1997. During that time, many irregularities were discovered in the teachers' application documents. As a result, the Teachers Service Commission (TSC) spent a lot of time closely scrutinising and counter-checking the documents with my Ministry's Headquarters to verify their authenticity. However, I am pleased to assure the House that the salary adjustments have now been effected in all cases.

(b) My Ministry is only recovering allowances paid by error to some teachers who were not working in designated hardship areas.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, let me thank the Assistant Minister for that wonderful answer he has given. However, on the other part, the Assistant Minister is misleading the House. Could he confirm or deny the fact that the adjustments of teachers' salaries in Ndhiwa Constituency arose as a result of officers within the Department of Salaries in TSC asking for bribes? Could he confirm that bit alone?

Mr. Awori: Mr. Temporary Deputy Speaker, Sir, the irregularities I have alluded to could very well encompass the statement the hon. Member has made, but it was not in the TSC. It was discovered that some junior officers in my Ministry were fraudulently giving out promotion documents and they have been dealt with by being sacked as they should have been.

Mr. Temporary Deputy Speaker (Mr. Poghisio): Mr. Ojode, incidentally, do you have a written answer to this Question?

Mr. Ojode: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghisio): Okay. I was asking that because I do not have a copy of it. Dr. Kulundu!

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister seems to always blame delay in adjusting teachers' salaries on documentation. Even the delay in processing teachers' retirement benefits is always blamed on the same. The real reason for this delay is really the tendency on the part of the TSC officers to ask for bribes from retirees or even from teachers whose salaries have to be adjusted. In my own case, teachers are asked to pay as much as Kshs20,000 for every promotion for their salaries to be adjusted. Can the Assistant Minister deny or confirm that?

Mr. Awori: Mr. Temporary Deputy Speaker, Sir, the Ministry's policy is very clear, as it is in respect of all Ministries. Corruption is a disease that we must fight. Nobody has denied the fact that there could very well be officers who are indulging in that crime. What we are asking is: We want verified information. If there is any officer who has requested for Kshs10,000 or Kshs20,000 from a teacher in order for the teacher to be promoted; if we get that information, that officer will not just be interdicted but he or she will be sacked on the spot.

Mr. Onyango: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell us the number of TSC officers who have been sacked because of asking for bribes and also table their names?

Mr. Awori: Mr. Temporary Deputy Speaker, Sir, no; I cannot give you that information because I have not got it.

Mr. Ojode: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a very serious issue. The teachers from my constituency who were assessed between 1994 and 1997 have never gotten any salary increase. The reason is because of the Kshs20,000 which is required before any implementation. Could the Assistant Minister come up and tell us the names of those who have been sacked as a result of this? We know of cases where a Minister comes to the House and gives misleading information. This was a very simple question asked by hon. Onyango. Secondly, as concerns part "b" of the Question, could the Assistant Minister tell us why Peter Ochola from Ndhiwa Constituency was being deducted 60 to 70 per cent of his salary?

Mr. Awori: Mr. Temporary Deputy Speaker, Sir, these are two questions. As concerns the first one, I would

like to put it back to the hon. Member who has said the teachers in his constituency who were assessed between 1994 and 1997 have not been promoted because Kshs20,000 was demanded. Well, I would like to have that list of the teachers who have paid that Kshs20,000 and to who. This is because it is the only way I can deal with the situation. I cannot go by hearsay. As to the second question of---

Mr. Ojode: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister himself admitted that there was an anomaly in that his Ministry officials were asking for money in order to adjust the teachers' salaries. I am not talking about the promotion, but the adjustment of salaries. Once a teacher is promoted, adjustment of salaries is never done. Why? Because you have to part with Kshs20,000 in order for them to implement the new salary. That is what I am saying.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Ojode, that is fine but the challenge is that, are you sure about your information?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, yes, because he has admitted it.

Mr. Awori: Mr. Temporary Deputy Speaker, Sir, no. Do not twist my words. I stated that there were irregularities in the documents where some junior officers in the Ministry may have given out letters of promotion and the TSC has been very careful now by scrutinising every document, and checking with us, to see whether a letter to a teacher telling him or her that he or she has been promoted is genuine. That is different from what the hon. Member is trying to say.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the Assistant Minister tell us what was the motive of those junior officers in his Ministry to commit those irregularities? What was their consideration in doing so?

Mr. Awori: Mr. Temporary Deputy Speaker, Sir, I think I had answered that several [Mr. Awori] times, and I do not think I can answer it any further. I want to deal with part "b" of hon. Ojode's Question. Indeed---

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to follow up my question. What was the consideration for these junior officers to commit the irregularities? Could it be the Kshs20,000 being mentioned by hon. Ojode? Tell us clearly what the motive was.

Mr. Awori: Mr. Temporary Deputy Speaker, Sir, I do not know the consideration since I do not have it here with me. I do not know whether the consideration was Kshs10,000 or Kshs20,000. I do not have any idea. I have admitted here that there were some junior officers who, definitely, colluded with the people.

Mr. Shill: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has made a serious allegation, that some junior officers in his Ministry have been, in a corruptible manner, issuing promotion letters to teachers. What action has he taken against these corrupt officers and yet, the Government says that it is out to oust corruption?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Shill, you are now asking a question, really. Next Question. Mr. Anyona!

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

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Ojode, we have to move on. Order! You had your chance to ask all those parts of the question which you did not.

Proceed, Mr. Anyona.

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

The Temporary Deputy Speaker (Mr. Poghisio): Overruled! Mr. Anyona!

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

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I think you had better deal with this.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Ojode, you cannot stand on a point of order and be in disorder yourself. I think the idea of a point of order is that you bring order and not to create more disorder.

Proceed, Mr. Anyona.

The Temporary Deputy Speaker (Mr. Poghisio): Order! It is Question Time! You get your answers by asking questions not by raising points of order! You did have your chance and we want continue.

Let us proceed!

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

The Temporary Deputy Speaker (Mr. Poghisio): Next Question, Mr. Anyona!

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

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Ojode, you are courting problems here! I have overruled that point of order!

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, teachers are suffering and we want to hear from the Assistant Minister.

The Temporary Deputy Speaker (Mr. Poghismo): I have overruled that point of order!

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

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Ojode, you can only go so far. Will you now withdraw from the Chamber.

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

The Temporary Deputy Speaker (Mr. Poghismo): Order! Mr. Ojode, you are withdrawing from the Chamber for the rest of the Sitting this morning.

(Mr. Ojode withdrew from the Chamber)

Next Question, Mr. Anyona!

Question No.084

CLOSURE OF GUSII INSTITUTE OF TECHNOLOGY

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I have not received a written answer, and in those circumstances, I do not know whether you want to determine it before I ask the Question, or whether you want me to ask the Question, then you can decide how to handle it.

The Temporary Deputy Speaker (Mr. Poghismo): Let us hear from the Assistant Minister.

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Thank you, Mr. Temporary Deputy Speaker, Sir. I received this Question on 12th April, 2000, and I discovered that it did not belong to my docket. So, I passed it over to the relevant Ministry, the Ministry of Labour and Human Resource Development on 13th April, 2000, and I informed the Minister about it. So, I think it should be answered by the Minister for Vocational Training. The letter to the Ministry was copied to the Clerk of the National Assembly.

The Temporary Deputy Speaker (Mr. Poghismo): Does that seem okay with the Minister for Labour?

The Minister for Labour (Mr. Ngutu): Mr. Temporary Deputy Speaker, Sir, I think what must have happened is that the Question must have been sent to the docket of hon. Kones because, up to this moment, I have not seen it. So, it could be with the Ministry of Education, Science and Technology because I have not seen it.

The Temporary Deputy Speaker (Mr. Poghismo): I think we will have to defer this Question until tomorrow.

Mr. Munyao: On a point of order, Mr. Temporary Deputy Speaker, Sir. Yesterday, the Speaker made a ruling, and the other week the Deputy Speaker made a ruling from the Chair again, on Questions to Ministers and their directives. If this Question went to a Ministry by 12th April, 2000, and up to now there is nothing known, is the Minister admitting that there is a lot of confusion in the Government and that he does not know what rank he is holding?

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, I do not want to get involved in the confusion in the management of the Government. Is it not only right and fair that, if the Question is going to be tossed around from one section of the Government to the other, then the Member should be kept informed so that he knows what is going on?

The Temporary Deputy Speaker (Mr. Poghismo): What I am going to do now is to defer the Question until tomorrow.

Mr. Kiunjuri: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Cabinet---

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order! The Question is not about the Cabinet!

Order! Mr. Anyona, I think it is only better that the Question is deferred until tomorrow so that the relevant Ministry comes to answer it. We may have other problems associated with that, but we have made a ruling about that and they know that by tomorrow, we should have the right person to answer the Question.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, you can see that, obviously, it cannot be answered. All I am saying, as a matter of principle, is to ask the Chair to guide the House. Is it not only fair that, in circumstances of this kind, and it happens very often, the Member is kept informed? We want a standard procedure?

The Assistant Minister for Education, Science and Technology (Dr. Wamukoya): Mr. Temporary Deputy Speaker, Sir, I do not think the Government can be blamed for this because the letter was copied to the Clerk of the National Assembly from where it originated.

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

The Temporary Deputy Speaker (Mr. Poghismo): Order, Mr. Shill!

Mr. Shill: On a point of order, Mr. Temporary Deputy Speaker, Sir. How can people walk---

The Temporary Deputy Speaker (Mr. Poghiso): Order! People are walking where? With all due respect to the Questioner, I think it is only right that he should be kept informed. It is only unfair that the Question appears on the Order Paper; and there is no written answer. Definitely, there is a problem there. What has happened now is that, it has been rectified; it has been directed to the right Ministry, and we are expecting that, by tomorrow, you will have the answer. So, the Question is deferred until tomorrow.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, you can see that this is the second time the Chair is being told by a certain Ministry "that this Question went to the wrong Ministry". What is happening is that the Ministers are involved in the succession struggle and they are not longer taking seriously the Questions of this House. The Chair should rule that this House should not be involved in succession matters. We are wasting a lot of time!

The Temporary Deputy Speaker (Mr. Poghiso): Order! Order, Mr. Ndicho! Mr. Ndicho, do not trivialize things that are serious. It is bad enough that the Questioner did not get the answer, and we are moving towards resolving that. We are hoping and have already directed that the right person comes to answer the Question tomorrow, and that is why it has been deferred until tomorrow.

(Question deferred)

I want to say something about Dr. Kulundu's Question, but---

*(The Temporary Deputy Speaker (Mr. Poghiso)
consulted with the Clerk-at-the Table)*

Order! Next Question, Mr. Wambua!

Question No.117

REHABILITATION OF KINYONGO DAM

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, I beg to request the Chair to defer this Question because hon. Wambua is a Member of the Bunge FC and he wanted to ask it himself. So, he asked me to request the Chair to defer it.

The Temporary Deputy Speaker (Mr. Poghiso): You said he is a Member of what?

Mr. Munyao: He is a Member of the Bunge FC which went to the border to meet the Ugandan team.

Mr. Temporary Deputy Speaker (Mr. Poghiso): Okay, the Question is deferred to next week.

(Question deferred)

Next Question, Mr. Katuku!

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, I have the authority to ask this Question on behalf of Mr. Katuku. I have asked the Clerk three times to provide the written answer and he has told me three times that the reply has not been received.

Question No.005

DISMISSAL OF MS. ESTHER KASISI MUTISYA

Mr. Munyao, on behalf of **Mr. Katuku,** asked the Minister for Lands and Settlement to explain the circumstances under which Ms. Esther Kasisi Mutisya was dismissed from the Public Service on 26th September, 1994.

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, I beg to reply, and also apologize to the acting Member of Parliament for Mwala Constituency, who also happens to be a Nominated Member of Parliament of DP, who is asking the Question.

I do apologize because the answer to the Question which appears on the Order Paper today has just been prepared. I have it here and I will pass it over to him. So, I do apologize most sincerely for not having been in a position to present it to the Member for Mwala Constituency in time. Having said that---

Mr. Munyao: On a point of order, Temporary Deputy Speaker, Sir. Is it in order for me to ask the Minister to pass over the written reply to the Clerk and wait for me to receive it as the acting Member of Parliament for Mwala?

The Temporary Deputy Speaker (Mr. Poghiso): Have you received it now, Mr. Munyao?

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, with the assistance of my brother and the Clerk, the reply has reached the hon. Member and he has received it!

The Temporary Deputy Speaker (Mr. Poghisio): Proceed now!

Mr. Keriri: Mr. Temporary Deputy Speaker, Sir, the hon. Minister has just stated that he got this Question today and he quickly prepared the answer. This is not a Question by Private Notice. Where was the Question all this time that it got to the Minister today? It is strange that the Minister got this Question only today and prepared a quick answer. Could he tell us what has been happening in the meantime before he answers? We may be blaming him for something which he may not have received!

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, this Question was asked in the last Session. So, it has not officially arrived in the Ministry this Session. But since we are an efficient Ministry, we agreed to reply and the reply is as follows:

Ms. Esther Kasisi Mutisya was dismissed from the Public Service on 26th December, 1994, because of being absent from duty without leave or permission. The decision was taken after she was given the opportunity to defend herself in accordance with the provisions of the Public Service Commission Act, Cap.185, and the Employment Act, Cap.266 of the Laws of Kenya.

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, it is true that the Minister is efficient because the answer to this Question is dated 26th April, 2000. Secondly, the Minister has told us that Ms. Kasisi was dismissed on 26th December, 1994, but she was on duty up to February, 1995. There were correspondences between the Ministry and this lady. What went wrong soon after that because it was clear that this lady was sick?

Mr. J. Nyagah: Mr. Temporary Deputy Speaker, Sir, I do apologise for that mix-up. The date was 26th September and not 26th December, 1994.

Mr. Temporary Deputy Speaker, Sir, we gave the lady an opportunity to respond after she absented herself from the office for five months. We wrote to her and she responded on 22nd February, 1995, several months later, and gave unconvincing reasons. Five months is a very long time for a subordinate staff to have absented herself without being in communication with her boss. Finally, when the communication came, it was not convincing.

Mr. Otula: Mr. Temporary Deputy Speaker, Sir, could the Minister tell this House the contents of the letter which was given by this lady before she was terminated?

Mr. J. Nyagah: Mr. Temporary Deputy Speaker, Sir, obviously there was an unfortunate health situation. It would be unfortunate to discuss the letter because its tone and contents are very emotive. But I would be quite happy to pass it on to the Questioner because---

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

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Muchiri! Let the Minister finish what he is saying.

Mr. J. Nyagah: Mr. Temporary Deputy Speaker, Sir, the unconvincing reasons have to do with the state of her health and the way she explained it. If you have been absent from the office for five months and you do not have a lot of supporting documents to prove that you have actually been sick, we consider that to be unconvincing. So, we told her to appeal to the Public Service Commission, if she was not satisfied, under **[Mr. J. Nyagah]** the usual regulations, and that was in her letter. It is most unfortunate that once given the opportunity, she refused to go the Public Service Commission to appeal as per the normal Government requirements.

Mr. Muchiri: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to refuse to reveal the contents of the letter when the Question is the property of this House?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Muchiri, the contents of that letter might not be the property of this House if it is a health problem!

Mr. Muchiri: What were the contents of the letter? Is the Minister in order to refuse to reveal the contents of the letter when the matter is before this House?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Muchiri, do you want him to read the letter?

Mr. Muchiri: That is the position. Let him read the contents!

The Temporary Deputy Speaker (Mr. Poghisio): Are you comfortable with that, Mr. Minister?

Mr. J. Nyagah: I do not have a problem. I just wanted to protect the young lady. Obviously, she had a mental problem and that is why we advised her to appeal against our decision so that another group, outside the Permanent Secretary, at the Public Service Commission could review her case. We are disappointed that she did not take the advantage of the appeal process.

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir. The Ministry of Lands and Settlement is not known for its competence in medical matters. The Minister is now saying that this lady may have had a mental problem. Is it not, therefore, true that she may not have complied with Ministry's orders because of her mental illness and she should not be punished for being mentally sick?

Mr. J. Nyagah: Mr. Temporary Deputy Speaker, Sir, in trying to be efficient, a member of staff cannot

disappear for five months without communication from her place of work. So, we gave her every opportunity to explain herself. Five months is a very long time!

Dr. Kulundu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Mental illnesses have a tendency of being very chronic. Five months may be okay for malaria, typhoid and so on, but for mental illnesses, a period of five years or 10 years would be very reasonable. So, could the Minister, on the basis of my advise, rescind the dismissal of this lady and give her another chance to be evaluated by a psychiatrist?

Mr. J. Nyagah: Mr. Temporary Deputy Speaker, Sir, I do not think there is anything to answer there. In these times of retrenchment, I think it would be extremely difficult to reinstate her.

Mr. Anyona: Mr. Speaker, Sir, the Minister has told this House that this lady was suffering from mental illness and as a result, she lost her job. Now, he wants to justify that on the basis of retrenchment. This Parliament will be doing injustice---Now that Parliament is seized of the fact that this lady was away from her place of work because of this problem, it is only fair that this House should ask the Minister to have the matter re-examined afresh. It would be very unfair for this Parliament to say that she was mentally ill and, therefore, we should let her go her way.

Mr. J. Nyagah: Mr. Temporary Deputy Speaker, Sir, whereas we can be sympathetic to this lady, absenteeism is absenteeism. This happened several years ago and we have moved on. Whereas I am very sympathetic to the lady and the family, I think it will be very difficult, six to seven years on, to take that into account. Thank you.

Mr. Parpai: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to have terminated the services of this lady instead of retiring her, knowing very well that she had absented herself not out of her own wish?

Mr. J. Nyagah: Mr. Temporary Deputy Speaker, Sir, let it be very clear. It took a very long time. Even what I said appeared to be mental disorder did not come out because there was no communication. We wrote several letters to her but she did not reply. We gave up after five months. The indication that we got was after the termination, and I told her to appeal to the Public Service Commission. That is the point when it appeared to us that there could be a problem. But it was after we had tried every method possible to communicate with the lady. Thank you.

Mr. Munyao: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to ask the last question. This House - and particularly myself - does not know this Minister to be so cruel and unkind. We know the Nyagah Family to be very sincere, honest and committed to this nation.

Mr. N. Nyagah: Are you doubting us now?

Mr. Munyao: No, the way it is---

An hon. Member: He is bringing a family matter!

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order!

Mr. Kamolleh: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for my colleague, the Secretary General of the Democratic Party of Kenya (DP) to personalise the matter when we are actually making this issue a [Mr. Kamolleh]

governmental and parliamentary procedure? What has the Nyagah Family got to do with this Question?

An hon. Member: Irrelevance! It is with a light touch!

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order, Mr. Kamolleh! Certainly, Mr. Munyao, just stick to the matter at hand. Actually, the Minister is answering as a Minister in the Government, and not as the Nyagah family.

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, I was just making reference because I knew he originates somewhere, and this family is known in Kenya. We respect the Nyagah Family.

I am only saying that the Ministry has written only two letters. One letter was written on 30th November, 1994, and the other one was written on 17th February, 1995. During this time, it was proved to the Department of Lands that this lady was mentally sick. She could not even appear for any other thing. We are only asking the Minister to consider retiring this lady purely on humanitarian grounds, so that she gets her benefits.

Mr. J. Nyagah: Mr. Temporary Deputy Speaker, Sir, I wish that question was put right at the beginning because we are trying to explain the situation. I do not have powers to overrule the decision of the Public Service Commission (PSC). The employer of all public servants is the PSC. So, I will be wrong to make a categorical statement of the kind that I have been asked to. But having heard the sentiments expressed by hon. Members, I will go and see if seven years is not too late. But I do not have the powers. I will not pretend to have the powers. Thank you.

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, that is a much more reasonable way of looking at it. In order to help the Minister to take up the matter effectively, can the House request that the Minister does convey the feelings of this House to the PSC, that this matter be reconsidered? Can he do it on that basis, without appearing to be interfering with the PSC?

Mr. N. Nyagah: Give an order!

Mr. J. Nyagah: Mr. Temporary Deputy Speaker, Sir, basically, that is what I implied. I will do my best but I will not guarantee the answer. Thank you.

The Temporary Deputy Speaker (Mr. Poghismo): You do your part. Next Question, Mr. Muchiri.

Question No.096

ALLOCATION OF PLOT NO.LR/BLOCK 116/1418

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

- (a) if he is aware that LR/Block 116/1418, a public utility plot at Zimmerman, was on 31st December, 1992, illegally allocated to a Mr. Charles Ateya of P.O. Box 30089, Nairobi, contrary to the interests of over 80,000 residents of Zimmerman Estate;
- (b) if he could table the application of the said LR/Block 116/1418 by the said Charles Ateya; and,
- (c) if he could ensure that all public utilities in future are advertised before they are allocated in all municipalities and urban areas, for the residents of the areas concerned to be aware of the allocations.

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

(a) I am not aware that Plot LR./Block 116/1418 was earmarked for public utility purposes. I am also not aware of the said irregular allocation of the said plot to a Mr. Charles Ateya of P.O. Box 30089, Nairobi. I want to confirm that Mr. Ateya is not an employee of my Ministry.

(b) It is not possible to table an application for the plot by Mr. Charles Ateya as we do not have such an application in the Ministry. The reason for this is that, this plot was not vacant. The subject land is a sub-plot arising from the subdivision of a private land, that is, LR.No.1012/16, belonging to Roysambu Housing Co-operative Society Ltd., which is a land buying company.

(c) Whereas there are some categories of public utility land that may be advertised for alienation, most categories are not alienable for private development. This is because public utility land is earmarked and meant for public use only. Public use includes schools, hospitals, stadiums, recreational parks, roads, road reserves and open spaces.

Thank you.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, I have received the answer and the documents I have prove contrary to what the Assistant Minister has told this House. I had spoken to him earlier and told him that I did not want to embarrass the Ministry. He agreed to go and carry out an investigation. I will request a ruling from you before I ask a supplementary question.

The Temporary Deputy Speaker (Mr. Poghismo): On what?

Mr. Muchiri: Before I ask whether the Assistant Minister wants me to continue asking a supplementary question.

Hon. Members: Go ahead!

Mr. Muchiri: First of all, Mr. Temporary Deputy Speaker, Sir, I wish to table the letter of offer to a Mr. Charles Ateya, and the address given belongs to the Ministry of Lands and Settlement, which proves that he---

*(Mr. Keriri attempted to lay the document
on the Table on behalf of Mr. Muchiri)*

The Temporary Deputy Speaker (Mr. Poghismo): Order! There is a way to table documents.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, I am going to table all of them. Secondly, I brought this Question under Private Notice when the said Charles Ateya was in the process of selling that plot. There was a dispute about the brokerage commission of about Kshs500,000. What happened thereafter, and they have the documents, was that the land was offered to the person who was alleged to be the purchaser, a Mr. John Thuo, and the documents were back-dated to 1992, when, in fact, the application of Mr. John Thuo---

The Temporary Deputy Speaker (Mr. Poghismo): Are you asking a question or you are telling a story?

Mr. Muchiri: I am now coming to the question, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghismo): Ask the question.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, the application of Mr. John Thuo is alleged to have been written on 22nd January, 1999---

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Muchiri---

Mr. Muchiri: I am asking the question now, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghismo): Where is the question?

Mr. Muchiri: The question is this: The application of Mr. John Thuo, who is alleged to be the owner of this public land, is dated 22nd January, 1999, when the letter of offer is back-dated to 14th November, 1992---

The Temporary Deputy Speaker (Mr. Poghiso): Where is your question?

Mr. Muchiri: I am coming to the question, Mr. Temporary Deputy Speaker, Sir.

(Laughter)

It is a long journey, Mr. Temporary Deputy Speaker, Sir. The letter of offer is dated 14th November, 1992, and the application presented to the Ministry is dated 22nd January, 1999. Under what circumstances do you offer or allocate somebody a plot before receiving the application from the applicant?

Mr. Keah: Mr. Temporary Deputy Speaker, Sir, I consult on issues raised here by hon. Members. I have had a discussion with hon. Muchiri to find out what he heard; I promised him that if he gives me those documents, I will, certainly, investigate the matter on the basis of those documents. I have nothing to hide; there is nothing to be embarrassed about. I promise to duly look at those documents if the House accepts them as being authentic. I will, certainly, go and look at them and come back to the House with the necessary answer, based on those documents.

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, while answering a question, the Assistant Minister said that public utility land is only meant for the purpose of constructing schools, health centres and other amenities. Is he in order to mislead this House, when we know that all the public land in this country has been set aside by the KANU Government for the purpose of bribing voters with, and that it is only allocated to people during elections? It is very unfortunate that the Leader of Government Business, Prof. Saitoti, will not have anything to give as bribes in the next general elections.

The Temporary Deputy Speaker (Mr. Poghiso): Order! Mr. Kiunjuri, it is going to be very difficult for me to give you a chance if you can stand on a point of order and then drag the names of hon. Members who are not here into your argument; you know the rules of this House. That is a frivolous point of order, and I will not allow it.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, at the beginning, the Assistant Minister said that he was not aware that the particular plot in question is a public utility land. Then, he went on to say that it arose from subdivision by a company called Roysambu Land Buying Company. He said that the law requires that whenever land is sub-divided, some land is set aside for public use, and that it is from this rule of law that this plot arose. Now, arising from that explanation, and going by the documents that the hon. Member has, including the lease deed itself, which was issued by the Ministry, could the Assistant Minister consider revoking the particular lease deed, so that the said plot may revert to public use?

Mr. Keah: Mr. Temporary Deputy Speaker, Sir, let us, first of all, have the documents, then my Ministry will be very delighted to help.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, what is the Government's policy regarding public utility land in this country? It is very worrying that the Ministry, which is supposed to be the trustee of the public of this nation, has been behaving very irresponsibly by dishing out public utility plots, which have been set aside for posterity. Why is the Government behaving as if doomsday is today, and dishing out land carelessly without caring about the future generations of this country?

Mr. Keah: Mr. Temporary Deputy Speaker, Sir, as you are aware, there is a ban on dishing out of land; that is the situation at the moment.

Mr. Kariuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. I asked the Assistant Minister what the Government's policy is, regarding public utility land in this country. Could he, please, answer that question?

Mr. Keah: Mr. Temporary Deputy Speaker, Sir, I said quite clearly that the policy at the moment is that there is a ban on allocation of public land, and that, that is the situation at the moment.

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is trying to duck the question that has been put to him. The Member for Kiharu has asked a specific question; he sought to know the Government's policy on public utility land. The Assistant Minister is telling us about the current ban on land allocation. The plot in question was given away in 1992. So, the current ban on land allocation notwithstanding, could he state the Government's policy regarding public utility land? The plot on which the District Officer (DO), Thika, is housed, is already gone; somebody is already putting up a storey building there.

Mr. Keah: Mr. Temporary Deputy Speaker, Sir, since 1963, when Kenya gained its Independence, the Government policy has been to allocate and dish out land that is not needed by the Government, or for Government use. However, as of now, there is a ban on land allocation. The current policy, therefore, is that there is no longer any more allocation of public land.

Mr. Kiunjuri: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to

say that there is a ban on allocation of public land when KANU grounds in Nanyuki and part of Marmanet Forest were allocated to some people two weeks ago, and letters of allotment issued to those people?

Mr. Keah: Mr. Temporary Deputy Speaker, Sir, the said land must be in a settlement scheme; it is not public utility land.

The Temporary Deputy Speaker (Mr. Poghismo): Could you ask the last question, Mr. Muchiri?

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

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order, Mr. Kiunjuri! Mr. Muchiri, ask your last question now.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has said that, currently, land is not being allocated to people. In Nairobi alone, the Provincial Administration continues to allocate public utility land to some people, including civil servants and KANU youth wingers.

Mr. Assistant Minister, are you in order---

The Temporary Deputy Speaker (Mr. Poghismo): Order! Mr. Muchiri, ask your question through the Chair.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to come here and tell the nation that public utility land is not being allocated to people today when, in fact, it is being allocated by KANU youth wingers, chiefs and DOs to, literally, everybody else who is connected to the Government?

Mr. Shaaban: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that KANU youth wingers allocate land to people in this country when we all know that KANU youth wingers belong to a political party and not to the Ministry of Lands and Settlement? How do KANU youth wingers allocate land to people, anyway? Could the hon. Member substantiate?

The Temporary Deputy Speaker (Mr. Poghismo): Could you proceed, Mr. Assistant Minister?

Mr. Keah: Mr. Temporary Deputy Speaker, Sir, I would like to confirm to this House that, currently, no public land is being allocated to anybody through my Ministry. In case an individual has some land which he wishes to sub-divide and sell to other people, as hon. Mwenje seems to, that is quite possible and practicable. However, my Ministry is not allocating any land to anybody because of the ban that is in force.

(Mr. Muihia stood up in his place)

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Muihia, are you asking a question or raising a point of order?

Mr. Muihia: I am asking a question, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Muihia, I gave Mr. Muchiri a chance to ask the last question and, therefore, you cannot be on the Floor.

Mr. Muihia: On a point of order, Mr. Temporary Deputy Speaker, Sir. The relevant question here is related to LR/Block 116/1418. We are dealing with a very volatile situation where, sooner than later, Kenyans will take upon themselves, the Zimbabwean way, to reclaim back their land. Is the Assistant Minister in order not to address this particular question of revoking the allocation which was done illegally and fraudulently, [Mr. Muihia] so that land reverts back to the owners? There are very many such allocations and the Ministry is notorious for that. I have visited that Ministry 24 times on illegal allocations. Is he in order to avoid revoking these allocations?

Mr. Keah: Mr. Temporary Deputy Speaker, Sir, there may have been past misdeeds of notoriety, but we are a new team, and I would like to assure the hon. Member that what might have been done in the past will no longer be the case now. Be that as it may, I have asked to be provided with the documentation the hon. Member has, so that I can look at it and report to this House. What more does he want me to do because I do not have those documents? So, let me have those documents.

Mr. Kariuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister did make a very serious allegation. He said that there may have been past mistakes. One of the mistakes made is to give an employee of his Ministry, either through fraud, stealing or endorsement, a piece of land which belongs to the public. Is the Assistant Minister endorsing that the officers within his Ministry are free from blame when they commit this glaring mistake of stealing public land and even endorsing it? Is he endorsing that giving out land is not bad?

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Kariuki, that is not even a point of order.

Mr. Keah: Mr. Temporary Deputy Speaker, Sir, Mr. Ateya, who is being referred to in this Question, is not an employee of the Ministry of Lands and Settlement.

The Temporary Deputy Speaker (Mr. Poghismo): Let us move on to Dr. Kulundu's Question.

SUBDIVISION OF NAVAKHOLO DIVISION

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, I still have not got a written answer to this Question---

The Temporary Deputy Speaker (Mr. Poghiso): Order! Dr. Kulundu, I have information now that there was confusion in the numbering of the Questions and the Minister has a different number from the one on the Order Paper, and so we want to defer this Question until tomorrow.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

ROBBERIES IN KAMUKUYWA MARKET

(Dr. Kituyi) to ask the Minister of State, Office of the President:-

(a) Is the Minister aware that there is a spate of systematic raids and robberies occurring in the neighbourhoods of Kamukuywa Market and Kimilili Town over the past fortnight?

(b) Is he further aware that in one of the robberies, local vigilantes injured one of the raiders who turned out to be a Mr. Mok, an Administration Police Officer at the chief's centre in Kamukuywa?

(c) What urgent action is the Minister taking to arrest the situation before it gets out of hand?

The Temporary Deputy Speaker (Mr. Poghiso): The first Question by Private Notice is deferred because Dr. Kituyi is away.

(Question deferred)

SALE OF CONTAMINATED COCA-COLA PRODUCTS

(Mr. Maore) to ask the Minister for Tourism, Trade and Industry:-

(a) Is the Minister aware that some products of Coca-Cola Africa Limited are sold while contaminated?

(b) What urgent measures is the Kenya Bureau of Standards, in conjunction with the Public Health Department, taking to ensure all food products are safe?

(c) What regulatory mechanisms are in place to protect the public from consuming unhygienic foods being sold in kiosks and by the roadside?

The Temporary Deputy Speaker (Mr. Poghiso): The second Question by Private Question is deferred.

(Question deferred)

POINTS OF ORDER

IMPASSE IN THE MINISTRY OF
LOCAL GOVERNMENT AND THE NCC

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, last week, there was an issue which arose in the House concerning the management of the Nairobi City Council (NCC) by the Ministry of Local Government, and apparent confusion with regard to the role of the Office of the President in that context. It was the wish of this House that the NCC should be managed efficiently to provide services to Kenyans who live in the Capital City. It has now come to pass that, apparently, the impasse in the Ministry of Local Government and the NCC is getting deeper. It has come to light that there is a serious dispute between the Minister for Local Government and the Permanent Secretary. In view of what was expressed yesterday, that it is the Ministers who are responsible to this Parliament, and that the Permanent Secretaries and other officers of the Government must assist the Ministers to discharge their responsibility to Parliament; and in view of the fact that under Section 17(3) of the Constitution of Kenya, the Cabinet is collectively responsible to this Parliament and not the Permanent Secretaries, the "dream team" and anybody else, can we be given a Ministerial Statement from the Office of the President, which is the one that is in charge of the management of Government departments and Ministries? Could we be told clearly what the dispute is all about, and who is ultimately responsible to this Parliament for the efficient management of the NCC with respect to this particular case and other general cases?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I know he wanted a Ministerial Statement from the Office of the President. I think we will look at that and see who should make the appropriate reply.

Hon. Members: When?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I agree that the Ministerial Statement will be made here, maybe, on Wednesday, next week.

INSECURITY IN MACHAKOS TOWN

Mr. Munyao: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I rise to request for a Ministerial Statement from the Minister of State, Office of the President, in charge of internal security on a matter which is very serious and disturbing to the businessmen of Machakos Town. Insecurity in this town has gone beyond limit. It is just last week when one of the businessmen, a prominent petrol dealer in Machakos Town by the name of Josiah Muluka--- I am using this as an example because I cannot exhaust the list. The Minister can check the Occurrence Book of the Machakos Police Station to see those people who have fallen victims of thuggery because Machakos is becoming a town where one cannot be safe even as early as 6.30 p.m. or 7.00 p.m. The thugs are moving in large numbers from one house to another, breaking doors and windows. Last week, they went to the house of this businessman and broke all metal doors and windows; attempted to pour petrol into the house and gave the owner an ultimatum to either open the door or they set the house on fire. It was only the other week when we lost two businessmen in Yatta Constituency.

I would like to request the Minister of State, Office of the President, in charge of internal security, through the Chair, to make an urgent Ministerial Statement, at least to cool down the of people in Machakos Town because, right now, after 7.00 p.m., they stay awake until morning with pangas and other weapons. I would like to inform this House that families sit up the whole night guarding their homesteads. Could the Minister make a Ministerial Statement to this House over this issue, followed by action because we are taxpayers?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I am aware of the incident that the hon. Member has referred to. There are a few incidents which are known and we will make a Ministerial Statement on Tuesday, next week.

CULTS IN BUDALANGI CONSTITUENCY

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, I would also like to seek a Ministerial Statement from the Minister of State, Office the President, in charge of internal security. There have been some rumours that there is a cult---

The Temporary Deputy Speaker (Mr. Poghisio): Once you start like that---

Mr. Wanjala: I am sorry, Mr. Temporary Deputy Speaker, Sir. There have been some allegations in the newspapers about cults in Budalangi Constituency, that people are being murdered secretly and drained of blood. These reports appeared in the *Daily Nation* dated 7th April this year, and in the *People Daily* newspapers. I would like to have a Ministerial Statement over the investigations the Minister has carried out so far about the cult that is being talked about in Budalangi Constituency.

The Temporary Deputy Speaker (Mr. Poghisio): We want you to specify, the source of your information. You cannot really base your information on the newspapers for the Minister to make a Statement.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, even the people on the ground are talking about it. We want an investigation to be done.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Minister, it is your discretion, really. This is based on a newspaper report, the Press and things like that.

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, in fact, it does not fall within my Ministry. The Ministry of Home Affairs, Heritage and Sports deals with religious matters.

The Temporary Deputy Speaker (Mr. Poghisio): Next Order!

MOTIONS

LEAVE TO INTRODUCE NATIONAL DISASTER/SAFETY MANAGEMENT BILL

THAT, this House do grant leave to introduce a Bill for an Act of Parliament entitled the *National Disaster and Safety Management Act* to provide for integrated professional and strategic management of national disasters and safety, and for matters connected therewith and incidental thereto.

(Mr. Oloo-Aringo on 19.4.00)
(Resumption of Debate interrupted on 19.4.00)

The Temporary Deputy Speaker (Mr. Poghiso): Mr. Mwakiringo was on the Floor. He is not present now? Hon. Khamasi!

Mr. Khamasi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute on this important Motion, which I arise to support.

As you noticed, it is now becoming fashionable in this House for Members to seek leave of the House to introduce Bills. A typical example is the Motion on Parliamentary Service Commission, Motion on Affirmative Action, and now this one. What is the main reason for Members seeking leave of the House to introduce Bills? I believe the main reason is because the Government is increasingly becoming very insensitive to very pressing issues affecting the citizens of this country. They would prefer to deal with issues on an *ad hoc* basis. In the first instance, Members are rising to seek leave of the House to introduce Bills on issues which the Government should be aware of. The Government must be on the forefront to introduce Bills without Members coming here to seek leave of the House.

The Government is dealing with disaster issues on what I would call "management by crisis" basis, which is something that a properly constituted organisation should desist from. This Motion needs to be passed without much amendment. All that Hon. Oloo-Aringo is doing is to seek leave of the House, and there should be no question about anybody opposing this Motion. I believe it is a worthwhile Motion, and the Government side should come up very effectively to support it. Disasters are many in this country. Some are natural disasters, like the floods we have seen causing havoc to the residents in Budalangi; the *El Nino* phenomena which has destroyed the infrastructure of this country, crops, animals, *et cetera*; the landslides we have seen in some parts of this country, burying a substantial number of people; droughts devastating very big areas in this country and causing a lot of suffering to Kenyans and so on.

We have also seen man-made disasters like the bomb blast of 7th August, 1998, where over 200 people were killed, and more than about 5000 people were injured. There was the Mtongwe Ferry accident where over 270 people died. Lately, we have seen bus tragedies. These are all man-made disasters. In all these cases, the Government has got no proper system of dealing with them. There is no preparedness at all of any kind from the Ministries concerned, to deal with these issues. These issues are being dealt with on an *ad hoc* basis, and more often than not they are not properly dealt with. It is important to have a legislation in place. We must have a national policy on how to deal with national disasters. It is high time that the Ministries concerned with these types of disasters brought here a Sessional Paper on how we are going to deal with disasters, to be discussed by this House and adopted.

The Government must stop dealing with these issues on an *ad hoc* basis. Quite often, funds which are raised whenever a disaster arises are collected from well-wishers and the international community. Very often, these funds are not fully accounted for. They are marred by corruption, such that victims who are affected sometimes never benefit from them. It is shameful that in the case where our economic supporters and well-wishers can be able to contribute towards a Fund like the Bomb Blast Fund, these funds never reach the victim. The funds are even distributed on selective basis. We cannot understand why that should be the case.

We must have a policy which we must guard. If you have got a fire in Sidindi where a number of people die, the people in Sidindi are just as good Kenyans as those in Mtongwe. There is no reason why we should collect funds for people who have perished in the Mtongwe Ferry accident and yet we cannot do the same thing for those who have died in a fire in Sidindi. This is a selective way of doing things. We demand that the national cake must be equitably distributed. This is a very important Motion, which has got to be supported. I believe that when the Minister rises to reply, he should not have much to say except that he is granting leave to this House so that this Bill can be introduced.

With those few remarks, I beg to support.

The Assistant Minister for Lands and Settlement (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to also contribute to this Motion by hon. Oloo-Aringo. The idea is good, and the concept is superb. Indeed, we have had disasters in this country to which we have responded, but our responses have at times left a lot to be desired. There is, therefore, plenty of room for improvement in our approach to disasters and disaster management. If anything, we should try and do all we can to stop some of the disasters which are national in nature, and in fact, they can be avoided. Therefore, the instrument that is suggested by this Motion is an excellent idea. In my view, it will help to put together forces that will enhance the management and safety during disasters in this country.

Mr. Temporary Deputy Speaker, Sir, I do in principle support this Motion, but I think it needs a lot of refinement. The actual Bill should be given to many people, so that they can participate and contribute, rather than just the Attorney-General to formulate and bring it here. I think the subject matter should be debated outside there at large,

so that there can be a far larger input from members of the public. Therefore, I would like not to propose any amendments, but to support this particular Motion. Perhaps, the Attorney-General needs to be involved in this matter, and the whole process becomes participatory in nature throughout the Republic.

Mr. Temporary Deputy Speaker, Sir, the hon. Member who spoke before me gave instances of natural disasters that have occurred. He also cited some of the governments' or countries' responses to those disasters. In my constituency, we are suffering from those natural disasters three years after they happened; for example, roads and bridges that were washed away during the *El nino* rains, which, to date, have not been repaired. Such calamities are the ones that make it imperative for such a Motion to be supported. This is because if a bridge that served the community has been washed away, and three years after the events, that bridge has not been repaired, our disaster or natural catastrophe management leaves a lot to be desired. I have three specific bridges in mind. The first one is the bridge along the Mariakani-Kaloleni Road, which has been left unrepaired for lack of funds or natural disaster management approach. That bridge has not been repaired to date. This is the kind of thing we need to attend to.

Mr. Temporary Deputy Speaker, Sir, I would even propose that we set up a very special national disaster fund. Every year, we should not only allocate funds to it from the Consolidated Fund, but we should also raise money through Harambees. We could also solicit for funds from the donor community to get funds, so that we can enhance the national disaster management fund. In the process, it will be necessary for us to define what a national disaster is. Therefore, that is why I said it is important we permit a wide debate on this particular aspect, so that we can collect views to know what we mean by national disasters. I am sure, when the Minister responds, he will have a lot to say on this National Disaster and Safety Management Act. As I said, I think it is important that the matter is debated on a wider basis outside this House. Perhaps, the Attorney-General or, indeed, a Minister in the Office of the President should lead the way forward for this.

Mr. Temporary Deputy Speaker, Sir, the Motion is good. Its concept is good and, really, I do not have problem supporting my friend's Motion. With those few remarks, I beg to support.

Mr. Wanjala: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to air my views on national disasters. Several disasters have befallen our country. However, there is too much discrimination in the management of disasters in this country.

Mr. Temporary Deputy Speaker, Sir, recently, when we had a disaster in Abidjan, we saw all professionals from Kenya going to Abidjan to assist the victims and their relatives. They counselled the relatives of the victims. Even some Ministers and Government officials went there to assess the situation. However, recently, when two buses crashed along Kericho-Nakuru Road and over 100 people died, none of those professionals went there to counsel and console the relatives of the victims. Even in the most recent bus accident along Mombasa-Nairobi Road, professionals never bothered to counsel the relatives of the victims. Most of the professionals in this country are only interested in taking care of the well-to-do people. It is sad that less disadvantaged ones are not being assisted. The same thing happened to the people of Budalangi in 1998 when there was flooding. Our people were not assisted by the Government. It is a pity that when the President heard a person was dying of cholera in Rift Valley, he went to see him and yet, our 6,000 people stayed in camps for three years. So, there has been some discrimination in the manner we handle disasters in this country. Our people---

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the hon. Member substantiate which person died of cholera in Rift Valley and the President paid him a visit?

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, you know hon. Haji is still a Provincial Administrator and he must have something to report to the President.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Wanjala, I think you had better take the matter seriously. I think you also know that Standing Orders forbid you from bringing into question, the behaviour and conduct of the President. So, he is raising a relevant point of order.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, I may not right now be able to give the name of that person, but it was announced that the President paid a visit to a victim who was dying of cholera in Rift Valley, while 6,000 people in Budalangi were camping.

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Temporary Deputy Speaker, Sir. If the hon. Member cannot substantiate, then he should withdraw and apologise to the House.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Wanjala, the fact of the matter is that you are responsible for the accuracy of all your information.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, as much as the Assistant Minister wants to victimise me-- Recently, the Government released about Kshs7 million to Mozambique to assist flood victims and yet, the people of Budalangi were not assisted at all. No money was released from the Consolidated Fund to assist them.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Wanjala, the question at hand has nothing to do with Mozambique. It is about the accuracy of the information you have given here. If you are not very sure of its accuracy, it is very honourable of you to withdraw and apologise.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, I have said clearly that the visit was announced, but the name of the patient was not disclosed. Severally, the President visited patients in Nairobi Hospital, but their names were not divulged. That is all I said; that there is discrimination in attending to disasters.

The Temporary Deputy Speaker (Mr. Poghisio): Order, now! I think you are now treading on very dangerous grounds. You are running away from one point of order into another very difficult one. I think you are treading on the side that you should not be. You are now saying that the President is discriminative; you are now discussing the conduct of the President. I think you had better be careful on that matter. Hon. Haji wanted you to act on what he said; he asked you to withdraw that information. If you are unsure, then, it is inaccurate information. Just withdraw and proceed. It will not hurt your contribution.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, I am sure, but the name of the patient who was visited was not announced---

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Wanjala, you are now consuming your own time.

Mr. Wanjala: Therefore, Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Poghisio): Order! If you do not act on what you said, you would be consuming your own time. You want your records to be accurate regarding what you say here, do you not?

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, we even have severally seen and heard people dying of hunger in Wajir---

(Laughter)

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Temporary Deputy Speaker, Sir. If the hon. Member does not have ideas to contribute to the Motion, he should withdraw. Please, Mr. Wanjala, be an honourable Member and withdraw what you said.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Wanjala, do the honourable thing.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, I wish to withdraw.

(Applause)

But even if I withdraw it here, Kenyans know the truth and it will one time prevail.

Mr. Temporary Deputy Speaker, Sir, recently, we had famine in North Eastern Province (NEP) and people died, but the Minister of State, Office of the President, in charge of Famine Relief Co-ordination, continued to deny it instead of visiting the place and seeing for himself. Therefore, if we have this Act in place, it would sometimes help us to prevail upon the people who are concerned---

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Sumbeiywo): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know whether you heard the hon. Member for Budalangi saying that the Minister of State, Office of the President, in charge of Relief Co-ordination did not visit NEP, when it is known that he personally flew there and visited the people who were affected by famine. Could he substantiate on that?

An hon. Member: Alienda Wajir!

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, I will substantiate. Before the Minister flew there, he denied for almost one month that there was famine in that province until the matter was brought to the House. We want Ministers to be a bit fast in acting and not always relying on the District Commissioners.

The Minister of State, Office of the President (Mr. Nassir): On a point of order, Mr. Temporary Deputy Speaker, Sir. I had thought of letting him talk as much as he wants, but he is now going too far. I think when some Members were elected to---

The Temporary Deputy Speaker (Mr. Poghisio): What is your point of order?

The Minister of State, Office of the President (Mr. Nassir): Mr. Temporary Deputy Speaker, Sir, could the hon. Member speak the truth about me? He does not know what is going on.

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

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, sometimes we have seen people looking at disasters as a way of gaining political mileage, and there is no accountability of any money given out to manage them. The accounts

of such funds meant to manage disasters have not been published so that people know how the expenditures were made. Today, even after the 1998 Bomb Blast, there are some people who suffered and have not been paid, yet there was a lot of money which was collected. But because there is no Act for us to possibly use to force the accounting officers to account for the money, it was squandered, and some people have still not yet been paid. Even some people from my own constituency who were victims have not yet been paid. So, if we have such an Act, it will help us to manage the disasters in this country.

Possibly, even the management of disasters should be based at the constituency level because whenever there is a disaster and the district headquarters is very far, the Government fails to understand what is happening on the ground, and relies on the DOs who are not from those affected areas, and who do not understand what has happened. So, we want this Motion to be passed so that we may now manage all the disasters in this country in a manner in which we do not discriminate other areas. The Government notices such disasters after the media highlights them. But we, as Members of Parliament, whenever we come up and say that there are disasters in our areas, we are dismissed as politicians. So, we want to have this Act in place in order to enforce the Government machinery.

Mr. Temporary Deputy Speaker, Sir, I beg to support the Motion.

Mr. Badawy: Asante sana, Bw. Naibu Spika wa Muda. Hoja hii iliyoletwa hapa ni ya maana sana. Tukiangalia maafa ya ajali ya hivi karibuni, hata lile janga la mvua ya *El Nino*, utaona ya kwamba jinsi taifa hili lilikabiliana nayo ni kwa njia ya ghafula. Ni mambo ambayo yalizuka kwa ghafula na hatukuwa tayari kukabiliana nayo. Kuhusu ajali za barabarani zilizotendeka juzi huko Mtito Andei na Kericho, mpaka sasa Serikali na sisi viongozi kwa jumla, hata Bunge hili, hatujakuwa na msimamo maalum wa marekebisho, kukabiliana na kuhakikisha ya kwamba majanga kama hayo yanakomeshwa. Basi ni dhahirisho kwamba bado hatuko tayari. Ninasema hivyo kwa sababu mpaka sasa kuna fikra kwamba kuwekwe vyombo vya kupungunza kasi ya magari na labda hilo ndilo tunaliona linatekelezwa barabarani hivi sasa. Abiria ambao wako zaidi katika magari wanashukishwa na maofisa wa polisi. Kuna utekelezaji wa ile sheria ya Transport Licensing Board (TLB) na kadhalika, lakini ukweli ni kwamba mpaka dakika hii, hakujakuwa na msimamo maalum wa kuhakikisha ya kwamba wiki hii hakutatokea ajali zile za kijinga zinazotokana na makosa kwa upande wa abiria kupanda magari kwa wingi zaidi, na madereva kuendesha kwa kasi na kadhalika.

Bw. Naibu Spika wa Muda, janga hili la ajali kwa hakika halitegemei hatua za Serikali pekee, lakini linategemea kwa sisi kuwaelimisha wasafiri. Zimbabwe imechukua hatua ya kuona kwamba abiria wameelimishwa vizuri sana dhidi ya kutoingia katika magari ambayo yamezidiwa na idadi ya abiria. Ninalolingania (?) hapa ni kwamba ikiwa tunazingatia ya kwamba majanga sio tu yale ya mafuriko ya maji, au yale yanayotokana na Bomb Blast ya 1998 hapa Nairobi, bali yale yanayosababisha kutilifu na kupotea kwa maisha ya binadamu, iwe ni roho moja, kumi, au elfu moja za binadamu; ikiwa tunazingatia ya kwamba maafa ni kile kifo ambacho kinawafikia raia kutokana na tukio lile ambalo sio la kawaida, basi ni lazima tufikirie na tuwe na mipango ya kukabiliana na kila aina ya janga ya kipekee.

Kuna mambo kama ya mvua ya *El Nino*, na hiyo ni hoja yangu nyingine. Mpaka sasa hatujajirekebisha na kukabiliana na majanga kama haya, na ndiposa nikasema ya kwamba Hoja hii ni muhimu sana na ingekuwa kabla ya leo. Tunaona yale maafa ya mvua ya *El Nino* yametufikia; barabara mpaka sasa ziko mbovu. Hata mwenzangu mwingine amezungumzia juu ya hali hii. Manyumba yalivunjika na madhara kadha wa kadha yamewafikia raia na ni yale ambayo mpaka sasa tumekaa na tunangojea ule usaidizi uliohaidiwa na World Bank kupitia kwa ule mradi wa *El Nino* Emergency Fund. Mpaka sasa tunangojea msaada uliodhaminiwa na kuahidiwa ili kurekebisha mabarabara, zahanati, mahospitali na kila maafa yaliyotokana na mvua ya *El Nino*.

Kuna maafa mengine yanayolingana na mvua ya *El Nino*. Mafuriko ni jambo linalotendeka katika River Tana. Wale wanaoishi katika upande wa River Tana, kule Budalanagi kwa mwenzangu aliyekuwa akiongea hivi punde, na Lake Victoria wanapatwa na mafuriko. Ni jambo linalotendeka kila mwaka wakati wa mvua nyingi. Mbona hatujajitayarisha kukabiliana na maafa kama majanga ya njaa yanayotokana na ukame, kama yale ambayo sasa yameukabili Mkoa wa Kaskazini Mashariki na mengine mengi? Hata kama haya maafa yanatokea kighafla, kuna njia ambazo tunaweza kutumia kukabiliana nayo ikiwa Serikali itakuwa na mwongozo na mipangilio ya kuweza kujitayarisha kukabiliana nayo. Hali ya ukame inatokana na kumwagika kwa maji ambayo yangeweza kutumika katika ukulima; kumwagika katika bahari ya Hindi, kupitia mito Sabaki na Tana. Kama kungekuwa na mpango wa kuyateka haya maji ili yatumiwe katika kunyunyizia mimea, hatungekuwa na maafa ya mafuriko na ukame.

Bw. Naibu Spika wa Muda, maafa yanayosababishwa zaidi ni yale yanayosababishwa na binadamu. Kwa mfano, yale yanayotokana na vita vya kikabila na mambo mengine, kama vile maandamano ya upinzani dhidi ya Serikali, ambayo tumeona madhara yake wakati wa ghasia za "Saba Saba", na wakati wa kupigania mfumo wa vyama vingi. Hata ingawa faida ilipatikana, lakini kuna watu ambao walipoteza maisha yao. Kuna maafa yanayotokana na ajali za barabarani zinazosababishwa na madereva walevi, magari mabovu na barabara mbovu.

Pia kuna maafa yanayosababishwa na utumiaji wa madawa ya kulevya. Na haya ndio maafa makubwa sana

yanayowakabili vijana wetu. Kuna maafa yanayosabishwa na vitendo vya kijambazi na pia kuna yale ambayo yanasababishwa na international terrorists au magaidi wa kimataifa. Mfano ni lile bomu lililolipuliwa katika ubalozi wa Amerika hapa nchini na kusababisha vifo vya watu wengi. Kila aina ya janga ina uzito wake. Na ikiwa tutatumia hili neno janga kama mzaha, hakika tutapotosha maana yake. Inafaa tulipatie uzito wake kulingana na madhara yanayotokana na kila janga. Tunawajibika kuangalia ni njia gani tunazoweza kutumia ili kukomesha haya maafa yanayosababishwa na binadamu.

Bw. Naibu Spika wa Muda, tunapokabiliana nayo, inafaa tuwe na ile roho moja tuliyokuwa nayo wakati taifa zima lilipokabiliana na yale maafa yaliyotokana na mlipuko wa bomu hapa nchini. Haifai kuyaona maafa fulani kama ni makubwa sana kwa sababu yameingiliana na siasa za kimataifa, ilhali taifa hili limewahi kukabiliana na maafa makubwa zaidi kuliko yale ya mlipuko wa bomu. Kwa sababu nchi fulani ya kigeni ilikuwa na lengo la kukashifu na kuleta madhara kwa watu wa dini fulani, jambo hilo lilipewa umuhimu sana, kana kwamba taifa hili lilikuwa halijawahi kukabiliwa na maafa kama hayo. Ikiwa tunataka kukabiliana na maafa na kuwafariji waliokabiliana na maafa yoyote yanayolikabili taifa hili, inafaa tuache siasa kando, kama vile tulivyokabiliana na tatizo la mlipuko wa bomu na kuzama kwa feri ya Likoni. Tutafaulu ikiwa tutakuwa tayari na mwongozo maalum kama huu uliolengwa katika Hoja hii. Inafaa tuwe tayari kujisadia wenyewe badala ya kungojea nchi za kigeni kutasaidia.

Bw. Naibu Spika wa Muda, inafaa kuwe na patrol boats za kukabiliana na maafa yanayowapata wavuvi ambapo wavuvi hao huzama na kufa maji baharini. Yafaa hatua zichukuliwe ili kuwalinda wavuvi wetu. Kila mwaka, karibu wavuvi 60, hata 100, baina ya Vanga na Kiunga huzama majini kutokana na upepo mkali katika bahari. Inafaa tuwe na sheria ya kuwalazimu wavuvi kubeba life jackets na vyombo vingine vya uokoaji katika mashua zao. Pia, inafaa idara za Uvuvi, Navy na KWS ziwe tayari kukabiliana na maafa yote ambayo yanaweza kuwakabili wale wavuvi au watu wengine wanaosafiri katika bahari.

Bw. Naibu Spika wa Muda, mambo ya kutaka kuwe na maandamano dhidi ya Serikali kwa sababu ya Hoja juu ya kubadilishwa Katiba ni mambo ya kusikitisha kwa sababu, hata ikiwa nia yao ni kufanya hivyo kwa njia ya amani, hatuna hakika kwamba wale watacaoandama watakuwa watulivu. Ikiwa tunazungumzia juu ya maafa kuhusiana na watu kupoteza maisha, tuna hakika gani kwamba mambo kama haya hayataleta madhara hayo? Inafaa tujadiliane kama viongozi kwa njia sawa, ili tuone ni vipi tulinganisha fikra za makundi tofauti na tuziweke pamoja, badala ya maandamano. Maafa makubwa ni kuwa na chuki ndani ya roho ya binadamu.

Kwa hayo, ninaunga mkono.

Dr. Omamo: Thank you, Mr. Temporary Deputy Speaker, Sir. Let me start by telling you a true story about the fire extinguisher in a growing town. In one year, when there was one fire fighting engine, there were ten fires. So, that vehicle had to deal with ten fires. Ten years later, when there were 20 fire fighting engines, they dealt with 400 fires. Ten years later, when there were 40 fire fighting engines, they dealt with 2,000 fires. The citizens then began to debate; that the more fire engines, the more fires broke out. Therefore, they concluded that the fire engines were causing the fires in that city. But they were wrong. The fact was, the city was growing and more and more fires were starting in different places. That is the Kenya of today.

Mr. Temporary Deputy Speaker, Sir, Kenya is a growing country. When you think of consumption, Kenya is consuming the very best that is being consumed in other parts of the world. If it is jet engines, Kenya is consuming jet engines. Talk of the limousines, Kenyans are consuming them. If there are the latest designs in Isuzu vehicles, Kenyans are consuming them. By consumption, I mean using them. Ours is a growing country, and as a growing country, we are consuming the best materials that we can afford in the year 2000 and beyond. It is this kind of situation that makes this kind of Motion most relevant. It is the kind of Motion which should have come a little earlier. Speaking as the Shadow Minister for Agriculture in the National Development Party (NDP), I would like to say that national disasters in the Ministry of Environment and Natural Resources are just too numerous.

Kenya has a forest cover of less than 3 per cent of our total land mass. This is in comparison with 10 per cent, the average in Africa for the African land mass. That is in comparison with 20 per cent which is the world average. Often, we come across the fire seasons, and they are marked clearly "fire seasons". Every year, hundreds of hectares of our forests are burnt down but the citizens do not seem to care too much.

Mr. Temporary Deputy Speaker, Sir, I come from a constituency that is heavily under sugar-cane and sugar-cane is inflammable. When you see sugar-cane burning, the heat generated by a burning cane is enough to set the next field on fire, and the next field can put the next field also on fire.

*[The Temporary Deputy Speaker
(Mr. Poghio) left the Chair]*

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

The fire is so hot. I only imagine one hotter fire than the hot fire generated by burning cane; that is the hell fire in heaven and earth, otherwise, the fire generated by burning cane is very hot. Every year, there comes the fire season. This is not something that is created, but it is the dry season in December, January and part of February. This should be taken and recorded as a national disaster.

My friend from the Coast has mentioned about the problem with boats at the Coast. I would also like to add that on Lakes Victoria, Turkana and Naivasha, wind from nowhere causes these kinds of disasters. So, while supporting this, I would like to suggest that when the Bill comes before the House, there should be a very flexible definition of a national disaster. We should not be restricted. There are national disasters in almost every sector of the economy, starting right from homes to the villages, communities, locations and provinces. National disasters are there, and we should have them properly recorded. Right now, because of the increasing population, there is a rush of people trying to live in urban areas. This will continue and with urbanisation and high-rise structures, you will never know what will happen.

Mr. Temporary Deputy Speaker, Sir, we have heard of earthquakes in some parts of the world. Kenya is not all that stable underneath. I am sure you are aware of the fact that we have got very weak spots and we are building very close to those weak spots. I do not want to be pinned down by my good friend, the former Provincial Commissioner, Rift Valley, but if he were to do it, I would definitely be quick and tell him that Nakuru is one example, where we are building on a relatively weak fault because of the earthquakes. We have got to take care. Who knows, one day something may happen.

The other time when we did a close study of Nakuru Municipality, we found out that the tremors underneath Nakuru Municipality add up to 2,000 tremors in a month. This was in Nakuru Municipality alone. Those 2,000 tremors are good because they are small. If they do tremble and build up, one day, there could be such a big bang. There are other areas with weak faults. Kisumu is just by the side of it and Homa Bay is right in the middle of the weak fault. In fact, my own farm in Miteitei Valley in Nandi District is on a weak fault. Kenya must have a disaster management mechanism to deal with such things when they happen.

Mr. Temporary Deputy Speaker, Sir, the carnage on our roads has been mentioned. Something must be done. It is true that when we have an air crash, even if one person dies, that thing is read all over the world. Can you imagine when only one person dies in an air crash, this is read all over the world, but when our buses here have head-on collisions and 50 people die, we Kenyans take it lightly while others do not. One person of theirs dying in an accident, we read about it in Kenya. It is time for us to take every step to be ready and deal with national disasters.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Musila): I will now call upon the Minister to respond.

The Minister of State, Office of the President (Mr. Nassir): Mr. Temporary Deputy Speaker, Sir, I do not have much to say, except to tell Kenyans how pleased I am to see that some people have the same ideas as I have. I must thank hon. Oloo-Aringo and I wish we had many hon. Members like him regardless of our different political party affiliation.

Mr. Obwocha: But you are co-operating!

The Minister of State, Office of the President (Mr. Nassir): Mr. Temporary Deputy Speaker, Sir, we are working together and we will continue to work together, although some people do not want to see Kenyans working together; they want to divide them. One day, these people will see that nothing can halt this co-operation.

With regard to the national disaster and safety management programme development in Kenya, my officers, for the last four months, have been working on this issue. It is as if hon. Oloo-Aringo knew about it. We tried to draw up a Paper which went to the Attorney-General's Chamber.

With regard to national disaster occurrences, many times, since Independence, different types of disasters have struck in this country. Kenya has experienced drought, floods, diseases, air, sea, road and railway accidents. We have also had indiscriminate fires. There was also the destruction caused to human life and property by the Mtongwe Ferry disaster in 1994.

Mr. Temporary Deputy Speaker, Sir, some people here said that the President does not care about others. Let me remind them that when the Mtongwe Ferry disaster occurred, he was the first person who donated his own money to look after the victims of this disaster, and hon. Oloo-Aringo came to Mombasa. Those people who were paid to say a lot of nasty things about President Moi were not present at that disaster. However, I am very pleased that, in Kenya, we have some kind people, regardless of the fact that they are politicians. We have to consider the economic impact, the system management and areas of management focus. There is the need for local framework, institutional and organisational component in development, disaster prevention and, reduction; recovery, mitigation and implementation. For all these, we have Papers which I had discussed with hon. Oloo-Aringo who moved this Motion and we agreed that it is high time that it was passed very speedily. We also agreed that the Attorney-General should

take over the Bill so that the stakeholders can be afforded an opportunity to study its scope and give their input, which will be included in the Act. This participatory approach is likely to accord the Act the wide support it needs for its implementation.

Mr. Temporary Deputy Speaker, Sir, my officers are working on it and I have appealed to my colleague, hon. Oloo-Aringo to speed it up too by shedding some more information on it. When the Sessional Paper comes to Parliament, then we can discuss it in a very lengthy way. However, it is not only that. We have Kano Plains in Nyanza, whereby, when it rains, they flood and everybody is displaced. I remember once some Members of Parliament went there to conduct a Harambee in order to collect some funds and provide some clothes for victims of flooding. However, you will find that, usually, those people who have Kenya's interests and those of the electorate at heart do not talk too much. They act like hon. Oloo-Aringo does. I hope some of us will do the same. Let us see if there is anything to be done for the electorate, and I am quite sure even hon. Ndicho also will do the same so that he can be seen as doing something.

Mr. Temporary Deputy Speaker, Sir, some of the Members here said that this must go to the districts and we intend to make sure that it does. This is where my friends always quote me wrongly when I say that let us go to the districts. Let us work in the districts and see how far our people who elected us are suffering, so that we can really assist them. People say that we do not want majimbo system of Government, but we have to accept it whether you want it or not. If you are expecting things from Nairobi, you will never get anything more than that. However, when everything is distributed in each district and location, you will find things moving very nicely.

With these few remarks, I would like to congratulate my friend, hon. Oloo-Aringo and we all ask the Attorney-General to work very speedily so that this Bill is enacted into law very quickly. Thank you.

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, before the Mover is called upon to reply, we still have some 15 minutes in case someone wants to contribute to the Motion. Mr. Haji!

The Assistant Minister, Office of the President (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, I stand to support the Motion. This is because, in spite of the fact that we have so many Acts in our laws dealing with specific types of disasters, such as the Radiation Protection Act, the Traffic Rules Act, the Worthless Vehicles Act and so many other Acts, I think the time has come when we should have a way of managing disasters encompassing every other kind of disaster that takes place.

Mr. Temporary Deputy Speaker, Sir, I would like to disagree with some of the various speakers. I think one thing the bomb blast disaster which occurred here did was to unite Kenyans, and for the first time, Kenyans have shown that they are capable of dealing with any problem that may arise unexpectedly. I think we came out of that disaster very well. Secondly, when these road accidents occurred both in Kericho and Mombasa, we saw a lot of organisations rushing to the area and assisting the survivors. We even saw aircraft from AMREF and the Kenya Air Force, including even doctors from the army, rushing to the accident areas, assisting survivors and rushing them to hospital. Some of the victims were treated at the nearest hospitals and others were flown to Kenyatta National Hospital. I think we should congratulate those professionals and individuals who have volunteered to help their own brothers and sisters, instead of us lamenting all the time and castigating the Government for any disaster that befalls us.

Mr. Temporary Deputy Speaker, Sir, I would also like to register my appreciation to His Excellency the President for always being the first person to come out in mobilising wananchi to face any given disaster that befalls Kenyans. For example, during the bomb blast, out of his concern, we had a three-day mourning period for our dead. He also mobilised the people to raise money to assist the bomb blast victims. I would also want to congratulate the former Attorney-General, Mr. Njonjo and his committee, for the excellent job that they have done in ensuring that the money which was raised was disbursed immediately, and went to the right people. It is really saddening that Kenya should tear itself into pieces all the time instead of giving credit where it is due. Occasionally, it is not fair to portray an image that Kenyans are useless people who cannot help themselves and are dishonest and not worth living as human beings.

Mr. Oloo-Aringo: Mr. Temporary Deputy Speaker, Sir, may I take this opportunity to thank all my colleagues who had the chance to contribute to this Motion. I listened very attentively and took note of what they have said, and their remarks are recorded verbatim in the HANSARD and will be taken into account in the course of the drafting of the Bill. I fully agree with those who have suggested that it must be all-encompassing. When we make laws, we do not make them for a section of the society. We make them for all Kenyans. So, in the course of drafting the Bill, we will take into account the interest of the whole nation.

Mr. Temporary Deputy Speaker, Sir, I could have mentioned all these hon. Members by name, but let me say the following. I thank hon. Nassir for accepting this Motion on behalf of the Government. As he pointed out, we have always worked as friends. Sometimes I am happy when he takes the posture of a Minister and not a KANU activist, and brings what is, indeed, a non-partisan approach. I want to thank him most sincerely because he has risen above partisan politics and identified what is the national interest of this country by accepting the Motion. However, he does

not understand the contents of Standing Order No.95(2) which gives me, if this House approves, the right to bring a Private Member's Bill. My request is that when this order is granted, I would be the happiest person if the office of the Attorney-General brought this Bill because it would save me colossal sums of money that go into research. As hon. Nassir pointed out, a Bill such as this one is complex and intricate. It involves enormous research and a lot of stakeholders. Therefore, no hon. Member would like to go through that expense if the Government can bring the Bill to the House. But we are bringing it because the Government has been sleeping.

The Government has created a vacuum. Successive Attorney-Generals have not thought it fit to bring such a Bill to the House. Therefore, as hon. Members, we are playing our rightful role to bring these Bills to the House. It is for that reason that in the Parliamentary Service Bill, we will create the Department of Legislative Council which will be a department of lawyers, specialising in drafting Bills, in addition to advising the Speaker and the hon. Members. This department will help hon. Members to come up with Private Member's Bills, so that if the Government fails to bring Bills to this House, any Member of this House will have a right to bring a Bill to this House. That is why we are elected here. Our first job is to make laws, our second job is to unmake bad laws, and the third one is to be "Nyapara" to this Government, to ensure that they are complying with the interests and intentions of Parliament, which expresses the wishes of the people of Kenya.

In fact, I want to say, with a lot of respect, that my good friend, the Deputy Leader of Government Business gave me a lot insight last week. He told me that when he was the Minister for Finance, they used to do what we call "fire brigade" work from time to time. If there was a drought there, they could run with money in that direction. Whenever there was a flood, they could run with money to that direction. There is no comprehensive policy and legislation on how to deal with such problems. How do we vote public funds if we do not have a statutory body? This will be one way of assisting the country, by this Parliament voting money from the Consolidated Fund to the National Disaster and Safety Management Centre. By so doing, they will be accountable to us because the Controller and Auditor-General will supervise that account, just like he supervises any other account. At the moment, Kenyans react generously every time the President and the Government appeal to them to support a national disaster. But when we ask how that money is spent, we are told that we are playing politics. Can you imagine that when you ask how your money is spent, you are playing politics? This type of story must stop forthwith. We have a right to inquire how public funds are spent. That is our other duty after the making of laws.

Mr. Temporary Deputy Speaker, Sir, I know that I am speaking to the "converted" and I will not take a lot of time. What I am saying is not new because Kenya has participated in the United Nations International Decade for National Disaster Reduction, which was designated on 11th December, 1987. We were present in that meeting and we endorsed the resolution which was passed by the United Nations. We do have the National Environment Action Plan of 1994, which was published by this Government, and the National Report and Plan of Action which were presented by the Government to the Habitat and UNEP conferences in Nairobi.

In addition to our participation in the United Nations conferences on disaster management, we host UNEP and the Habitat, and core to their functions is the reduction of disaster. We have been in all the meetings as well as being hosts, and yet we have not thought it fit to bring this Bill. It is scandalous that we have not thought it fit to bring a Bill of that nature to this House so that we can be able to manage our disasters and prevent disasters which are preventable from happening; and also when they occur, we take charge. This is largely through our fault. Ministers play survival politics 24 hours a day, seven days a week and 365 days a year, to the extent that the politics of survival--The question of succession comes as a priority over issues such as national disasters. If we avoid the politics of survival and concentrate on the national interest, we shall seal all the loopholes and areas where we can suggest remedies. My role here is very simple; to alert the House and the country that there is need for remedy.

At present, three million Kenyans face famine in North Eastern, Eastern, Nyanza, Rift Valley and Coast Provinces. Those people who live in the plains of Tana River, Nyando, Nzoia, Yala, Sabaki and Tana are threatened by recurrent famine and drought, as well as flooding, almost 40 years after we gained our Independence, and yet there is no plan to deal with these floods and drought. We are endowed with permanent rivers because we contribute the largest inflow of water into the Lake Victoria which is utilised in Egypt for the survival of the people in that country. But we have no plan for the people of Siaya, Bondo, Busia and Tana River, on how to utilise this God-given resource. This is why I am saying we are spending too much time on the politics of survival, and less on what is of national interest. The moment we become less partisan and put the interests of this country first, we shall discover what we can do for this country. I am appealing to this House to give me this support. But I also want to say that, I will be the happiest person if hon. Nassir and the Attorney-General can bring this Bill soonest. I want to thank the House in advance for your support.

I beg to move.

(Question put and agreed to)

The Temporary Deputy Speaker (Mr. Musila): Next Order!

FORMULATION OF MODALITIES FOR CONTINUOUS
REVIEW OF VOTER REGISTRATION EXERCISE

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-
THAT, in view of the fact that many Kenyans attain the statutory voting age of 18 years at different times; and considering the fact that the national voters registration exercise is done once every five years, this House urges the Government to put in place modalities for a continuous review and update of the voters' registers.

Mr. Temporary Deputy Speaker, Sir, this is a very important Motion. I would like to start by setting the stage on the legal structure and then, go for the argument as to why the voter registration exercise should be a continuous process. There is need to review the whole package of the electoral laws in this country. There are too many gaps in the electoral laws.

Having said that, the section that deals with the registration of voters is contained in the National Assembly and Presidential Elections Act, Cap. 7 of the Laws of Kenya, Part II, Sections 4, 4A, 5, 6 and 7. Section 4 says:-

"The Electoral Commission may, after consultation with the Minister by order, direct that the register of electors shall be prepared in the prescribed manner in respect of all constituencies, or in respect of such constituency or constituencies as may be specified in the order."

Section 4A says:-

Any citizen who upon proof that he or she has attained the age of majority as evidenced by either a national identity card or a Kenyan passport, shall be registered as a voter upon application to that effect."

Mr. Temporary Deputy Speaker, Sir, you will appreciate that the age of majority is defined under Cap.33; that is, The Age of Majority Act, Section 2. It states that: "A person shall be of full age and cease to be under any disability by reason of age on attaining the age of 18 years." What we are saying here is that, once a person attains the age of 18 years, he is then eligible to be a voter. But under the current circumstances, if he attains the age of 18 after a general election, he has to wait for another five years to register as a voter. If there is a by-election in-between, you deprive that person the right to vote. With the recent announcement by the Government about the Kenyan population, which is about 30 million people, one can authoritatively say that out of those 30 million people, 60 per cent of the population is below 25 years, and 40 per cent are the ones who are above 25 years. If you consider the last registration of voters, approximately five million people were registered. This five million registered voters are half of the people who should have been registered, considering the fact that 40 per cent of the people are above 18 years. If five million people have been registered out of 10 million, it therefore means that five other million people were disenfranchised. Therefore, we are saying that, if this exercise is a continuous process, then it will take care of the balance of the people who are not registered during that rush for the general election.

Mr. Temporary Deputy Speaker, Sir, you remember that the problem with our Electoral Commission is one where they would be arguing about funding. But my argument about funding will be as follows: We will need only one qualified clerk in every constituency. We have 210 constituencies, and if we had one qualified clerk stationed at the headquarters of the constituency, maybe, at the chief's camp or the DOs' office, he will carry on this continuous exercise. Currently, there are supervisors all over the districts, but we do not need them. Therefore, in terms of personnel, there is very little money that will be required. Even if you take an example of one clerk earning Kshs10,000 per month, you will be talking about Kshs2.1 million a month. I am sure that is the money that the Attorney-General pockets from his constitutional office.

(Laughter)

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. I know he is saying it in jest, but is the hon. Member of Parliament in order to allege that I pocket that amount of money every month when since barely two weeks ago, the entire Republic of Kenya knows that the Attorney-General earns very little, because I published my salary?

The Temporary Deputy Speaker (Mr. Musila): Mr. Obwocha, whatever the Attorney-General gets, he earns it. He does not pocket. So, could you refine your language?

An hon. Member: He is an accountant!

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I do not want to go into an argument with the hon. Attorney-General. We know his salary but there is some salary that we do not know.

Mr. Temporary Deputy Speaker, Sir, I just want to say that the personnel will not be a problem. The issue of funding the Electoral Commission has been very contentious. We have advocated that the Electoral Commission should control its own Vote. It should also have its own Accounting Officer and control its own money.

Mr. Temporary Deputy Speaker, Sir, however, the amount of money that the Electoral Commission of Kenya (ECK) has misused for hiring non-existent vehicles since the 1997 general elections is colossal. They have not paid their debts; no money is forthcoming from the Treasury, and we do not know what they are doing. From the Public Accounts Committee Report, you know that even the Commissioners argued that they do not keep minutes of their meetings; they sit for 365 days in a year, including public holidays and weekends. We cannot run an Electoral Commission in that manner. If we must have an accountable Electoral Commission, its Commissioners must be paid through legal sittings that have minutes. The ECK cannot be sitting every day, for 365 days a year. The issue of unpaid bills must be addressed very urgently.

Mr. Temporary Deputy Speaker, Sir, the other issue I would like to raise is that of the constitutional provision. This is contained in Section 41, which says:

"There shall be an Electoral Commission, which shall consist of a Chairman, and not less than four, and not more than 21, Members appointed by the President".

I have the following arguments about the Electoral Commission of Kenya. First, the appointment of the members of the Commission should be divorced from political parties. This is because, once those members get there, they think that they are there to represent their political parties. This country needs an independent Electoral Commission to assist the people of this country irrespective of the party that wins the general election.

So, the current Electoral Commission, in my view, should be disbanded and be replaced with a brand new independent Electoral Commission, whose members should be vetted by this Parliament. We should look at those who will be aspiring to be members of that Electoral Commission critically. For example, if one of the aspirants happens to be hon. Shaaban, we can look at him and say: "Hon. Shaaban is an upright man; he has worked well; his background is good; he has the moral standing in society, and he should be a member". If one of the aspirants is hon. Gumo, we can say: "No! This one has pocketed some money".

So, we must have an Electoral Commission that is vetted by this Parliament. Secondly, the issue of interfering with the workings of the Electoral Commission---

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

Mr. Obwocha: Mr. Gumo, I never said anything about you. Just sit down! You do not know what you are talking about!

The Temporary Deputy Speaker (Mr. Musila): Order! Order! What is it, hon. Gumo?

The Assistant Minister, Office of the President (Mr. Gumo): Mr. Temporary Deputy Speaker, Sir, the hon. Member said that I pocketed some money. Could he substantiate?

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Gumo, I believe that you have risen after somebody whispered into your ears. You, surely, do not have the actual information on what hon. Obwocha allegedly said about you. In any case, that matter has been overtaken by events.

Could you continue, Mr. Obwocha?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I did not say that the hon. Member has pocketed any money; I said that---

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

Mr. Obwocha: You are taking my time!

The Temporary Deputy Speaker (Mr. Musila) What is your point of order, Mr. Affey?

The Assistant Minister for Local Government (Mr. Affey): Mr. Temporary Deputy Speaker, Sir, hon. Gumo is, indeed, in order to seek a substantiation from hon. Obwocha because the latter mentioned the name of the former hon. Member adversely in his example. Is Mr. Obwocha in order to suggest that hon. Gumo has pocketed some money? Why should he be associated with bad things?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, as you have rightly said, I just gave the name of the hon. Member as an example, as you would say "Mr. X or Mr. Z".

The Assistant Minister, Office of the President (Mr. Gumo): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member should either substantiate or withdraw that statement.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, hon. Gumo is taking so much of my time.

The Assistant Minister, Office of the President (Mr. Gumo): Mr. Temporary Deputy Speaker, Sir, the hon. Member cited me as an example, and I am not happy about that.

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Gumo, I do not think that anything adverse was said against you; I will have to see the HANSARD to believe otherwise. I believe that you rose on your point of order some time after Mr. Affey had told you that something was said about you. With due respect, I think we should continue listening to hon. Obwocha's contribution. I do not think that anything serious was said about you.

The Assistant Minister, Office of the President (Mr. Gumo): Mr. Temporary Deputy Speaker, Sir, when someone suggests that you have pocketed some money, that is serious.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, let me finish what I was saying about the provisions of Section 41. I would like to quote Section 41(9), about the independence of the Electoral Commission.

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Obwocha, hon. Gumo is still unhappy about your use of his name in illustration of the point you made earlier. Could you withdraw that statement and, then, continue?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, let me withdraw that statement, but we are going to name him in another report.

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Obwocha, withdraw what you said about Mr. Gumo and, then continue with your contribution. What you intend to do later on is another thing altogether.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I withdraw that.

Mr. Temporary Deputy Speaker, Sir, Section 41(9) of the Constitution says the following:-

"The Electoral Commission shall not be subject to the direction of any other person or authority".

That is very clear, but what we have seen in Kenya is that people in authority interfere with the Electoral Commission. For example, in the 1997 General Election, as you are aware, when President Moi lost to Mr. Kibaki, he directed the ECK to extend the voting period by one day.

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Mr. Obwocha!

The Assistant Minister, Office of the President (Mr. Gumo): Mr. Temporary Deputy Speaker, Sir, is the hon. Member in order to say that---

The Temporary Deputy Speaker (Mr. Musila): Order! Order! Mhe. Gumo, ni nani aliyekupa ruhusa ya kuongea? Huruhusiwi kusimama na kuongea tu kama kwamba uko nyumbani mwako!

Mr. Obwocha, I think you very well know that the statement you have made is out of order.

Mr. Kariuki: Order!

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kariuki! Mr. Obwocha, the statement you made is not factual. Therefore, you should withdraw it.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I am arguing that nobody, the Chair included, should interfere with the ECK; that is all I am saying. I am not saying anything---

The Temporary Deputy Speaker (Mr. Musila): Mr. Obwocha, I have no doubt about that. I agree with you, but what did you say about the President?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, in my opinion, I feel that the President interfered with the ECK. So, this is debate, and one must use arguments to hammer his point home.

The Minister for Public Works and Housing (Eng. Kiptoon): On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Obwocha said that when the President lost to Mr. Kibaki during the 1997 general elections, the ECK was ordered to extend the voting period by one more day. Could he now substantiate that allegation or withdraw it?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, in Bobasi Constituency, the President had 7,000 votes, and Mr. Kibaki had 23,000 votes. However, the Returning Officer announced that President Moi had 23,000 votes, and that Mr. Kibaki had 7,000 votes.

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Mr. Obwocha!

(Mr. Affey stood up in his place)

Order! Order, Mr. Affey! Mr. Obwocha, the votes of that constituency could not have constituted the overall winning or losing of a presidential candidate. Therefore, that is not substantiation.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, let me withdraw that statement and continue with my contribution.

Mr. Temporary Deputy Speaker, Sir, we all remember the growth of the ECK from the time of Mr. Montgomery to that of Zachariah Nyambarora Nyarang'o---

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Obwocha, there is still an issue here regarding the statement you made, that President Moi lost to hon. Kibaki. You have been challenged to substantiate that

statement. If you cannot do so, could you withdraw the statement?

Mr. Obwocha: But I have already withdrawn that statement, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): You may now continue.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I have withdrawn that. What we do not want is interference from the Provincial Administration and police in the elections. This must stop, and it will stop by amending the laws; the statutes. Mr. Attorney-General (AG), please, we want an amendment to the statutes.

With those words, I beg to move and request hon. Kariuki to second this Motion.

Mr. Kariuki: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to second this Motion. This Motion is very timely in the sense that the population census figures have just come out. I think it will be good for us to enhance democracy in this country, particularly, in institutions so that we have timely elections that are also fair and just to all Kenyans, so that we can enjoy our Independence in an environment whereby elected leaders of this nation reflect the wishes of the people.

It is, therefore, important that the institution that is set up in the name of the Electoral Commission of Kenya (ECK) does its work in a manner that is transparent and seen to be autonomous in the eyes of the public. The current situation, particularly in the last elections where KANU clocked only 2.5 million voters against the Opposition's 3.5 million voters; and KANU winning 109 Members of Parliament against 103 in the Opposition, is a reflection of the major disparity there is in the distribution of constituencies in this country.

The other major disparity is when you see a constituency like Ijara with 7,500 voters, against a constituency like Embakasi with 114,000 voters. It is sad that the two hon. Members of Parliament call each other a parliamentarian, whereas one is representing a very small constituency in terms of demography.

The Assistant Minister for Local Government (Mr. Affey): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member on the Floor in order to suggest that the hon. Member from Ijara Constituency is inferior to the hon. Member of Parliament for Embakasi, while he is representing Kenyans?

An hon. Member: He is giving a comparison!

The Assistant Minister for Local Government (Mr. Affey): No, he is not, Mr. Temporary Deputy Speaker, Sir.

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I am not in any way trying to belittle the hon. Member of Parliament for Ijara Constituency, but figures show that he is an inferior material in terms of representation, in that he is representing a low number of voters. If at all he won his seat by only 2,500 voters against Embakasi with 80,000 voters, figures speak for themselves and I do not have to substantiate.

Mr. Shaaban: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that when the ECK decides to create constituencies, the only factor that is taken into account is population, whereas there are several other factors that are taken into consideration, for example, the geography of a place? Is he in order to mislead this House that creation of constituencies only depends on population?

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, that is why I am saying that the ECK is outdated in terms of certain statutes, like the criteria for determination of how constituencies have to be demarcated. Is it on geographical basis or demographic basis? If at all, it is done on geographical basis, let it be transparent so that everybody knows, but if it is in terms of figures or population, because that is what the Constitution says, for heaven's sake, let us stick to the Constitution.

I am just putting to the House that there is a major disparity in the manner in which the ECK is managed and it implements the various provisions in the statute. I think this disparity is very unfair and we should take the earliest opportunity to ensure that the ECK has a set agenda to regularise the disparities and anomalies that are there.

The problem we have had is that the ECK waits until one or two weeks before the elections, and then they start moving around the constituency demarcating wards and constituencies, hiving off certain areas to suit certain parties and personalities. A case in point is my own area, where Mathioya Constituency was hived off from Kangema Constituency in order to give room to hon. Kamotho who lost badly. I would like to say that if Kangema and Mathioya Constituencies are combined, they will have less votes than the Kiharu Constituency, which I represent. Now, these are the type of disparities that are certainly unwelcome in this Republic of ours. That is why we are saying that the Motion which now states that we should use the current population census figures to help alleviate the problems we have is very timely.

The fact that this Motion talks about continuous registration of voters gives rise to a number of factors. One of them is that if we were to continue for another five years so that we review the electoral boundaries, about 3.2 million voters will be disenfranchised because people in the region of 18 to 23 years would not be registered by the year 2007. This is a very major issue of concern, where you have so many youths not being able to participate in exercising their constitutional right. So, it is, therefore, important that we have a provision in the Act to provide that we have a

continuous registration of voters in the Republic, so that whenever one attains the age of 18 years and above, then he automatically become an eligible voter.

The other aspect is the issue of ensuring that there is independence in the ECK. As was mentioned by the Mover of this Motion, it is true that the ECK is not immune from interference by the Executive. For how long shall we have the Executive of this country interfering with the laid-down procedures? It is causing a major issue of concern to Kenyans because they seem to have no liberty at all to decide their own fate. It is high time we had institutions that were totally independent. The Judiciary on one hand, and the ECK on the other hand, should be left entirely independent to run their affairs. But as it is at the moment, the ECK is interfered with by the Executive so badly that it is impossible for us to know whether hon. Members in this House are rightly here or they have been rigged into this House. Many of them, I am told, have been rigged into this House.

The ECK spends a lot of time doing nothing. Right now, we do not know what they have been doing since the elections were held. I think they should be kept busy by having a set agenda or calendar in which we can see what they are doing on day-to-day basis. At the moment that idleness is mischievous because, what I think they are doing now is, maybe, mapping out how KANU will win in the year 2002, rather than creating in place, institutions that can help this country to have representatives that are truly reflecting the wishes of the people.

Mr. Temporary Deputy Speaker, Sir, the other issue that raises a lot concern is that of petitions. Petitions arise out of certain irregularities within the electoral process. I think it is important for the ECK, if it were independent, to have its own court, so that all the election petitions are heard by a court that can speed up the whole process. This will ensure that petitions are heard within six months after an election has been held. You will find that election petitions take about two or three years, and sometimes five years, so that by the time one is thrown out for an election irregularity, he has enjoyed being a Member of this House for five years. This is a major disparity that should be corrected by ensuring that a court or courts are set aside to hear election petitions and speed them up, so that whoever is not rightfully in this august House is thrown out. The issue of rigging has caused a lot of concern. There is a lot of hue and cry about rigging facilitated by the ECK. I would like to say that rigging starts right from the time of registration of voters.

The Temporary Deputy Speaker (Mr. Musila): Mr. Kariuki, I am just wondering; the Motion before this House is basically on the registration exercise, and you have moved all the way to the ECK. Can you try to confine yourself to the Motion?

Mr. Kariuki: Mr. Temporary Deputy Speaker, Sir, I am saying this because it is so relevant to the process of registration of voters: If there is an irregularity in the registration of voters, then the election becomes a useless exercise. Therefore, all these factors I am mentioning relate directly or indirectly to the process of election. It is important for us to address the root causes of the problems we have, and among them is the process of rigging through registration of voters.

One of the rigging processes starts from the point where you ensure that you delay the registration of voters to such an extent that the time is very limited. Consequently, you end up having only a small number of people registered. If the Kenyan population is 20 million and about 60 per cent of those are below the age of 25, it means that if we have only five million registered voters, we should be having no less than about 10 million to 12 million unregistered voters. At the moment, it shows that about 7 million voters are not registered. This implies that the whole process of registration is wrong. We must ask ourselves: "Why is it that so few people are registered?" I think it is because of the fact that the time that is taken to register people is very short. When this Motion is fine-tuned, among other things, we will recommend that the process of registration is continuous.

Thank you, Mr. Temporary Deputy Speaker, Sir.

(Question proposed)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion because the Government, conscious of its duty of bringing laws which are consistent with the provisions of the Constitution, has, in fact, already done this. I will come to it because within the next two weeks, I will be publishing a Bill which has already been approved by the Cabinet. As you are all aware, because you have all participated in elections, prior to 1997, the registration of voters was done for each general election. If you had been registered as a voter in, say, 1988, the 1992 elections required of you to register again. The electors card was only valid for one election. Consequently, with each general election, the process of registration of voters had to begin.

Members of Parliament may be aware that in 1992, this whole process took four months, and in 1997, it took six months, from May to November. Our current laws take into account the periods of registration, inspection of the register, claims, objections and so on. It was a time-consuming exercise which was also coupled by the fact that even with extended time, there were still complaints that not all who wished to register as voters had registered for any particular elections. Reference was made particularly to the youth, that they had not been registered because they had

not yet first obtained their IDs and so on. It may be recalled that in 1997, the IPPG did make a recommendation that our laws must be changed to allow for continuous registration.

It may not have been possible to do that before because of the manual nature of the registration of voters. I am pleased that from 1997, the registration of voters has now been computerised. The other reason why there was no continuous registration of voters was because of Section 42(a) of our Constitution, which states that:

"The Electoral Commission shall be responsible for the registration of voters and the maintenance and revision of the register of voters."

The current law that we have today does not provide for the revision of the register of voters. Consequently, the Government, in its conscious duty to bring our laws in consistency with the Constitution of the land, actually began formulating proposals to the National Assembly and Presidential Elections Act, to bring it in conformity with our Constitution and, therefore, in so doing, to enable the Electoral Commission to undertake continuous registration of voters.

Mr. Temporary Deputy Speaker, Sir, you rightly pointed out that a number of the issues that had been suggested here were not directly relevant to the issue of the registration of voters. Permit me to correct one impression which was created, that only the population is a factor when it comes to fixing the boundaries of the Constituency. The Constitution is very clear on this issue. There are a number of factors that must be taken into account by the Electoral Commission. Section 42, sub-section three provides six criteria that should be taken into account when fixing the boundaries, of which the population trend is just one. The other factors are: The geographical features, means of communication, population density, community of interest and the administrative area. It is a complex process, and let it not be simplified the way the debate of this particular issue has been simplified.

Consequently, in the course of last year, the Electoral Commission made proposals for the change in the National Assembly and Presidential Elections Act. This was in September and October last year. After they made those proposals to the Attorney-General, the Attorney-General's office, the Electoral Commission, together with the Law Review Commission, embarked on refining the amendments which will put what this Motion seeks into place. Following that, detailed proposals were then drafted and the Attorney-General took those proposals to the Cabinet, which approved them. We are publishing those proposals under the Statute Law (Miscellaneous Amendments) Bill, 2000. That Bill should come out, maybe, next week or the week after, depending on the workload of the Government Printer.

The proposals are, first of all, to enable the Kenyan citizens who are abroad, and who have all the time been complaining that they are not allowed to participate in general elections, to do so wherever they are. The major part of the proposals is to enable the continuous registration exercise. The proposal amends Section 4 of the Act which was referred to by hon. Obwocha. As you know, currently, the Electoral Commission may, after consultations with the Minister, embark on the registration of voters exercise. We are saying that the Electoral Commission is an independent institution. It does not have to consult a Minister before it can embark on the registration of voters. So, the proposal is to do away with the consultation of the Minister. It says:- "The Electoral Commission shall consult with the Minister before it embarks on this exercise." The section I will be bringing in due course provides as and when somebody gets the age of majority, one should be enabled to register as a voter.

Mr. Temporary Deputy Speaker, Sir, there will be consequential amendments to be made to the actual regulations. I can confirm to this House that in anticipation of these amendments passing through the House, we have already drafted the regulations and they should come into force almost immediately as far as this issue is concerned.

Mr. Temporary Deputy Speaker, Sir, I am also aware that the Electoral Commission will need funding. It is not an inexpensive exercise, but it can be done. We do not necessarily want to use chiefs or assistant chiefs because part of the aim in elections was intended to get the Provincial Administration away completely from matters relating to elections. That includes registration of voters. If we must do so in future and it becomes a matter of necessity, so be it. But as of now, we do not want the administration to come into the issue of registration of voters. We are cognisant, also, of the fact that just like with the Attorney-General, on the Electoral Commission, Section 41(9) of Constitution, says:-

"In the exercise of its functions under this Constitution, the Commission shall not be subject to direction of any other person or authority."

This is just like with the Attorney-General and Judiciary. So, consequently, we would like this whole exercise to be confined with the Electoral Commission. What will happen is that this continuous registration of voters will take place at a district's headquarters.

The proposal is that once the law comes into effect, the 1997 register should be perfected and those who have not registered should register. We should start working on that document and because of computerisation, this will be possible. The registers will be in district headquarters and any person who attains the age of majority will be registered and entered into the computer. This will be a continuous exercise. We feel that it should start at that level, and only

that if we find that the work is too much, then shall we now explore the possibilities of going down to the division, locations and sub-locations. But my feeling and focus is that, if we do begin properly, then it is possible for those persons, as and when they obtain the age of 18 years, to be registered on continuous basis at the district level. But if work becomes too much at the district level, then it will be decentralised to the divisional level. If still there is too much work at the division, then it will be decentralised to the locational level. It does require money. We hope that in the next Budget, the provision for this will be made, even though we are facing severe financial constraints.

Mr. Temporary Deputy Speaker, Sir, this is what I had to say on this Motion, and I thought I should come clearly upfront and say that the Government actually is doing it and a law to this effect is due to be established. Really, the fact of the matter is, that regarding all these requests to Parliament, the Government had already embarked on drafting laws on them.

*(A number of hon. Members
stood up in their places)*

The Temporary Deputy Speaker (Mr. Musila): Order! He still has five minutes.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, therefore, that is what the Government is doing. We have just passed, this morning, a Motion to grant leave to introduce an Act of Parliament entitled the National Disaster and Safety Management Act. The Government had already embarked on that exercise of bringing about the law. The only problem, and I said it yesterday, is the capacity of my office to bring as many legislations as we would want. We do not have as many properly qualified legislative drafters to undertake this Motion.

Mr. Obwocha: On a point of order, Mr. Temporary Deputy Speaker, Sir. I hate to disrupt the AG when he has actually okayed my Motion, but is he in order to say that many of these legislations were brought here by the Government, when we know that he has commissioned very many task forces and has subsequently not brought the revised legislations here?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, that is exactly what I am saying and, in fact, Parliament has passed four legislations pursuant to the recommendations of the task forces. Others are being converted and the speed is related to the capacity of the Department of Legislative Drafting. If I am given enough staff, who are properly paid in that department, this House will debate very many important legislations on an ongoing basis.

Mr. Temporary Deputy Speaker, Sir, I beg to support the Motion.

Mr. Raila: Thank you, Mr. Temporary Deputy Speaker, Sir. I am happy that the AG supports the Motion. That is one of the areas which my committee considered very seriously when we were actually reviewing the Constitution of Kenya (Review) Act, 1997. We felt that elections were too important for this country and should not be delayed for any reason other than emergency. It is important elections are free and fair, and that cannot be when you do not have neutral referees to preside over them. That is why we should begin at the point where we will ensure there is an independent Electoral Commission of Kenya (ECK). The ECK does not just become independent because the Constitution says so, but by bringing proper legislations to the House to empower it. That is why it is important we should have an independent ECK Act.

When the Bill drafted by the Inter-Parties Parliamentary Group (IPPG) was brought before this House and passed, it was hailed as a major break-through. History was being made, and the Opposition was allowed to nominate 10 additional Commissioners to the ECK. That added to the 11 Commissioners who were already existing, and you can imagine we have made very little impact. That is why we, in the NDP, said that it was too little too late. Therefore, that did not ensure that the last General Elections were free and fair. That is why we are now calling for a complete overhaul of the ECK in order to make it properly independent.

Mr. Temporary Deputy Speaker, Sir, secondly, the field itself must be levelled and it cannot be so when you have such big disparities in terms of constituency sizes. It is true that the current Constitution has made provisions for the demarcation of constituency boundaries, taking into account such factors as population, geography, communication, *et cetera*. Therefore, they give discretion to ECK to play around with constituency boundaries. We are saying that the first and most important factor is the population, and the ECK should come up with a clear guideline as to how many people should live in an area for it to qualify as a constituency, rather than having a situation where you have two hon. Members representing 120,000 and 20,000 voters respectively, yet when we they come to this House, every Member has got one vote. That makes a complete mockery of the principle of one man, one vote.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Raila! You will continue next Wednesday. I understand that you have seven minutes remaining for you.

Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until this

afternoon, at 2.30 p.m.

The House rose at 12.30 p.m.