

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 8th August, 2002

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

## PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:-

The National Assembly and Presidential Elections Registration of Electors Regulations, 2002  
The Presidential and Parliamentary Elections (Amendment) Regulations, 2002

*(By the Attorney-General)*

The Report on the Departmental Committee on Health, Housing, Labour and Social Welfare on its seven tours of health insurance schemes in South Africa, Chile, Germany, United Kingdom, Malaysia, Philippines and Thailand.

*(By Dr. Kulundu)*

### NOTICES OF MOTIONS

#### ADOPTION OF PRESIDENTIAL AND PARLIAMENTARY ELECTIONS DRAFT REGULATIONS

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I beg to give notice of the following Motion:- THAT, pursuant to Section 34(2) of the National Assembly and Presidential Elections Act, Cap.7; this House approves the draft of the Presidential and Parliamentary Elections (Amendment) Regulations, 2002, and the draft of the National Assembly Elections, Registration of Electors Regulations, 2002, laid on the Table of the House on 8th August, 2002.

#### ADOPTION OF DEPARTMENTAL COMMITTEE REPORT ON HEALTH INSURANCE SCHEMES

**Dr. Kulundu:** Mr. Speaker, Sir, I beg to give notice of the following Motion:- THAT, this House adopts the Report of the Departmental Committee on Health, Housing, Labour and Social Welfare, on its seven tours to South Africa, Chile, Germany, United Kingdom, Malaysia, Philippines and Thailand on health insurance schemes laid on the Table of the House on Thursday, 8th August, 2002.

**Mr. Speaker:** Question Time will be exactly one hour! I wish to give notice to the House that we will attempt to have the Division immediately after 3.30 p.m. So, everybody should be warned about this.

### ORAL ANSWERS TO QUESTIONS

*Question No.444*

#### LIST OF DISTRICT COMMISSIONERS

**Mr. Kiunjuri** asked the Minister of State, Office of the President whether he could table the names of all District Commissioners, giving details of their work stations as well as their districts of origin.

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Speaker, Sir, I do not have an answer now.

**Mr. Speaker:** Why?

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Speaker, Sir, the answer is still being prepared. I hope to give it next week.

**Mr. Kiunjuri:** Mr. Speaker, Sir, you will remember that yesterday, the same Ministry answered this Question and even tabled a list before the House. All the Ministry did not do was to give copies of the answer to hon. Members so that we could ask supplementary questions. Is the Assistant Minister in order to mislead the House by saying that the Ministry has not prepared an answer to this Question while we have an answer before the House?

**Mr. Speaker:** Mr. Gumo, you do not know what you are talking about! Hon. Kochalle was here yesterday, prepared to answer this Question. He tabled the list as required and the Question was put on the Order Paper today just for supplementary questions to be asked because hon. Members had not seen the document that was tabled yesterday by Mr. Kochalle. Where is Mr. Kochalle? It is not your fault, Mr. Gumo!

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Speaker, Sir, Mr. Kochalle is not in today.

**Mr. Speaker:** We will check during the second round of calling out Questions to see if Mr. Kochalle will be here.

*Question No.423*

DISMISSAL OF UNITED INTERNATIONAL  
INVESTIGATION SERVICES EMPLOYEES

**Mr. Sifuna** asked the Minister for Labour:-

(a) whether he is aware that Messrs Christopher Mulongo, Daniel Torori and Michael Auma worked for M/s United International Investigation Services Limited of P.O. Box 34270, Telephone No.242320, Nairobi, for 22 years, ten years and six years respectively;

(b) whether he is further aware that their services were terminated without payment of terminal benefits; and,

(c) what the findings of their trade dispute Ref.ML/IR/2/104/2001 were.

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

(a) Yes, I am aware.

(b) I am also aware.

(c) The findings of the trade dispute Ref.ML/IR/2/104/2001 reveal that on 12th September, 2001 the Kenya Union of Commercial Food and Allied Workers reported a trade dispute on wrongful dismissal, which I concurred with after thorough investigations. My findings and recommendations on the trade dispute are that the dismissal should be reduced to normal termination of service, which will require that the former employees be paid their terminal benefits, including compensation for loss of employment.

**Mr. Sifuna:** Mr. Speaker, Sir, I want to thank the Assistant Minister for his sincere reply. Could he tell this House when the said employees will be paid their terminal benefits? Up to now, they have not been paid and staying in Nairobi without money is a big problem.

**Mr. Chanzu:** Mr. Speaker, Sir, we have conveyed this decision to M/s United International Investigation Services Ltd. for it to pay the dismissed workers. We hope that it will pay them within a reasonable time. If that does not happen, we expect to get a feedback from the former employees so that a further necessary action can be taken.

**Mr. Mwakiringo:** Mr. Speaker, Sir, the Assistant Minister has said that this decision has been communicated to the former employer. Could he tell us when the letter to convey this decision was sent, when it was dated and its reference number?

**Mr. Chanzu:** Mr. Speaker, Sir, I do not have that information here. The letter was written by our labour officer, but I have been assured that, that has been done.

**Mr. Gitonga:** Mr. Speaker, Sir, the Assistant Minister has indicated that the Ministry will get in touch with this company if it fails to pay the dismissed workers their terminal benefits within a reasonable time. What does he mean by "reasonable time"?

What is the deadline? Has he given the company a deadline?

**Mr. Chanzu:** Mr. Speaker, Sir, we did not give the company a deadline because it knows it is its obligation to pay the workers. But once we get a feedback from the former employees, then we will proceed with the necessary

action to ensure that they are paid their dues.

**Mr. Sifuna:** Mr. Speaker, Sir, since the Assistant Minister has assured this House that he will take action, could I inform these employees, who have not been paid to date, to come to his office tomorrow or on Monday, so that they can get the findings officially?

**Mr. Chanzu:** Mr. Speaker, Sir, I would not mind if they come to the office sometime next week since I will get the labour officers to attend to the problem because they may not have been paid.

*Question No.456*

MEASURES TO CONSERVE LAKE JIPE

**Mr. Mwalulu** asked the Minister for Environment what measures he is taking to stop Lake Jipe in Taveta from drying up due to massive silting of rivers Lumi and Ruvu.

**The Assistant Minister for Environment and Natural Resources** (Mr. Kimkung): Mr. Speaker, Sir, my Ministry is making every effort to stop Lake Jipe from drying up due to massive siltation. My Ministry has already launched the District Environmental Management Committee, which is in the process of coming up with proper land use plans that will check the massive erosion in the division occasioned by the poor land use patterns by the local community.

**Mr. Mwalulu:** Mr. Speaker, Sir, the fact of the matter here is that we are dealing with the aftermath of the *El Nino* phenomenon of 1997. River Ruvu was silted and vegetation grew in it. The effect was that water cannot reach Lake Jipe and the farmers upstream are being terrorised by the water which is overflowing into their *shambas*. What immediate action is the Assistant Minister taking to save people who live near Lake Jipe from starvation and people of Mata from being washed away by this overflowing water?

**Mr. Kimkung:** Mr. Speaker, Sir, the Ministry has put up several measures to halt this trend, key among them being the plans to set up the District Environmental Committee which will then report to the headquarters. We have already launched this Committee in Taita-Taveta and it will report its findings to the Ministry headquarters.

**Mr. Mwakiringo:** Mr. Speaker, Sir, Lake Jipe is good for the Taveta people because they do a lot of fishing from it and it is part of their livelihood, but the destruction of the farms by the overflowing water is causing a lot of concern. Why has it taken too long for the Ministry to set up the District Environmental Committee because it was only formed two weeks ago and I know that is the time I was also there with the District Commissioner? Why has it taken time, from 1997 up to now, to have that problem sorted out because it is a persistent problem and that lake is also shared between Kenya and Tanzania and even Tanzanians are wondering what is happening to the lake because its drying up?

**Mr. Kimkung:** Mr. Speaker, Sir, we started, only recently, setting up the District Environmental Committees and if you can remember, three months ago, we were going round the country setting them up. So, it is not that we started setting them up from 1997, but we just started this year.

**Mr. Wamae:** Mr. Speaker, Sir, the hon. Assistant Minister has not said what immediate action he is going to take. The process of getting the District Environmental Committee to work on an important matter of this nature knowing that Lake Jipe is important for tourism, fishing and biodiversity, needs a more immediate action. What will the Assistant Minister do to save this lake?

**Mr. Kimkung:** Mr. Speaker, Sir, we have already instructed the Committee to come up with proposals. What else can we do since we have already instructed it?

**Mr. Mwalulu:** Mr. Speaker, Sir, we could forgive this Assistant Minister because part of Lake Jipe is a marine park and the Office of the President now comes in. The Ministry of Agriculture and Rural Development comes in because of the farmers. The Ministry of Environment and Natural Resources also comes into this matter. These are too many Ministries. Could the Assistant Minister consult these Ministries so that they can pool resources to save the people living near Lake Jipe and in Mata? Secondly, how much money are you committing on this exercise?

**Mr. Kimkung:** Mr. Speaker, Sir, I assure the hon. Member that the Ministry is going to take immediate steps to save this lake. As to how much money we are going to commit on this project, this will depend on the report from the District Environmental Committee.

**Mr. Speaker:** Next Question, Dr. Ochuodho!

*Question No.448*

RESURFACING OF ROAD C18

**Dr. Ochuodho** asked the Minister for Roads and Public Works:-

- (a) if he is aware that Road C18 (Oyugis-Rodi-Kopany-Ndhiwa-Karungu) is currently impassable;
- (b) whether he is further aware that the Homa-Bay District Development Committee recommended that the contractor working on Rodi-Kopany-Karungu section resurfaces the road before handing it over; and,
- (c) whether he is also aware that Agido Bridge on this road was swept away more than a year ago, rendering the road almost impassable; and,
- (d) when the road will be resurfaced and the bridge restored.

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

(a) I am aware that part of Road C18 has got problems. It is not totally impassable, but there are problems on that section.

(b) I am also aware that Homa-Bay DDC recommended that before the contractor working on the Rodi-Kopany-Karungu section hands over the road, it be resurfaced.

(c) I am also aware that the culvert at Agido on this road was swept away about one year ago.

(d) My Ministry is in the process of preparing a tender for the construction of a box culvert at Agido, the site of the washaway and the necessary budgetary provisions for this exercise are in place. Arrangements are in the early stages for appropriate remedial measures to be undertaken to arrest the deterioration on the Rodi-Kopany-Karungu section.

**Dr. Ochuodho:** Mr. Speaker, Sir, it is interesting that the answer the Assistant Minister has given to the House is different from the one that he has given to me, but I am glad he has confessed that parts of this road are impassable. The answer I have says he is not aware. However, the DDC recommended that this road should not be accepted by the Government before it is resurfaced. Here is a case where the Government accepted that road and made full payment to the contractor. If I am wrong maybe the Assistant Minister could enlighten us. On what basis did the Government accept to honour the contract on this road without the road being resurfaced?

**Eng. Rotich:** Mr. Speaker, Sir, I think this is a problem which we have had a for long time. About last year, I think we admitted there was a problem on this road concerning the contractor and the resident engineer who we had taken action against. It is true there was an oversight.

**Mr. Otula:** Mr. Speaker, Sir, Agido Bridge joins Rangwe and Kasipul-Kabondo constituencies. At the moment, when rain falls, traders cannot move from Oyugis to Rodi-Kopany until it subsides. Could the Assistant Minister tell this House how much money has been set aside to construct this particular culvert because the DDC approved that this culvert be converted into a complete bridge?

**Eng. Rotich:** Mr. Speaker, Sir, we are going to put up an improved box culvert at a cost of Kshs6 million. We have put aside Kshs6 million for this project.

**Mr. Shitanda:** Mr. Speaker, Sir, now that the Ministry has a special emergency fund, for these kind of projects, could the Assistant Minister consider disbursing some money from it towards this bridge?

**Eng. Rotich:** Mr. Speaker, Sir, the money will not come out of the emergency fund but it will come out of the normal funds and we have already set aside a figure of Kshs6 million. The contractor is being sought now, through tendering process, to put that box culvert in place.

**Dr. Ochuodho:** Mr. Speaker, Sir, you heard the Assistant Minister say there were problems on this road and yet the Government still went ahead and paid this contractor. Could he tell the House what the problems were, why they decided to pay him before the work was completed, and how much they paid him without the proper procedures being followed?

**Eng. Rotich:** Mr. Speaker, Sir, I am not able to give those details. The case is going on against the officer who did that.

**Mr. Speaker:** Next Question, Mr. Angwenyi!

*Question No.037*

INSPECTION OF LOCAL AUTHORITIES

**Mr. Angwenyi** asked the Minister for Local Government:-

- (a) whether the Ministry has a local authorities inspection programme;
- (b) how many local authorities have been inspected in each of the years from 1998 to date; and,
- (c) whether the inspection reports have been made public to residents of the affected local authorities.

**The Assistant Minister for Local Government** (Mr. Sirma): Mr. Speaker, Sir, I beg to reply.

(a) No, the Ministry has no programme for inspection of local authorities. However, the Ministry makes random inspections on councils suspected of experiencing financial and managerial difficulties, or the Minister can

order a statutory inspection where it has been brought to his attention that a council is involved in financial and managerial malpractices.

(b) *Ad hoc* or random inspections are management interventions carried out regularly by the Provincial Local Government Officer, while extraordinary inspection teams are appointed by the Minister and gazetted in the *Kenya Gazette*. Between 1998 and 2002, a total of 30 councils have been subjected to random inspections while 32 have been subjected to statutory inspection out of the 174 local authorities countrywide.

(c) These are management reports aimed at rectifying noted financial and management shortcomings and are normally referred back to the respective councils. They are, therefore, not meant for public consumption. However, where serious financial irregularities have been detected, the Minister has always directed that appropriate action be taken, including surcharge, prosecution and other disciplinary measures against those involved.

Mr. Speaker, Sir, I would like to table the list of the councils which have been inspected under the extraordinary inspection and those that underwent random inspection. I hereby table the list.

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

**Mr. Angwenyi:** Mr. Speaker, Sir, I wish he had given me the list of those councils. But, maybe, for the future, you may direct that this type of information is given to the Questioner in advance to enable him prepare proper supplementary questions---

**Mr. Speaker:** Indeed, I have directed that several times and I am sure Mr. Sirma is aware of it. Mr. Sirma, supposing you are in Mr. Angwenyi's shoes and you were not given that information, how would you participate in the Question? Why are you ambushing him?

**Mr. Sirma:** Mr. Speaker, Sir, this is the information that we had prepared to answer this Question.

**Mr. Angwenyi:** Mr. Speaker, Sir, I asked a specific question: "How many local authorities have been inspected in each of the years from 1998 to date?", and he should have given me the list. But be that as it may, according to the Local Government Act, Cap. 231, these inspections are carried out whenever the Controller and Auditor-General detects financial mismanagement in any local authority. We do know, from the Public Accounts Committee Reports, that most councils in this country have not submitted their audited reports for the last 15 to 20 years. Therefore, there should be many extraordinary inspections and their reports should be made public for the taxpayers to know that their councils are being mismanaged. But be that as it may, could the Assistant Minister tell me, today, whether Kisii Municipal Council, Nyamira Town Council and Gusii County Council have had extraordinary inspections in the last four years?

**Mr. Sirma:** Mr. Speaker, Sir, we are in the process of inspecting all the councils in the country, following the requirement that they should submit proper records in accordance with the Local Authorities Transfer Fund (LATF) regulations.

**Mr. Maitha:** Mr. Speaker, Sir, the Assistant Minister is aware that the law is very clear that financial expenditure of any local authority should be subject to public scrutiny. That means that any budget of any local authority should be made public to the residents of that local authority. Why is he telling this House that the inspection done is only for management purposes, and that it is not meant for the consumption of the local residents?

**Mr. Sirma:** Mr. Speaker, Sir, the reports are submitted to the councils. It is the responsibility of the various councils to communicate the same to the public.

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. I wish you listened to what the Assistant Minister was saying. Is he in order to say that, once a council has been probed, the reports are taken back to the same councils? Is he in order to mislead us that, if a council is being investigated, the same council is supposed to receive the report? Why do they not make the report public?

**Mr. Sirma:** Mr. Speaker, Sir, we take back the report with our recommendations so that they can be acted upon. If the clerk, or the various officers in the council are involved in the mismanagement, we do second officers to implement such a report.

**Mr. Angwenyi:** Mr. Speaker, Sir, these are the type of replies which have made the management of our councils look like *mitumba* management. In the past, I have asked two Questions before with regard to graders in Kisii Municipal Council and Gusii County Council---

**Mr. Speaker:** Order! Order!

**Mr. Sirma:** On a point of order, Mr. Speaker, Sir. Are you satisfied that there is "*mitumba* management" being practised in this country?

**Hon. Members:** Yeah!

**Mr. Speaker:** Order! Order! What is "*mitumba* management", Mr. Angwenyi?

**Mr. Angwenyi:** Mr. Speaker, Sir, I have been a lecturer in management for 15 years at the University of Nairobi. So, when I say "*mitumba* management", I know what I am talking about. The type of management that we

have at the City Council, Gusii County Council, Laikipia County Council and in every county council in this country can be referred to as "mitumba management".

**Mr. Speaker:** Order! Order! Mr. Angwenyi, I do not think you have been to Laikipia! So, would you like to answer his question?

(Laughter)

**Mr. Angwenyi:** Mr. Speaker, Sir, "mitumba management" is the substandard management of anything, in this case, of local authorities. This gives rise to misappropriation of public funds, non-delivery of services and non-recreation opportunities leading to retrenchment and haphazard firing. I have asked two Questions in this House before with regard to graders at Gusii County Council and Kisii Municipal Council. The replies have been that money has been allocated to have these graders repaired and serviced. But surprisingly, these graders have not been repaired and put into use. Why can the Ministry not institute an extraordinary audit of these two councils so that people can get their service?

**Mr. Sirma:** Mr. Speaker, Sir, we shall comply with that request from Mr. Angwenyi.

Question No. 473

#### SUSPENSION OF MAYOR MASOOD MWAHIMA

**Mr. Maitha** asked the Minister for Local Government under what law Councillor Masood Mwahima was suspended from the seat of Mayor for Mombasa.

**The Assistant Minister for Local Government** (Mr. Hashim): Mr. Speaker, Sir, I beg to reply.

The Mayor of Mombasa was suspended under Section 248, Cap.265 of the Local Government Act, following investigations instituted by the Minister, under Section 245 Subsection 1 of the same Act. The suspension has been disputed in a court of law and I cannot comment on the same as it is *sub judice*.

**Mr. Maitha:** Mr. Speaker, Sir, it is not true that the Mayor of Mombasa is disputing this suspension in court. He is disputing in court charges against issuing a bounced cheque to the Mombasa Municipal Council. The Minister suspended him after he was taken to court. So, this matter is not *sub judice*. The section of the law that the Assistant Minister is quoting is not the reason why the Mayor was suspended. The Mayor cannot be suspended by the Minister because he is elected by councillors. It is only those councillors who can vote him out. Could the Assistant Minister state under which provision of his powers, the Minister acted? He should read out that provision to this House.

**Mr. Hashim:** Mr. Speaker, Sir, as I said earlier, this matter is before the court and I have got 149---

**Mr. Mwenje:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is totally out of order. Mr. Maitha told the Assistant Minister that the case before the court has got nothing to do with the Mayor's suspension. It is about a bounced cheque. The issue at hand here is not *sub judice* at all. Let him answer the Question without hiding under this rule.

**Mr. Hashim:** Mr. Speaker, Sir, I do not know if Mr. Maitha is a court clerk because the matter is before the court, it is case No.149 of 2002.

**Mr. Mwakiringo:** Mr. Speaker, Sir, no investigations were instituted by the Minister so the Assistant Minister here is misleading this House. Could he confirm that the former Mayor Masood Mwahima was suspended because of his association with the party in Mombasa?

**Mr. Hashim:** Mr. Speaker, Sir, Mayor Mwahima was not suspended because of his affiliation to FORD(P) Party. Investigations were done concerning his case, and in fact I was the one who launched that investigation in Mombasa.

**Mr. Angwenyi:** Mr. Speaker, Sir, we know that the Mayor has been suspended because of his association with the FORD(P) party, as my colleague said. If that is the case, could the Assistant Minister tell us what law this Mayor contravened that led to his suspension by the Minister for Local Government?

**Mr. Hashim:** Mr. Speaker, Sir, there was hue and cry from Mombasa residents over the way Mayor Mwahima was running the council. Investigations were conducted and the Minister is empowered, under Section 245 Subsection 1 of the Local Government Act, to suspend the Mayor.

**Mr. Mwenda:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to refuse to answer the question he has been asked? Under what law did the Minister suspend the Mayor at all? He was an elected Mayor!

**Mr. Speaker:** Order! If you were listening, the Assistant Minister said that this provision falls under Section 248 of the Local Government Act.

**Mr. Maitha:** Mr. Speaker, Sir, I want to read out to the House, Section 248 which he is referring to. It states:-

"The Minister may give to any local authority such direction as he thinks necessary as a result of investigations, researches or inquiries under Section 245."

According to the answer, he says that the Mayor was suspended under Section 245(a) which was repealed and replaced by another section. So, the section that the Assistant Minister is talking about is not there. He is lying to this House. It is untrue!

**Mr. Speaker:** Order! Mr. Maitha can you withdraw the word "lying"?

**Mr. Maitha:** May I withdraw the word "lying" and substitute it with "misleading"? The Assistant Minister is misleading the House.

**An hon. Member:** Apologise!

**Mr. Maitha:** I cannot apologise!

**Mr. Kamolleh:** On a point of order, Mr. Speaker, Sir. Is it in order for Mr. Maitha to only withdraw the word he has used without apologising to the Assistant Minister?

**Mr. Speaker:** Order, hon. Members! Members do as directed by the Speaker, and I only directed him to withdraw the word. Mr. Kamolleh, I do not remember assigning you my powers!

**Mr. Hashim:** Mr. Speaker, Sir, if you heard Mr. Maitha read Section 248, he explained explicitly that the Minister has powers to suspend---

*(Loud consultations)*

**Mr. Speaker:** Order, hon. Members! Cool down! He probably has his own interpretation and so have you. The best place to get a true and binding interpretation of that law is the court.

**Ms. Karua:** Mr. Speaker, Sir, I think it is incumbent on the Chair to give the House direction. I do not think it is a matter of interpretation. It is quite clear that Section 148 gives the Minister powers to direct the provisions allowed by Section 245 which was repealed. The net result of that is that he has no power to give any directions whatsoever, leave alone to suspend the Mayor. Is Mr. Speaker satisfied that the Assistant Minister has actually answered the Question and not deliberately misled the House?

**Mr. Speaker:** Order! Mr. Speaker does not wish to be in the Assistant Minister's shoes. Mr. Assistant Minister, in your understanding, is "giving direction" and "sacking" the same thing?

**Mr. Hashim:** It has the same meaning, Mr. Speaker, Sir.

**Hon. Members:** No! No!

**Mr. Angwenyi:** Mr. Speaker, Sir, this House makes laws for this country. This House must stand up and make sure that the laws we enact here are followed to the letter. When an Assistant Minister comes here and gives a false reply and quotes a wrong section of the law, I think he should be named. These are the type of Ministers that I call "Mitumba Ministers". You can see what is happening in this Ministry. Local authorities are an important aspect of our Government. Unless we stand up and say this is wrong, this country will go to the dogs.

*(Applause)*

Could the Assistant Minister undertake to give a proper reply to this Question next time?

**Mr. Hashim:** Mr. Speaker, Sir, according to my understanding, Section 248 empowers the Minister to suspend the Mayor. If there is any dispute concerning that section, it should be brought before the House.

**Mr. Speaker:** Order! We are not getting very far. All Members interested in this Question may follow it up under Standing Order No.17.

Next Question!

*Question No.483*

#### ILLEGAL ALLOCATION OF SCHOOL PLOT

**Mr. Muchiri** asked the Minister for Local Government:-

(a) under what circumstances the plot L.R. No.11973 (Original Number Part 4894/77), which is part of Garden Estate Primary School, allocated to a private developer for building shops and flats;

(b) whether he is aware that the private developer has subdivided the said land into half acre for sale; and,

(c) whether he could consider revoking the allocation of the said land.

**The Assistant Minister for Local Government (Mr. Kiangoi):** Mr. Speaker, Sir, Mr. Muchiri had directed

this Question to the Ministry of Lands and Settlement, which re-directed the Question to the Ministry of Local Government, and it arrived at our Ministry at 6.00 o'clock the day before yesterday. So, we work between 8.00 o'clock and 10.00 o'clock. I have sent out my officers to do the necessary search. We are not able at this time to offer a reply.

**Mr. Muchiri:** Mr. Speaker, Sir, this Question was before the House yesterday morning. The same Assistant Minister assured me and the Chair that he was going to answer the Question this afternoon. I even assisted him by giving him all the documents that he wanted. You have seen me conferring with him. When he told me that he is not in a position to answer the Question, I told him that we will seek your direction. Here is a primary school belonging to the Nairobi City Council, and a private developer is moving in. He has been prevented from developing the land by the school children. The schools are closing tomorrow. Could the Speaker give direction either to the Assistant Minister or the Government so that the private developer is prevented from entering the school? Otherwise, there will be bloodshed until this Question is answered when we come back.

**Mr. Speaker:** Order! Mr. Kiangoi, you will realise the seriousness of the Question. If it be true that a school land is being taken over by what has been described in a very strange language as "a private developer," what are you going to do about it? Have you found out if, somehow, there is truth in this?

**The Assistant Minister for Local Government (Mr. Kiangoi):** Mr. Speaker, Sir, the HANSARD will bear me out right. Yesterday, when this issue arose, I said that I will try as much as possible. Those are the words that I used. Indeed, I did try, and I have found out that a title deed has been issued to the other party. I am trying to get all the details so that we can take the necessary action. I understand what you are raising, but if, indeed, a title deed has been issued---

*(Loud consultations)*

**Mr. Speaker:** Order, hon. Members! This is a very serious issue!

**The Assistant Minister for Local Government (Mr. Kiangoi):** Mr. Speaker, Sir, but some hon. Members are never serious when a serious Question has been asked. If, indeed, a title deed has been issued, as it has been done, it would be a matter beyond my Ministry. It would involve the Commissioner of Lands revoking the same. That is what we are trying to do at the moment. But it came up the day before yesterday, as I have said.

**Mr. Keriri:** Mr. Speaker, Sir, I think this matter is very serious. The Assistant Minister is empowered to suspend any development while waiting for orders. Since this matter is serious, would it not be in order for the Assistant Minister to be asked to suspend all the development until the matter is settled? Even if the developer has a title deed, the Assistant Minister has the powers to suspend any development.

**Mr. Speaker:** Yes, indeed. Mr. Kiangoi, by law, a local authority must approve any development to take place. Are you prepared to stop any development in the meantime?

**The Assistant Minister for Local Government (Mr. Kiangoi):** Mr. Speaker, Sir, in fact, that is what I have just said. We are looking at all possibilities of---

**Hon. Members:** No! No!

**The Assistant Minister for Local Government (Mr. Kiangoi):** Mr. Speaker, Sir, that is why I am saying that we are looking at possibilities of assisting the hon. Member. I have assured him that we will look into it.

**Mr. Murathe:** Mr. Speaker, Sir, this school is outside my house. Whatever action Mr. Muchiri is promising, you can be sure that I will be there. Why is it so difficult for the Assistant Minister to give an undertaking to this House; that, even if we were to go on recess today, he is going to take the necessary action, one, to suspend any development in that place and, two, to liaise with the Ministry of Lands and Settlement to reverse the allocation of that title deed?

**The Assistant Minister for Local Government (Mr. Kiangoi):** Mr. Speaker, Sir, I could give that undertaking. There will be no problem, but could the hon. Members allow me---

*(Applause)*

Thank you very much, hon. Members!

**Mr. Speaker:** Order, hon. Members! Mr. Kiangoi, you can see the mood of the House; the House likes your first statement; that, you will suspend further development. The House does not like any rider to that statement.

**The Assistant Minister for Local Government (Mr. Kiangoi):** Mr. Speaker, Sir, I appreciate that. I am saying that I could give that undertaking, but let me get down to the facts. Then, we will act accordingly.

**Mr. Speaker:** For the second time, Mr. Kiunjuri!

**Mr. Muchiri:** Mr. Speaker, Sir, will you defer my Question?

**Mr. Speaker:** Yes, I will defer the Question. I am sorry I did not say so. You are very alert. Thank you very much.

*(Question deferred)*

*Question No.444*

LIST OF DISTRICT COMMISSIONERS

**Mr. Kiunjuri** asked the Minister of State, Office of the President whether he could table the names of all District Commissioners, giving details of their work stations as well as their districts of origin.

**The Minister of State, Office of the President** (Mr. Sunkuli): Mr. Speaker, Sir, I beg to reply. I apologise for not being there when the Question was asked for the first time.

The list of the names of all District Commissioners, their details and work stations, as well as their districts of origin, is here with me. Unfortunately, the list is long, containing 92 names and, because it contains 92 names, I just wish to lay the list on the Table.

**Mr. Speaker:** Order, hon. Members! Mr. Sunkuli, the Question came up yesterday. The document was laid on the Table yesterday, and Mr. Kiunjuri did get a copy. So, we gave him time to study it. He is now supposed to ask supplementary questions.

Mr. Kiunjuri, do you have any supplementary question?

**Mr. Kiunjuri:** Yes, Mr. Speaker, Sir. First of all, we have been given 92 names, while we know that the existing districts are not 70. Twenty five of the District Commissioners (DCs) come from only one community, which is not even the largest community; the Kalenjin community. However, of the 70 DCs, 51 were Special DOs appointed by the former Permanent Secretary in the Office of the President, Mr. Oyugi. They have now been elevated to the position of DCs in the last two years. They are supposed to carry out special duties.

**Mr. Speaker:** Order, Mr. Kiunjuri! What is your question?

**Mr. Kiunjuri:** Mr. Speaker, Sir, why were these DOs elevated to serve as DCs and why are half of them from one community? Were they the only people who qualified to serve as DCs? Noting that this is an election year, may be their special duty is to rig the elections.

**Mr. Sunkuli:** Mr. Speaker, Sir, the post of the DC is within the Civil Service. A few of the DCs are serving in the districts while some are doing other duties within the Government of Kenya. The DCs the hon. Member is referring to were not children of the late Hezekiah Oyugi, but Kenyan citizens who got into their offices in the first place because of their qualifications, and who have continued to earn their promotions.

**Mr. Maitha:** Mr. Speaker, Sir, the Government really isolated the coast region when they took away the only DC we had, Mr. Francis Baya, and they have not appointed any DC from the coast region. Could the Minister explain why the experienced DOs from the coast region are not elevated to be District Commissioners?

**Mr. Sunkuli:** Mr. Speaker, Sir, in the first place, Mr. Francis Baya must be a very happy man because he was promoted to the post of Permanent Secretary. I am sure he does not think like the hon. Member thinks. There are quite a number of DCs who come from the Coast Province. That, I think should satisfy the hon. Member.

**Mr. Shitanda:** Mr. Speaker, Sir, could the Minister tell us why, despite having so many university graduates out of employment, the Government has been recruiting primary school teachers to become DOs and promoting them to the DCs?

**Mr. Sunkuli:** Mr. Speaker, Sir, I hope the hon. Member from Malava understands that every Kenyan citizen is entitled to develop his skills as much as possible. There is a lot more that is required than just being a graduate. It would be preferable to be a graduate, but a number of people have proven themselves to be good administrators, although they are not university graduates, some of whom have been in the teaching profession.

**Mr. Angwenyi:** Mr. Speaker, Sir, the Provincial Administration is very essential for keeping law and order in this country. If people who are unqualified are appointed to these positions, chaos and insecurity will rise in the country. Could the Minister tell us whether all those who have been promoted to positions of DOIs and DCs in this country have passed the proficiency examinations for these grades?

**Mr. Sunkuli:** Mr. Speaker, Sir, the training that we give to our Provincial Administration is continuous. Many of the DOs have gone through the APA at Embakasi, another course at the Kenya Institute of Administration and they continue to undergo several courses within their career.

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

**Mr. Speaker:** Order, Mr. Angwenyi! You are not the only Member! Are you?

**Mr. Mwenje:** Mr. Speaker, Sir, this list discloses a lot of tribalism and imbalances. You have heard Mr. Kiunjuri say that 25 of the names are from the Kalenjin community and only three from the Kikuyu community. Even those three from Central Province are actually deputies in the province. They are not based in the field. Could the Minister explain to us the criteria for deciding who goes to the field and headquarters? As it is, the largest tribe in

Kenya has the smallest number of DCs, yet the ruling party is supporting a Kikuyu for the presidency after they have messed up the whole system.

**Mr. Sunkuli:** Mr. Speaker, Sir, the last comment is, of course, irrelevant to the Question, although material to the hon. Member's future. But it is not even true that the 25 of them are from the Kalenjin tribe.

**Hon. Members:** They are!

**Mr. Sunkuli:** Mr. Speaker, Sir, I have counted, and I think the figure that the hon. Members are referring to includes the Maasai, the Turkana and other people from the Rift Valley. There are quite a number of people from the hon. Member's tribe. Mr. Angwenyi is also complaining, whereas, in other professions, the Kisii are the beneficiary and in other professions other people are the majority. In this particular case, the tribe that they are trying to single out is not even the majority. I think we should be fair. The list contains names from all communities; the Kuria, the Kikuyu, Luyia and all other tribes.

**Mr. Kiunjuri:** Mr. Speaker, Sir, the Minister is misleading the House since we have the names, and we can tell where they come from and the even the districts of origin. However, now that we are approaching the General Election and we know the behaviour of DOs and DCs; fond of harassing hon. Members of Parliament, which they are doing even today--- In my own constituency, I am under siege. The DC cannot allow me even to hold *Harambees*. He is ordering the police officers to arrest me wherever they find me. What action is the Minister taking to ensure that the directives issued through the IPPG are complied with; that the DCs should not engage in politics?

**Mr. Sunkuli:** Mr. Speaker, Sir, to be fair, the hon. Member should draw a difference between 1992, for instance, 1997 and this year. In 1992, the DCs had some sort of role to play in elections. In 1997, the Electoral Commission which was in place took over most of the things and, in particular, the police took over the licensing of the meetings. In fact, if the hon. Member has problems in his constituency, they must be problems from his political opponents and not from the District Commissioner.

## QUESTIONS BY PRIVATE NOTICE

### RECRUITMENT OF MILITARY OFFICERS FROM BURA

**Mr. M.A. Galgalo:** Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President the following Question by Private Notice:-

(a) Is the Minister aware that military recruitment officers did not recruit young men/women from Bura Constituency on 26th June, 2002?

(b) Is he further aware that for the last ten years, no officers from the area have been recruited into the disciplined forces?

(c) What urgent measures is he taking to rectify this anomaly including revoking of the exercise of 26th June, 2002, and conducting fresh recruitment in Tana River District?

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

(a) I am not aware that army recruiting officers displayed apathy towards Bura constituents during the recruitment exercise on 26th June, 2002 by refusing to recruit young men from that constituency.

(b) I am not aware that for the last ten years, no officers have been recruited from the area including the Kenya Wildlife Service.

(c) I will not revoke the recruitment exercise done in Tana River on 26th June, 2002.

**Mr. Speaker:** Mr. Sunkuli, actually what happened was that this Question was answered, and hon. Members demanded to have the list of the recent recruits countrywide. Mr. Samoei promised to do that today. So that is the list we actually wanted.

**Mr. Sunkuli:** Mr. Speaker, Sir, I am not in a position to give the list. I have a provisional list of people recruited from Tana River District, but the actual recruitment exercise is currently taking place within the barracks. Once a person has been recommended for recruitment, he still has to undergo a number of tests including medical tests. Some of those who, in fact, say they have been recruited, may find themselves having to go back home because they do not pass the medical tests. Until those recruits have signed the attestation form, I cannot call them recruits, and I, therefore, cannot give this House a list that has not yet been compiled. I can be able to give this list maybe the day after tomorrow, if the House will still have a sitting.

**Mr. Keriri:** On a point of order, Mr. Speaker, Sir. Are you satisfied that the Minister has fulfilled the promise he made? He is going round and round about the list. Is he promising to give that list whether the House is on recess or not?

**Mr. Sunkuli:** Mr. Speaker, Sir, I am quite prepared to table the list once it is completed.

**Mr. M.A. Galgalo:** On a point of order, Mr. Speaker, Sir. When I raised this issue, Mr. Samoei made a commitment to the House that he had the list and he was going to lay it on the Table. The Minister is now renegeing on that commitment. What is the position? There was a list of people who were recruited from Tana River District and most of them have been sent back home. Secondly, I wanted a list of all those who have been recruited nationwide. Thirdly, I wanted a list of people who have been recruited from Tana River District for the last ten years. I have never heard of anybody recruited into the armed forces for the last ten years. Could he now lay the list on the Table, instead of renegeing on the promise made by Mr. Samoei?

**Mr. Sunkuli:** Mr. Speaker, Sir, what I have undertaken to do is to bring the list of the recruitment that was done on 26th June. I am not aware that I was required to give a list for the last ten years.

**Mr. Speaker:** But the Question says so!

**Mr. Sunkuli:** That I give the list for the last ten years?

**Mr. Speaker:** Yes!

**Mr. Sunkuli:** Mr. Speaker, Sir, if the House so requires, I will do that.

**Mr. Speaker:** I will defer the Question. I am sorry I am late and so, please, understand me because I will move a little bit faster!

*(Question deferred)*

#### MURDER OF MR. BENARD KARIUKI

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

(a) Is the Minister aware that Mr. Benard Kariuki of Mukurweini Division, Karaba Sub-location was shot and killed on 15th July, 2002?

(b) What action has been taken against the culprits?

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

(a) Yes, I am aware.

(b) An Inquest File No.1/2002 has been opened. Action will only be taken after the outcome of the inquest.

**Mr. Mutahi:** Mr. Speaker, Sir, the training of general and administration policemen has been questioned by this House since time immemorial. Could the Minister tell us under what circumstances Mr. Kariuki was killed by the administration policemen?

**Mr. Sunkuli:** Mr. Speaker, Sir, I am informed that on 16th July, 2002, while armed with a panga, the deceased, Mr. Benard Kariuki Kimani, went to Karaba Health Centre where he met some women waiting for treatment. Mr. Kimani immediately pounced on Wanjiru Muhoto, a subordinate staff at the centre and cut her on the right shoulder and right arm, inflicting on her serious injuries. He also turned to Jane Wamaitha Mwangi and cut her on the left elbow, inflicting on her some serious injuries. At that juncture, members of the public screamed for help and called the police from the nearby Karaba Police Station to save the situation.

However, police constables Samuel Simiyu and Isaac Kiplagat Bitok rushed to the scene armed with G3 rifles. When the deceased saw the police officers, he started charging towards them in another bid to harm them. But the police officers fired several rounds of ammunition in the air to scare him. Police constable Samuel Simiyu fell into a ditch as he was retreating. The subject rushed to cut the police officer who was lying down and when he realised his life was in danger, fired one round of ammunition, which hit the subject on the head and he died instantly. The deceased was later said to be mentally disturbed.

**Mr. Mutahi:** Mr. Speaker, Sir, that information is quite different from the information that I was given on the ground. That man went to the hospital to see a patient when he was attacked by the policemen. Could the Minister confirm or deny that the police officers are working when investigations are going on? They have not been suspended awaiting the conclusion of the inquiry.

**Mr. Sunkuli:** Mr. Speaker, Sir, the facts, as I have narrated them, do not indicate that there was a problem with the police constables. But if the inquest before the magistrate shows that they should be disciplined, that will be a different matter.

#### FRAUDULENT USE OF COMPANY CHEQUES

**Mr. Murathe:** Mr. Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Is the Minister aware of the massive fraudulent use of corporate company cheques to clear uncustomed

goods by the following agents leading to the loss of the Exchequer of Kshs404 million:-

Jaham Enterprises Limited, S.K. Amin Limited, Maritime Freight Company Limited, Sony Freight Forwarders, Water Ways Freighters, Frank Freighters, Shalek Limited, Everfreight Forwarder, Speedbird Cargo Links Limited, Cregib Limited, Pabast Freighters, Orbit Express, Kelima Commercial Freight, Bureau Clearing Agency, Janah Trading and A.S. Karama?

(b) Could he table a list of the amounts involved for each firm?

(c) What urgent corrective action does he intend to take to prosecute the perpetrators of that fraud and recovery of the said monies?

**Mr. Speaker:** Again, on this Question, the Minister was here and answered it. I think only certain information was required. Go straight to what was required.

**The Minister for Finance (Mr. Obure):** Mr. Speaker, Sir, for record purposes, I just want to say that the amount which the Kenya Revenue Authority (KRA) lost was Kshs408,186,329 and not Kshs404 million as indicated by Mr. Murathe. The second point that I want to clarify is the fact that only a few of the companies listed in the Question were actually involved in the fraud. Those are Everfreight Forwarders, Cregib Limited, Pabast Freighters, Orbit Express, Kelima Commercial Freight and Bureau Clearing Agency. The two other companies which were initially suspected to have been involved were subsequently cleared through a court process and, therefore, have been reinstated as clearing agents. I am not aware of the rest of the companies which are listed in Mr. Murathe's Question. I think those are the issues that we were supposed to clarify today.

Otherwise, I would like to confirm that the culprits have been taken to court, while police investigations are being carried out in respect of two other companies. The cases in court are going on. In the meantime, we have streamlined the customs collection centres and ensuring accountability for money received on a daily basis. We have also streamlined the banking reconciliation procedures and I want to confirm that the Government is not losing any more money presently.

**Mr. Murathe:** Mr. Speaker, Sir, I am glad that the Minister has admitted that there was fraud. Secondly, two days ago, the KRA admitted having lost or failed to realise more than Kshs12 billion in revenue. Thirdly, we gave them a schedule from their own offices, that had the details and specifics of the other companies and the amounts involved, together with the complicity of his own officers in the sleaze! I have no further questions. It appears that the Minister and his officers in various departments are fully aware. He knows that the problem is still continuing even as we sit here. What action has he taken against the directors of those companies? Who are the directors of those companies? Those companies are owned by four people. Who are they? Could he table the list of the directors of those companies who are prominent Kenyans?

**Mr. Speaker:** Order! Mr. Murathe, you had the opportunity to go to the Registrar of Companies and get the names of the directors because that is a public issue. You cannot ask the Minister!

**Mr. Murathe:** Mr. Speaker, Sir, the files have been hidden! I went to the Registrar of Companies registry and files for Maritime, Pabast and Frank Freighters have been hidden! He has the list of the directors of those companies. Could he table the list of the directors of those companies? I know them!

**Mr. Speaker:** Order! I wish to remind the hon. Member of the provisions of Standing Order No.25. I believe that, in relation to Questions, a Member is not allowed to ask a Question of which he knows the answer! So, it is out of order for the hon. Member to ask a Question when he already knows the answer!

**Mr. Murathe:** Mr. Speaker, Sir, could the Minister be kind enough to table that information, which he is withholding, for public records, so that Kenyans can know the directors of those companies which are involved in this fraud?

**Mr. Obure:** Mr. Speaker, Sir, I have stated before that persons who perpetrated this fraud have already been charged in court, including the directors and employees of some of these companies. Those who have also been arraigned in court are some employees of the Kenya Revenue Authority (KRA), who were found to have colluded with the directors of those companies in this fraud. I would also like to state categorically that the Government is not losing any money presently through this arrangement because proper audit and mechanisms have been put in place to ensure that it does not happen.

**Mr. Nderitu:** Mr. Speaker, Sir, the Government has been losing Kshs1.4 billion every month. That is what the report says. Has the Minister recovered that money? Could this House be informed as to whether the Kshs1.4 billion has been recovered or not?

**Mr. Obure:** Mr. Speaker, Sir, I do not know about the Kshs1.4 billion---

**Hon. Members:** It is Kshs0.4 billion!

**Mr. Obure:** Mr. Speaker, Sir, we know those people who were involved in the fraud. That answer was given two days ago and we do not need to go into it. We know the amount of money which has been defrauded by each of those companies, and that is the reason why they have been taken to court.

**Mr. Murathe:** Mr. Speaker, Sir, the Minister has not answered the question. What measures has the

Government taken to recover that money, after admitting that it is aware of the fraud and knows who was involved? Is the Minister telling this country that there are no efforts being made to recover that money; that, that money is gone and no punitive action will be taken against those persons and their companies? Is he also telling us that it will be business as usual? The Minister has refused to table the list of the directors of those companies.

**Mr. Speaker:** I think, to be fair, Mr. Murathe, you have also refused to name them!

**Mr. Obure:** Mr. Speaker, Sir, indeed, you are quite right. Mr. Murathe has refused to name them. The directors and the employees of these forwarding companies are known and have been arraigned in court. The court has to establish whether the allegations which are being made against these people are correct. After that, we will find a method of recovering this money. In the meantime, I would like to confirm that all the companies which were involved, or suspected to have been involved in this fraud, are no longer doing any business with the KRA. The services of these companies have been suspended until the outcome of the court case.

#### INTRODUCTION OF NEW SCHOOL LEVY

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

(a) Is the Minister aware that there is a new proposal to introduce a levy of Kshs80 per student in primary and secondary schools in Nyeri District?

(b) Could he explain the circumstances under which this levy is being introduced?

(c) Could he intervene and stop the levy as it will lead to children dropping out of school?

**Mr. Speaker:** Is there anybody here from the Ministry of Education, Science and Technology? I will defer this Question!

*(Question deferred)*

Let us move on to the next Question!

**Mr. Kihoro:** On a point of order, Mr. Speaker, Sir. Have you deferred this Question to October, 2002?

**Mr. Speaker:** Yes!

**Mr. Kihoro:** Mr. Speaker, Sir, but the levy will be implemented in the meantime.

**Mr. Speaker:** What can I do? I am not the Minister for Education!

**Mr. Kihoro:** Mr. Speaker, Sir, I thought you would order the Minister to be brought here before the end of Question Time!

*(Laughter)*

**Mr. Speaker:** Let us move on to the next Question by Mr. Muya!

#### SUSPENSION OF AUDITING FIRM BY ICPAK

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

(a) Is the Minister aware that the auditing firm used by the Ministry to liquidate several coffee societies, M/s Mungai and Associates has been suspended from carrying out auditing work with effect from 1st August, 2002 by the Institute of Certified Public Accountants of Kenya (ICPAK)?

(b) What led to its suspension?

(c) Could he table the report of the probe on this firm which he promised the House last year?

**The Assistant Minister for Agriculture and Rural Development** (Mr. Sumbeiywo): Mr. Speaker, Sir, I beg to reply.

(a) I am aware. The suspension was communicated to the Ministry on 29th July, 2002 by the ICPAK. However, the audit firm M/s Mburu Mungai and Associates went to court and obtained an interim stay of execution of the decision made by the Registration of Accountants Board dated 22nd July, 2002 pending the hearing of substantive application on a date to be given by the vacation judge. Hence the firm retains the *status quo*, at least, for now.

(b) As I have indicated in part "a" above, the matter is now in court and any further comment will jeopardise the case and is, therefore, *sub judice*.

(c) The Co-operative Societies Act, No.12 of 1997, has no provision for instituting probe on a privately registered firm. On completion of the liquidation proceedings, the Registrar of Co-operative Societies makes the final

liquidation account to be audited prior to granting the liquidator a discharge. However, the Registrar of Co-operative Societies, under Section 68(1)(c) and (f) of the Co-operative Societies Act, may, at his discretion, require interim accounts to be rendered to him by the liquidator and procure the audit of the same. The Registrar has so far found no reason to exercise those powers.

**Mr. Muya:** Thank you, Mr. Speaker, Sir. The Assistant Minister has deliberately avoided answering part "b" of my Question by hiding behind the *sub judice* rule. This is the case, and yet he is aware of all the facts given by the ICPAK for the suspension of this audit firm. Is the Assistant Minister satisfied that the auditor should continue with the liquidation taking into account all the facts he has been given?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, I am satisfied because the firm went to court and obtained an interim stay of execution of the decision made by the Registration of Accountants Board as the case is being investigated.

**Mr. Obwocha:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister not misleading this House by saying that the Registration of Accountants Board is the one which suspended M/s Mburu Mungai and Associates when, in fact, he had said earlier on that it was the ICPAK? Which is which? Is it the Registration of Accountants Board or the ICPAK which suspended M/s Mburu Mungai and Associates?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, it is the ICPAK which suspended M/s Mburu Mungai and Associates.

**Mr. Kibicho:** Mr. Speaker, Sir, on part "b" of the Question, the Questioner would like to know the allegations which led to the suspension?

**Mr. Sumbeiywo:** Mr. Speaker, Sir, M/s Mburu Mungai and Associates was barred from providing audit services following the suspension of Mr. Mungai's practising licence for a period of one year with effect from 1st August, 2002. The suspension arose out of deficiencies noted in the firm's application and adherence to international auditing standards.

#### NON-PAYMENT OF COFFEE FARMERS' DUES

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

(a) Why has the Coffee Board of Kenya failed to pay coffee farmers proceeds of sales 29, 30, 31, 32, 33 and 34?

(b) Is the Minister aware that failure to pay farmers has caused major financial hardships to them?

(c) What urgent measures is he taking to facilitate immediate payment of these sales?

**The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo):** Mr. Speaker, Sir, this Question was supposed to be answered by another colleague of mine. I do not know what happened. I am seeking the indulgence of the House that the Question be deferred, so that we can answer it when the House reconvenes.

**Mr. Ndwiga:** Mr. Speaker, Sir, he is an Assistant Minister in that Ministry. The Question is straightforward because the Coffee Board of Kenya has not paid money to the farmers. Children are not going to school in those areas and he is asking us to defer the Question up to October this year and yet, farmers have not been paid their money. The coffee was sold and we would like to know what happened to the money. Could he tell us where the money is?

**The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo):** Mr. Speaker, Sir, as I said earlier on, I do not have the answer to this Question. But I want to promise Mr. Ndwiga that we will investigate where the money went to, and even during the recess, we are going to do it.

**Mr. Ndwiga:** Mr. Speaker, Sir, it is not the question of investigating. Coffee was sold and we have named the auction numbers. Coffee was sold and the farmers have not been paid, their children cannot go to school while the farmers cannot get medical treatment and yet, the Government is sitting on their money! Before we amended the Coffee Act, the Government knew who they lent the farmers' money. That is why they are refusing to answer the Question.

**Mr. Keriri:** On a point of order, Mr. Speaker, Sir. I would like to seek the guidance of the Chair on this matter. Since we are proceeding on recess today and this is a very important Question, could we be in order to ask the Assistant Minister, and Mr. Ndwiga, to hold a meeting and then make their findings public after they have met?

**Mr. Speaker:** I encourage that!

*(Question deferred)*

#### DESTRUCTION OF MANGA ESCARPMENT FOREST

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

(a) Is the Minister aware that the Clerk of Nyamira County Council has cut down trees and destroyed Manga

Escarpment Forest in Kitutu Masaba?

(b) Who authorised the Clerk to destroy the forest and for what purpose?

(c) What legal measures will the Minister take against the Clerk and all those involved in the destruction of the forest?

**The Minister for Environment** (Mr. Kamotho): Mr. Speaker, Sir, I beg to reply.

This Question has been---

*(Applause)*

**Mr. Speaker:** Order, hon. Members! What is going on?

**Hon. Members:** Kamotho for President! He is answering Questions for the first time after Kasarani!

**The Minister for Environment** (Mr. Kamotho): Mr. Speaker, Sir, this Question has been on the Order Paper on several occasions. I remember that last time, I gave a very satisfactory answer and promised that I was going to take action and report back to the House. As I stated then, I will state the same today.

(a) I am aware that the Clerk to Nyamira County Council has cut down trees on the Manga Escarpment Forest.

(b) No authority has been given to the Clerk or to any other person to destroy the Manga Escarpment Forest or any other forest area.

(c) The Ministry, through the Director-General of National Environment Management Authority (NEMA) and the Chief Conservator of Forests, are in the process of compiling evidence with a view to taking the District Commissioner, Nyamira, the Clerk to the County Council and any other person involved, to court. Towards this end, my Ministry is closely liaising with other law enforcement agencies of the Government to ensure that those concerned are brought to book.

**Mr. Anyona:** Mr. Speaker, Sir, I sincerely wish to thank the Minister for being extremely forthright about this very serious matter. I would like him to clarify a few things because he was going to investigate two aspects of this case; whether they complied or broke the law when they were cutting down trees and secondly, whether the Kshs300,000 which was proceeds from the trees which were cut down, will form part of the case. Has he found them guilty on both counts? Could he confirm that?

**Mr. Kamotho:** Mr. Speaker, Sir, the reason why the Ministry thinks that there is a case for those concerned to answer, is because they did not comply with the relevant sections of the law. In the process of investigation, the officers concerned have not been co-operating to give us the information we require as to what they did with the proceeds which accrued from the sale of the trees which were cut from the Manga Escarpment Forest.

**Mr. Obwocha:** Mr. Speaker, Sir, that was a rehabilitation project for a remand home for children. The amount of money that was going to be spent on the project was Kshs60 million. Could the Minister confirm that the project will go ahead or it is going to die because of this?

**Mr. Kamotho:** Mr. Speaker, Sir, that Question should be directed to the Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports. The Question I have been asked concerns materials taken from the forest in that particular area. As far as the project of the juvenile home is concerned, that is not the concern of my Ministry.

#### WITHDRAWAL OF MONEY FROM NCC BURSARY FUND

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

(a) Under what authority did the Clerk of the Nairobi City Council authorise the withdrawal of Kshs1,500,000 from the Bursary Fund Account on 2nd August, 2002?

(b) For what purpose was the money meant?

(c) Since the balance in the account is less than Kshs1 million, how does the Minister intend to assist the needy cases of orphans and destitutes in all primary schools in Nairobi?

(d) In view of the unclear circumstances under which this money was released, could the Minister refer this matter to the Anti-Corruption Police Unit for investigation and prosecution?

**The Assistant Minister for Local Government** (Mr. Kiangoi): Mr. Speaker, Sir, I beg to reply.

(a) The money was withdrawn on the authority of the NCC vide Minute No.15 of the Full Council Meeting held on 2nd July, 2002.

(b) The money was the NCC's contribution towards Embakasi Harambee Bursary Fund held on 3rd August, 2002, as per NCC's approval.

(c) The issue of assisting orphans and destitute children is not the responsibility of the City Council only. As it has happened in the past, needy children will continue to be assisted through donations and contributions from well-wishers and sympathizers. The City Council is always ready to chip in and assist, whenever funds are available.

(d) As I have already pointed out in my answer to part "a" above, the money was withdrawn with the approval of the Council, and the issue of referring the matter to the Anti-Corruption Police Unit does not arise.

**Mr. N. Nyagah:** Mr. Speaker, Sir, the Assistant Minister seems to go through a lot of confusion. The Minutes that have been referred to by the Minister---

*(Loud consultations)*

**Mr. Speaker:** Order! Order, hon. Members! Could we follow the proceedings?

**Mr. N. Nyagah:** Mr. Speaker, Sir, let me make a quick reference to what the Assistant Minister has just said about the Minutes of the Council. I have an extract from the Minutes of the Council which simply states as follows:-

"His Worship the Mayor proposed that authority be given for the Council to release bursary funds for Embakasi Constituency, as the Council's donation towards the forthcoming Harambee for the Embakasi Constituency schools."

The normal practice is that, when you carry out an Harambee, you get Kshs100,000.

Mr. Speaker, Sir, a letter written by the Director of City Education, advised the Town Clerk on the following:-

"The total amount of money provided for in the Vote Book for bursary to orphans and destitute children in Nairobi during this financial year is Kshs2.5 million. The release of Kshs1.5 million for Embakasi Constituency would leave the department with only Kshs1 million as bursary funds for the entire Nairobi Province. As a department, we had agreed to contribute only Kshs100,000 from the fund."

The Town Clerk then, wrote and said: "Approved, subject to ratification by your Committee."

Is the Assistant Minister now aware that there was no ratification by the Department of Education; the Finance Committee, nor the full council meeting, which only held its meeting the day before yesterday? Who will be responsible for this, and who will be surcharged?

*(Applause)*

**Mr. Kiangoi:** Mr. Speaker, Sir, the bursary fund concerns not one school, but many schools, and it affects the whole of Embakasi Constituency. As the hon. Member has rightly said, there is a balance of Kshs1 million. This amount will be given out as bursaries to individual needy students who have come up from the City Council primary schools, and it is expected to be sufficient.

**Mr. Mwenje:** Mr. Speaker, Sir, when people want to misappropriate funds, let them not use Embakasi Constituency! We already have a bursary fund account. Could the Assistant Minister confirm who the signatories of this particular account, which was being opened are? We have information that it is only the Mayor of Nairobi City who is the signatory of this account. We never asked for this money because we have been educating our children without it! Could the Assistant Minister tell this House, if there was Kshs2.5 million, and there are eight constituencies in this City; why was it that Kshs1.5 million simply goes to Embakasi Constituency; if it is not simply money for campaign? This money is simply meant for campaign, and it is being collected by particular KANU officials, including the Minister for Local Government and the Mayor of Nairobi City!

*(Applause)*

**Mr. Kiangoi:** Mr. Speaker, Sir, the hon. Member does not have to ask for money to be given to Embakasi Constituency in order for the Council to approve it.

To touch on what Mr. N. Nyagah was asking; committees are answerable to the full council. So, once the full council has approved, that remains an authority. I do, categorically, deny here that any kind of campaign was involved in this exercise. Hon. Mwenje should be grateful that the children of Embakasi Constituency will benefit from this bursary fund, rather than jumping up and down!

*(Applause)*

**Mr. Mwenje:** Mr. Speaker, Sir, I do not need that money! Children in my constituency have been going to school even without bursaries!

**Mr. Speaker:** Order! Order! I understand this is campaign time, but that does not waive the rules of the House. Mr. Mwenje, you will obey the rules of the House!

**Mr. N. Nyagah:** Mr. Speaker, Sir, history will judge this Assistant Minister very harshly!

**Hon. Members:** Tell him! Tell him!

**Mr. N. Nyagah:** I have stated what history will do.

**Mr. Kiangoi:** On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to insinuate that he knows what will happen to me in future, while he is ignorant about it?

**Mr. Speaker:** Order! Order, all of you! None of you has control over history! History will control itself!

*(Applause)*

**Mr. N. Nyagah:** Mr. Speaker, Sir, Psalms 51 part five says: "When you are conceived, you are made of sin!" Having said that--

**Mr. Speaker:** Order! Order, Mr. N. Nyagah! Address the Chair, not him! In fact, use all the anger against the Chair!

**Mr. N. Nyagah:** Mr. Speaker, Sir, I want to prove to the Assistant Minister that he needs to tell this House and this nation the truth. In his answer, he said that the issue of assisting orphans and destitute children is not the responsibility of the City Council only. Yet, on the other hand, they have set aside Kshs2.5 million for destitute children and orphans. The Harambee that the Minister for Local Government attended on Saturday was not for destitute children and orphans because there is a particular account in the Vote Book that deals with Harambee, where each councillor gets only Kshs100,000. Could the Assistant Minister clarify to this House that the letter, which was written by the Director of City Education, on the 2nd July, 2002, was seeking authority of the full council meeting? The full council meeting was only held on the 8th of July, this year, six days later, after the Harambee was done. What committee is the Assistant Minister referring to that gave the Town Clerk authority to withdraw all the money that was meant for destitute children and orphans in Nairobi City? Will Kamukunji Constituency get Kshs1.5 million, as Embakasi Constituency did?

**Mr. Kiangoi:** Mr. Speaker, Sir, firstly, contributions for bursary money would also serve to cater for destitute children. Secondly, the authority was given by the full council resolution of the 2nd July, 2002. Let me read the relevant--

**Mr. Maitha:** On a point of order, Mr. Speaker, Sir. You have heard the Assistant Minister mislead this House and he has just said that he orders councils to be inspected, while he is not answering this Question where a council has gone wrong! Why is he misleading this House, that he is the one who inspects this Council, yet the Council has done something very wrong to give money without the Minutes of the full council meeting?

**Mr. Speaker:** Order! Order, Mr. Maitha! That is even a supplementary question! Mr. Assistant Minister, would you respond to that question, and then we will have one more question and that will be it?

**Mr. Kiangoi:** Mr. Speaker, Sir, I have been reading the Minutes of the full council meeting of 2nd July, 2002. In fact, hon. N. Nyagah had read part of it; it reads as follows:-

"His Worship the Mayor proposed that authority be given to the Council to release bursary funds to Embakasi schools, as the City Council's donation towards the forthcoming Harambee for the Embakasi Constituency schools; resolved that the proposal by His Worship the Mayor be approved and the money be released."

In their wisdom, they released Kshs1.5 million for all those destitute and orphaned children of Embakasi Constituency.

**Mr. N. Nyagah:** Mr. Speaker, Sir, it is very wrong for a whole Assistant Minister to stand before this House and read out something which does not exist. I have with me here the minutes of the proceedings he has just read out. He went further to read something to the effect that the Clerk to the Council was authorised to release the Kshs1.5 million, which does not exist in these minutes. Where did he get that from? I will table a letter from the Director of Education authorising the release of only Kshs100,000 and then await authority from the Council's Committees on Education and Finance. Why does the Assistant Minister not face the world like a man and say that his Council went wrong, and that the person responsible, including himself, should be surcharged for the Kshs1.5 million that was withdrawn from the Bursary Fund?

*(Mr. N. Nyagah laid the document on the Table)*

**Mr. Kiangoi:** Mr. Speaker, Sir, I have always faced this world as a man. I was asked for authority. I gave the authority, which was recorded under Minute No.15 of a full Council meeting. The Education Committee is answerable to the full Council. I have with me here the authority I gave to the Clerk to the Council, and I can also table it.

*(Mr. Kiangoi laid the document on the Table)*

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

**Mr. Speaker:** Order! Order!

**Mr. Mwenje:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! Order, Mr. Mwenje!

Let us proceed to the next Order!

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

**Mr. Speaker:** Overruled!

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

**Mr. Speaker:** Order! Order! Hon. Members, we are running short of time. There is not much I can do about this matter. If you are not happy with the reply to the Question, you know what to do. So, could we now proceed to the next Question?

### PROCEDURAL MOTION

#### EXTENSION OF HOUSE SITTING

**The Minister for Transport and Communications** (Mr. Mudavadi): Mr. Speaker, Sir, I beg to move:- THAT, notwithstanding the provisions of Standing Order No.17(1) and (2), this House orders that the consideration of the business appearing on today's Order Paper be extended from 6.30 p.m. to 9.30 p.m.

The House Business Committee deliberated on some very important matters which it thought should be presented to this House, so that we can conclude some very vital business, which includes the Constitution of Kenya Review (Amendment) Bill and the Trade Marks (Amendment) Bill, before embarking on the Motion of Adjournment.

Mr. Speaker, Sir, I can see that the mood of the House is in support of this Motion.

So, I beg to move.

**The Minister for Trade and Industry** (Mr. Biwott): Mr. Speaker, Sir, I rise to support the Procedural Motion for the reasons explained by the Deputy Leader of Government Business.

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

*(Question proposed)*

*(Question put and agreed to)*

### BILL

#### *Second Reading*

#### THE CONSTITUTION OF KENYA (AMENDMENT) BILL

*(Mr. Oloo-Aringo on 25.7.2002)*

*(Resumption of Debate interrupted on 1.8.2002)*

**Mr. Speaker:** Hon. Members, you will recall that last Thursday, we had concluded debate on this Bill, and what was left was to attain the requisite quorum for me to call a Division. You will further recall that on that day, this House was unable to muster the requisite quorum for me to call a Division, and I gave the House a chance to try and get the requisite quorum for a Division today. I will, therefore, order that the Division Bell be rung to summon hon. Members to this House. The Bell will stop ringing in five minutes' time from now. If within that time we will have got the requisite number, which is 145 hon. Members, I will order a Division. In the event that we do not attain that quorum, the matter will then lapse. For the purpose of enabling the Clerks-at-the-Table to count you, please, stay in your places. You may consult each other but, please, do not move.

*(The Division Bell was rung)*

*(Some hon. Members moved towards the Bar as Mr. Oloo-Aringo and other hon. Members tried to persuade them not to withdraw from the Chamber)*

**Mr. Speaker:** Order! Order! Hon. Members, the dignity of this House must prevail! I have not appointed any hon. Member to be an arresting officer. So, please, resume your seats, so that the Clerks-at-the-Table can count you.

**Mr. Speaker:** Order, hon. Members! Please take your seats! Even the hon. Members who are coming in should take their seats. Please sit down so that we can count how many hon. Members are present. We are trying to establish how many of you are present, in order for me to be able to make a decision whether the number necessary for a Division has been attained or not. Please, just stay still for a little while.

*(The hon. Members were counted)*

Just to confirm how many hon. Members are present, I will give my officers one more chance to recount you. We now have 124 hon. Members in the House. Hon. Members, please sit down and let the Bar be drawn. Let us have another count.

*(The hon. Members were recounted)*

## COMMUNICATION FROM THE CHAIR

### LAPSE OF BILL DUE TO LACK OF REQUISITE NUMBER

**Mr. Speaker:** On the first count, the Clerks-at-the-Table got 124 hon. Members. Another hon. Member entered the Chamber and, on the second count, the Clerks-at-the-Table got 125 hon. Members. In the event, you are 20 hon. Members short of the requisite quorum. This being the second attempt, I have no alternative but to order that the Bill does lapse. As a consequence of what has happened under Order No.8 on the Order Paper, Order No.9, Committee of the Whole House, therefore, does not arise. So, we will go to Order Nos.10 and 11 on the Order Paper.

## PROCEDURAL MOTIONS

### REDUCTION OF PUBLICATION PERIOD OF CONSTITUTION OF KENYA REVIEW (AMENDMENT) BILL

**The Minister for Transport and Communications** (Mr. Mudavadi): Mr. Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, this House orders that the publication period of the Constitution of Kenya Review (Amendment) Bill, (Bill No.19) be reduced from 14 to four days.

Mr. Speaker, Sir, as I had tried to explain earlier, the whole essence of moving this Procedural Motion is to facilitate the necessary amendment to the Constitution of Kenya Review (Amendment) Bill. This will be in conformity with the Motion that the House approved a few days ago to allow for the extension of the life of the Constitution of Kenya Review Commission (CKRC), to 3rd January, 2003, to allow it to complete its work and to facilitate some adjustments to the programme that is contained in its parent Act.

This is a straightforward position. No new issues are being introduced because whatever is contained in the Motion was agreed upon during debate on the Motion which was presented by the Parliamentary Select Committee on Constitution Review.

With those few remarks, I beg to move.

**The Minister for Trade and Industry** (Mr. Biwott): Mr. Speaker, Sir, I rise to second this Procedural

Motion. As the Deputy Leader of Government Business has explained, it is---

*(Loud consultations)*

**Mr. Speaker:** Order, hon. Members! I think we still have got important business to transact. So, will hon. Members pay attention to what is going on?

Proceed, Mr. Biwott!

**The Minister for Trade and Industry** (Mr. Biwott): Mr. Speaker, Sir, I was saying that this Procedural Motion is necessary in order to expedite the legislation on matters relating to emergencies which have been caused by HIV/AIDS, tuberculosis and so on by ensuring that the needy are given access to cheap and easier medicine. There could be no other way in which we can bring relief to those people other than to accept this Procedural Motion so that we can move as expeditiously as possible. Failure to agree to this Motion will delay the provision of this relief to the needy.

With these few remarks, I beg to second.

*(Loud consultations)*

**Mr. Speaker:** Order, hon. Members! Hon. Members should be able to follow this because we are actually asking the House to allow certain Bills to be read for the First Time before they actually mature and also deal with all the three stages of the Bills at one time. So, it is absolutely important that you follow what is going on.

*(Question proposed)*

**Dr. Kituyi:** Mr. Speaker, Sir, I stand to oppose the Motion before the House. While I am totally in support of everything necessary to be done to expedite a speedy completion of the business of constitutional review in order to have a streamlined legislation--- Indeed, in as much as I am one of the sources of some of the suggestions and amendments to the Act as it is today, I stand to oppose this Motion for two major reasons.

Mr. Speaker, Sir, the first reason is that hon. Members of this House owe it to themselves, and this country, that every piece of legislation brought before them is properly scrutinised before they pass it. Most of the hon. Members of this House have not had a chance to look at the proposed amendments to the Constitution of Kenya Review (Amendment) Bill. Most Members of this House have not quite had a chance to suggest certain alterations which normally we do get; like from the relevant Departmental Committees of the House. Rushing through such a critical matter and leaving out certain fundamental changes that may have come, if Members had more time to scrutinise the proposed amendments to the Act, will be a dereliction from our responsibility.

Mr. Speaker, Sir, I have not seen any particular reason why this House cannot continue sitting up to next week to give Members a chance to properly scrutinise this piece of legislation. Indeed, you are aware that, last Wednesday, this House passed a Motion to set up a Select Committee on political thuggery and the House Business Committee has not had an opportunity to complete its part of that arrangement; to nominate Members of that Committee of the House. So, if they have other business that also needs to be done, I consider it in the interest of this House that we give this business another week during which Members can scrutinise this Bill and the House Business Committee can also complete its obligation to this House to nominate Members of the Select Committee on political thuggery.

With those remarks, I beg to oppose.

**Mr. Mwenje:** Mr. Speaker, Sir, I stand here to oppose this Procedural Motion. There is no reason for this and, as hon. Dr. Kituyi put it, there is no need of trying to hurry the Trade Marks (Amendment) Bill before we have read it.

**Mr. Speaker:** Order! You are actually out of order! We are not dealing with the Trade Marks (Amendment) Bill.

**Mr. Mwenje:** I know that, Mr. Speaker, Sir. I am talking of the Procedural Motion itself.

**Mr. Speaker:** Order! That is Order No.11; we are on Order No.10. You are actually contributing to a matter that is not before the House.

**Mr. Mwenje:** Mr. Speaker, Sir, I was talking about the Procedural Motion. It is going to continue applying to almost all the other Motions which will come here. I oppose this Procedural Motion because the House has set aside the time limit for the publication of a Bill so that we can have enough time to read it, consult, understand it, check and

counter-check its implications.

Mr. Speaker, Sir, we thank you because we now have our offices across the road; at Continental House. However, we still do not have research assistants who could assist us to do research on all these Bills. So, the hon. Members of Parliament have to do so themselves. They have to do the research, read and absorb it. It is not wise to rush through these Bill unless there is something very urgent. There is no reason for shortening the publication period of any Bill. We need to be given enough time to go through these Bills. You have just seen that, when we have a Bill which the Opposition is in favour of, KANU sabotages it. For example, today in the House, the KANU Members refused to enter the Chamber. Some even walked out and only came back when the Constitution of Kenya Review (Amendment) Bill was defeated. So, it is tit for tat. We will not allow this to happen. We do not want to be put into trouble by KANU. For that reason, we need to be given adequate time. If that is not possible, we should then postpone the adjournment of this House to another day.

Otherwise, I oppose the Motion very strongly.

**Mr. Speaker:** Mr. Murungi, do you have anything different to say?

**Mr. Murungi:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Then do it very briefly, since I want to dispose of these matters one after the other.

**Mr. Murungi:** Thank you, Mr. Speaker, Sir. I rise to support this Motion. The matter of constitutional review is, indeed, very urgent and, right now, the Constitution of Kenya Review Commission (CKRC) should be preparing for the national conference which should be set up in October. The booking of venues has to be done in September. Even the panels have to be constituted. So, there is a lot of preparatory work to be done. Unless that is done now, the entire constitutional review process is going to collapse.

Mr. Speaker, Sir, I think, because of the importance and the urgency of this matter, it is important that we deal with all the three stages today.

*(Question put and agreed to)*

REDUCTION OF PUBLICATION PERIOD  
OF TRADE MARKS (AMENDMENT) BILL

**The Minister for Transport and Communications** (Mr. Mudavadi): Mr. Speaker, Sir, I beg to move the following procedural Motion:-

THAT, this House orders that the publication period of the Trade Marks (Amendment) Bill (Bill No.22) be reduced from fourteen to eleven days.

Mr. Speaker, Sir, the reasons that I mentioned earlier, when moving the earlier Motion, also relate to this particular Motion. I beg to move that the House does support it.

**The Minister for Trade and Industry** (Mr. Biwott): Mr. Speaker, Sir, I beg to second the Procedural Motion. In doing so, I am fortified by the belief that this is not thuggery which was mentioned here. This is a case whereby our people are being devoured by the HIV/AIDS scourge. We need urgent measures in order to curb it. So, realising that over 700 people are dying every day, we cannot afford to waste any time whatsoever. Therefore, the matter is so urgent that I am forced to plead with the House to pass this Procedural Motion so that we can move into the substance of the Trade Marks (Amendment) Bill.

With these few remarks, I beg to second.

*(Question proposed)*

**Mr. N. Nyagah:** Mr. Speaker, Sir, I rise to support this Procedural Motion. As Mr. Biwott has said, it is critical that we pass the Trade Related Intellectual Property Rights (TRIPS) flexibilities that are contained in the Bill that we will be discussing shortly, particularly in relation to parallel importation. That is basically the essence of having produced this Bill.

I would like to thank the Attorney-General, and the Government, for having brought this Bill. I do hope that, during the Second Reading, we will have many Members in the House so that we can help HIV/AIDS patients in this country by bringing anti-retroviral drugs (ARVs) into Kenya.

With those few remarks, I beg to support.

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, in line with what Mr. N. Nyagah has said, I also rise to support this Procedural Motion. But in doing so, I would like to call upon the Ministers concerned, when we come to the Second Reading of this Bill, to pay close attention to some of the things that some of us are going to say about the manner in which the Government is administering the control of HIV/AIDS in this country. It leaves a lot to be

desired.

With those few remarks, I beg to support.

**Mr. Angwenyi:** Mr. Speaker, Sir, I rise to support this very important Motion. As you know, our people are dying because we cannot avail to them adequate and proper medicine. I hope that, when the Bill is passed, there will be no further mischief in altering the law which affects our people.

With those few remarks, I beg to support.

*(Question put and agreed to)*

**Mr. Speaker:** Next Order!

## BILLS

### *First Readings*

THE TRADE MARKS (AMENDMENT) BILL

THE CONSTITUTION OF KENYA

REVIEW (AMENDMENT) BILL

*(Orders for First Readings read - Read  
the First Time - Ordered to be read the  
Second Time today by Leave of the House)*

### *Second Reading*

THE TRADE MARKS (AMENDMENT) BILL

*(By Leave of the House)*

**The Minister for Trade and Industry** (Mr. Biwott): Mr. Speaker, Sir, I beg to move that the Trade Marks (Amendment) Bill be now read a Second Time.

Mr. Speaker, Sir, now that we have got the Leave of the House to move this Bill, I would request hon. Members to listen to me very carefully when I am pleading for the passage of this Bill. Also, in giving the reasons why this is so, I would seek their indulgence in the method in which I am going to employ in this particular case. I will be referring to certain facts and sections of the empowering authority and I hope that hon. Members will not mind me reading some of those sections in order to get it as perfectly as possible.

*[Mr. Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, I believe that hon. Members are fully aware of the Trade Marks Act and the Trade Marks (Amendment) Bill which is before us now. I would like to state that the Trade Marks (Amendment) Bill was published on 29th July, 2002. Its main objective is to amend the Trade Marks Act, Cap.506 of the Laws of Kenya, in order to enable the same to conform to international and regional treaties and agreements to which Kenya is a signatory. The amendment also seeks to update the Act so that the same conforms to modern trends in the national and global economy. Several sections of the Act have been amended, others have been deleted while new ones have been introduced in order to make the Act as up to date as possible.

Mr. Temporary Deputy Speaker, Sir, in Section 3, the Trade Marks (Amendment) Bill proposes to repeal Section 6 of the Trade Marks Act and insert a new section to enable the Act to comply with the international classification of goods and services and the international classification of figurative elements of marks. In Clause 4, the Bill seeks to insert a new section immediately after Section 15 in order to provide for protection of well known trade marks. This new section enables the Act to conform with the provisions of the agreement on aspects of Trade Related

Intellectual Property Rights, commonly known as the TRIPS Agreement, to which Kenya is not only a signatory till 15th April, 1994, but has played a key role in ensuring that, that Agreement takes into account our Kenyan concerns as far as the TRIPS Agreement is concerned.

In Clause 5, Mr. Temporary Deputy Speaker, Sir, the Bill seeks to amend the principal Act to enable the same to conform with the Trade Marks Law Treaty which Kenya signed on 27th October, 1994. The duration of the trade service mark in Kenya will now be an initial period of ten years with the possibility of a renewal for a further ten years period of the current initial period of seven years, and a possibility of a renewal for further period of 14 years. This has been made necessary because we do not want to perpetuate rights if and when such rights become commonplace. Further, the Trade Mark Law Treaty does not provide for association of marks. To this end, Clause 6 of the Bill repeals Section 26, and Clause 7 of the Bill is amended in Section 33 accordingly.

Clause 8 of the Bill seeks to amend the Act by providing for surrender of a registered trade mark and acquiescence. These new provisions will enable the Kenya Industrial Property Institute to solve some of the problems that applicants have been facing with regard to these issues. These provisions are also found in major trade marks jurisdictions in the world. In other words, we have expanded the Trade Marks (Amendment) Bill in order to embrace all imaginable aspects of trade marks or patency.

Under Clause 9 of the Bill, the Act is amended by inserting a new part on collective trade marks. The trend, all over the world, is to provide for collective marks and the registration of collective marks will enable the operative societies, such as *Jua Kali* associations and others, to effectively market their products within and outside Kenya as a group and under an umbrella body. Clause 9 also introduces a new part on registration of intellectual marks.

In 1997, the Government approved Kenya's accession to the Madrid Agreement concerning the international registrational marks and protocol related to the Madrid Agreement. Kenya acceded to the Madrid system on 26th March, 1998. I will need to clarify that, in 1981, all those countries which were concerned about trademarks met in Madrid and agreed on the format and the way in which registration of those trademarks would be applied. In 1996 they met again in the same venue and introduced the Madrid Protocol. All this formed part and parcel of the Protocol which is used in registering trademarks to which Kenya has acceded. Therefore, this amendment will enable the country to receive and examine additional trade of service marks under the Madrid system. This will enable Kenya to earn a lot of resources in terms of the fees payable by the applicants as well as foreign investors.

Clause 9 also amends the Act to provide for the Banjor Protocol on marks. This is where the African Intellectual Property Rights are being co-ordinated. It is also where Kenya participated and agreed on the way in which Kenyan trademarks shall be registered. We would like that agreement, therefore, to conform with our laws. Since Kenya is a signatory of the African Regional Industrial Property Organisation (ARIPO) and the Banjor Protocol on marks, this is absolutely necessary. This will enable Kenya to receive, examine and register all those regional trade and service marks and, therefore, earn all these resources that are flowing there from. The country has of late been greatly hit by a problem of counterfeit trademarks. This is why it is very necessary that trademarks be subjected to a law so that action can be taken against those who are flouting the law. Clauses 10, 11 and 12 have provided for amendment to the Act to enhance the penalty in regard to forgery of trademarks. It is hoped that these penalties will act as deterrents to would-be offenders and, therefore, protect our local and foreign investors who have invested huge sums of money and created a lot of goodwill in their products which the offenders would like to cash on.

Finally, under the Industrial Property Act, 2000, which we passed last year, we had a clause which enabled the Kenya Government to compulsorily acquire medicine for the sick, especially HIV/AIDS patients and also those who suffer from malaria and tuberculosis, which are opportunistic diseases associated with HIV/AIDS. Somehow, this House, through the Statute Law (Miscellaneous Amendments) Bill deleted that part of it. I am here to ask the House to re-introduce that section so that we can acquire medicine compulsorily. You will find that Clause 14 of the Industrial Property Act was amended. On 7th June, this year, Section 58(2) of the Industrial Property Act was amended by deleting the full stop at the end thereof, and adding the words: "by the owner of the patent or with his express consent." The effect of that amendment through the Statute Law (Miscellaneous Amendments) Bill wipes out all the hope of the HIV/AIDS victims because it took away the power of the Government to acquire those medicines compulsorily in keeping with the WTO declarations which all of us are party to.

With your indulgence, I would like to read to you what that declaration states. I will only read the relevant parts. Under the declaration entitled: "Declaration of the TRIPS Agreement and Public Health" which we agreed on in Durban last year, we declared as follows:

1. We recognise the gravity of the public health problems afflicting many developing and least developed countries especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics.
2. We stress the need for the WTO agreement on Trade Related aspects of Intellectual Property Rights (TRIPS) to be part of the wider national and international action to address this problem.

3. We recognise that Intellectual Property protection is important for development of new medicine. At the same time, we also recognise the concerns about its effect on prices.
4. We, therefore, agree that the TRIPS agreement does not and should not prevent members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS agreement, we affirm that the agreement can and should be interpreted as implemented in a manner supportive of WTO members' right to protect public health and in particular, to promote access to medicine for all. In this connection, we re-affirm the rights of WTO members to use to the full, the provisions in the TRIPS agreement which provide flexibility for this purpose.
5. Accordingly, in the light of paragraph 4, while maintaining our commitment in the TRIPS agreement, we recognise that these flexibilities include:
  - (a) In applying the customary rules of interpretation of public international law, each provision of the TRIPS agreement shall be read in the light of the object and purpose of the agreement as expressed in particular, in its objectives and principles.
  - (b) Each member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted.
  - (c) Each member has the right to determine what constitutes a national emergency, or other circumstances of extreme emergency, it being understood that public health, including diseases related to the HIV/AIDS, tuberculosis, malaria and other epidemics can represent a national emergency or other circumstances of extreme urgency.
  - (d) The effect of the provisions in the TRIPS agreement that are relevant to the exhaustion of the Intellectual Property Rights Act is to leave each member country free to establish its own regime for such exhaustion without challenge subject to MFN and national treatment provisions of this Act.

The declaration further states:-

"We also agree that the least developed members will not be obliged in respect of the pharmaceutical products to implement or apply Sections 5 and 7, of part 2 of the TRIPS Agreement or enforce rights provided under this section until January without prejudice and so on."

Mr. Temporary Deputy Speaker, Sir, in Clause 6 it reads out as follows:-

"We recognise the WTO members with sufficient or no manufacturing capacity in the manufacturing sector could face difficulties and so on. We instruct the Council, therefore, to do something about it."

The reason why I have read this is because I wanted to draw attention to two things. One, we agreed to make this declaration as quasi political-legal statement so that each country can be flexible. We also agreed to draft it in such a way that we balance two aspects of this agreement. One, is the need to access medicine at affordable prices, which entails using the Government machinery to disregard patents. On the other hand, we know that to achieve breakthroughs in any development, you need research. Research means money spent as investment so as to produce something.

So, while we recognise that there is need to encourage the pharmaceutical companies to do research and produce new medicines which are more effective in order to control diseases, we nevertheless feel obliged to do something about it; especially in Africa, to use whatever legislation that we have to disregard the patent rights and access medicine, either from the patent holder or generics which have been developed as a result of deterioration or the expiry of the licences.

The amendment which we inadvertently passed in the (Miscellaneous Amendments) was to remove that ability. It left it to the owner to either agree with the Kenya Government to pass that compulsory legislation or not. It now came from the air. It parachuted from somewhere. Maybe, it came from the Opposition; you never know. I hope I have explained enough on this particular case, and if we consider the fact that 700 people are dying every day, and many people are being infected, we do not have time to consult, as it was said, by one hon. Member. We do not need time to consult.

While we are consulting, the disease is eating our own people; it is eating a lot of people. I am very pleased that the DP has a very effective Chief Whip by the name of Mr. N. Nyagah who is able to see this aspect. I hope with that clear sight, he should see how to move to the right side of the House and join KANU in nation-building.

With these few remarks, I beg to move.

**The Minister for Transport and Communications** (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I beg to second.

*(Question proposed)*

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill and to reiterate some of the points that the Minister has made regarding the importance of this Bill.

I think the most important clause in this Bill is the last one, regarding the amendment to the Industrial Property Act, 2001, which makes it possible for the Kenyan Government to make available affordable medicine for the treatment of the HIV/AIDS; not really treatment, amelioration and control of HIV/AIDS in this country, or "management" to quote my friend, Dr. Kituyi. But there are several things that the Government needs to take into account in this regard.

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

*[Mr. Speaker took the Chair]*

Mr. Speaker, Sir, one, it is known that one of the factors that lead to the HIV developing into AIDS is the weakening of the body immune system and the virus attacking the defence system of the human being. One of the ways to defend the body against this weakening is not so much through the use of medicine, but the use of food supplementation, through vitamins, minerals, better carrots and so on. In the final analysis, food supplementation proves to be much cheaper in defence against HIV/AIDS than the use of medicine. One of the things that happens is that the Government, through its National Aids Control Council, has not been very good at educating society about the importance of food supplementation. For example, the normal requirement of an ordinary human being in terms of intake of better carrotting would be about two killogrammes of carrots every day. Nobody can possibly eat two killogrammes of carrots every day. Or, for the body to get enough intake of calcium, on a daily basis, you need about eight glasses of milk. If you drink eight glasses of milk on a daily basis, not only would you be going to the toilet almost every half an hour, but you would also run the risk of becoming very fat.

In this regard, you have two possibilities of food supplementation; taking in better carrotting as a supplementation through carrotonides(?), or taking in calcium food supplementation, which means that you only take a few ounces of supplementation. If you compare the opportunity cost of waiting until the body is weakened to take the drugs and taking supplementation which defends the body before the viruses attack the defence system of the body, then, you would find that it is much better for both the health of the human being and the economy of the country. As far as the economy of the potentially sick, we should put an emphasis on proper nutrition through food supplementation for those who have been affected by HIV/AIDS.

So, I wanted to draw the attention of the Ministry of Health and the Ministry of Trade and Industry to the fact that one of the projects that the National Aids Control Council and the KBC should be involved in is a massive civic awareness programme, telling Kenyans why it is important to have generally proper nutrition for those who have been afflicted by the HIV/AIDS virus so as to avoid the extensive expense that we seem to be undergoing by relying too much on curative medicine, rather than preventive medicine.

Mr. Speaker, Sir, secondly although some researchers in this country tried to emphasise herbal treatment, for example, Dr. Obel who discovered Pearl Omega, it was kind of misused. It is still known in China, India, Latin America and many parts of Africa that herbal medicine is extremely important in the strengthening of the body when afflicted by HIV/AIDS. I have a feeling that in as much as we are talking about trade marks, we are really emphasising or focusing on industrial medicine. We are not realizing that we need to protect our own local scientists or the so-called traditional medicinemen. They are really scientists because they have been using herbal medicine for a long time to treat our people. I have a feeling that we should, in the same vein, protect herbal treatment of our people.

I am quite sure that the University of Nairobi, together with the Kenya Medical Research Institute, must have gathered sufficient data, to put at the disposal of both the Ministry of Finance and the Ministry of Trade and Industry, that we really need an Act of Parliament to protect and promote herbal medicine in this country. Even if you look at the containers of a lot of these food supplements and medicines, you will find that the base of both food supplementation and the base of medicine is from herbs.

Aloe vera, which is a very important plant in this country, is at the moment in danger of being extinct because it has been discovered that aloe vera is an extremely important plant in the treatment of a lot of sicknesses. Aloe vera is

also very important in giving the body different mechanisms against certain viruses such as the HIV virus which attacks the body. Aloe vera has also been proved to be very useful in the treatment of prevention of ulcers, let alone cancers, and yet we see a lot of the aloe vera plants dotting the countryside of this nation, which are neither protected, nor are properly used both nationally in terms of protecting the herbal medicine persons who use them; and also trying to do research in order to graduate the use of aloe vera as purely herbal medicine, and also as a base for industrial production of industrially produced preventive medicine in this country.

Mr. Speaker, Sir, I would like the Government to emphasise the protection of our herbs or herbal medicine and those who have knowledge in this area. They should also have trade marks. We should not wait until we get trade mark laws concluded at Banjul and the World Trade Organization conferences to realize that we can originate our own regime of trade mark protection of our herbal medicine persons in this country.

Mr. Speaker, Sir, Mr. Kibaki was at one point the Minister for Health in the 1980s and I remember herbal medicine was a heated debate at that point in time. I believe that the Minister for Trade and Industry, together with his counterparts in the Ministry of Health should revive this debate so that we have an Act of Parliament regarding the intellectual protection of herbal medicine and treatment in this country.

Another issue that I wanted to raise is the issue of affordable drugs. It is well known that one of the biggest problems in this country is the price of medicine. You only need to go and visit a doctor and he prescribes two or three drugs for you, for an ailment than when you thought could be cured by one drug, and you leave the doctor's consultancy more sick than when you went in, because you do not know how you are going to raise the money to buy what has been prescribed to you as treatment. I do not know whether there is a collusion between the pharmacists and the doctors, for doctors generally prescribe too many drugs to treat certain diseases. Sometimes I feel like using a sledge hammer to kill a fly. The price of medicine in this country is phenomenal. I do not understand why this is so, because when you go to other developing countries, like Ethiopia, which is just next to us here, or Costa Rica, you will find that the price of medicine is very cheap and yet these are Third World countries. What I got from the Ethiopians is that they started manufacturing medicine under their own terms. I do not know how they went around complicated things like trade marks and so on, because I remember at one point, in the 1980s, when the Chinese Government offered the Kenya Government the opportunity to establish a pharmaceutical factory in Nakuru which was going to manufacture medicine here, much cheaper. For some reason, the Kenya Government never took up the Chinese offer. I do believe that the Chinese had a similar project in Ethiopia which made it possible for medicine in Ethiopia to be much cheaper than here.

I do not know quite well whether the Bill we are discussing today is going to enable us begin manufacturing medicine here, much cheaper than before. If it is, it is welcome, because at the moment, it is extremely expensive to fall sick in Kenya. Added to that, we do not have a proper insurance scheme for our people. The health insurance we have in this country is skewed towards the very rich. Medical service providers like Mediplus and AAR that we in Parliament use, can only be used by about 5 per cent or 2 per cent of the Kenyan population, because that is the tiny section of this society which earns the kind of income that can take those insurance covers.

Mr. Speaker, Sir, our national health insurance scheme collapsed many years ago for reasons best known to ourselves. So, if we do not have a health insurance scheme that makes it possible for our people to buy medicine when they are sick, then, surely, we are really living in very dangerous times. As Mr. Biwott said, these agreements that we have here - whether they are from Banjul or whatever - should be implemented in such a manner as to protect public health. Those are the words he used. We cannot have a public health system in this country if we do not have a proper public health insurance scheme that makes it affordable to be sick in this country. In Kenya, it is now very expensive to be sick and more expensive to die. If we are talking about a public health system that is going to be protected by the implementation of these agreements, then we must revisit the issue of affordable health care and affordable medicine. That cannot come about unless we support and fortify our research.

Mr. Speaker, Sir, KEMRI has done very well in terms of research, but I feel that we should put more money into health research in this country, particularly in the area of having affordable medicine. This relates to what I call poor advertising on our radio and televisions. If, indeed, we are going to protect trade marks in order to make sure that we have medicine that is affordable, we should also protect our people from very misleading advertising on radio and television about the kind of medicines that they should use. A lot of attention should be paid to this, because a lot of poor people rush to the shops to buy off-counter medicine that they believe are going to treat them because of the advertising, and just complicate their health. This is a very serious problem in this country. A lot of off-shelf medicine is being bought by our people because they cannot afford to go to a doctor and get proper prescription to buy medicine in the pharmacies. Many people are making money from off-shelf medicine that our people are buying, and this is dangerous to the health of our people. Something should be done about advertising in these medicines so that we can protect our people against this kind of thing. I hope that in this Act, something will be done about that so that we do not let advertisers and money sharks advertise that, "Aspro ni Dawa ya Kweli", when we know that it is not Dawa ya

Kweli, so that our people can have proper health care.

I beg to support.

**Mr. N. Nyagah:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. I have no intention of spending 30 minutes as provided for in our Standing Orders. I also want to confess that I want to use the shortest possible period because the issues pertaining to the Industrial Property Bill were before this House and exhaustively discussed. I would like to tell the Minister some few things that have happened.

Whereas we realise that life expectancy of Kenyans has been reduced to about 47 years at the moment, we need to tell the Minister for Health, through the Minister for Trade and Industry, that before 1995, the Catholic Missionary hospitals used to get grants from the Government of Kenya. But since that time, that has stopped and yet, the mission hospitals provide between 45 and 50 per cent of health services to the total population of Kenya. That is a great anomaly. Four years ago, they served more than 2 million Kenyans in their hospitals, which had a capacity of 5,545 beds.

Mr. Speaker, Sir, let me remind the Minister that when we passed the Industrial Property Bill into law in June, 2001, one would have expected very quick response in terms of giving assent to it, as opposed to having waited for nine months.

Through you, Mr. Speaker, Sir, I would like to appeal to the Minister that major companies like GlaxoSmithkline, Boehringer Ingelheim Division, Bristol Meyers Quib, Merck Sharp and Dome, Rouge and Abbot should be approached by the Government to reduce the prices of medicine. They should enter into agreement with hospital institutions like Bristol Meyers Quib and Merck Sharp and Dome have done. They should get into more agreements with our pharmaceutical industries, so that they can lower the prices. One of the reasons why it was critical for the Government to bring this Bill was to be able to reduce the price from Kshs8,000 to Kshs2,000. It is my hope that, as soon as that is done, the TRIPS Agreement will be reached. Things like compulsory licensing, governmental use and the bola exemptions should now be put into use.

Mr. Speaker, Sir, let us look at the role that the enroled community nurses play and yet, the Government wants to scrap the grade. When you go to North Eastern Province and other remote areas, you will never get the Kenya Registered Nurses working in those mission hospitals. We will need the enroled community nurses to continue with their work because we have 3,000 of them in this country.

Lastly, we want the Kenya Gazette No.13 of April, 2001, that gave authority to the Ministry of Local Government to levy fees on mission hospitals to be wiped out. Those mission hospitals are complementing the Government and they are not in the habit of making profit. That would be very critical to ensure that the law serves its purpose.

With those few words, I beg to support.

**Mr. Mwiraria:** Thank you, Mr. Speaker, Sir. I rise to support this Motion. HIV/AIDS has become such a serious disease in this country that we really need to pay attention to it. I am grateful to the Minister for bringing the amendment which will make it possible---

**Dr. Anangwe:** On a point of order, Mr. Speaker, Sir. I have been listening to the debate on the Floor and there seem to be repetitions on many of the issues that are arising. In view of the fact that we seem to have exhausted the debate, could I be in order to ask the Mover to be called upon to reply?

**Mr. Speaker:** Order, hon. Members! I do not think it is really on a question of repetition. I think I may be sympathetic to you on account of the fact that this House had actually passed this law. Somehow, this House again removed it and now it wants to reinstate it. Therefore, you had actually agreed to it initially. I do not know why it was removed. So, I will accede to your request and call upon the Mover to reply.

**The Minister for Trade and Industry (Mr. Biwott):** Thank you, Mr. Speaker, Sir. First of all, let me thank all those who have spoken, especially Prof. Anyang'-Nyong'o and Mr. N. Nyagah. They have brought pertinent issues and aspects which need to be understood under the circumstances.

Mr. Speaker, Sir, the need to register our rights, patents and trademarks is paramount and essential. I did not spend much time on it because the Bill itself is self-explanatory and the Memorandum of Objects and Reasons explain clearly why we need it. In fact, if there is any country which is suffering from poaching of intellectual property rights, it is Kenya. We have lost a lot of intellectual property rights through the encouragement of herbal medicine people to collaborate with internationally renowned pharmaceutical companies, who have taken their knowledge and incorporated it in their medicines. For example, there is a tree in this country which cures the prostate gland problem. It originates from here. Recently, there was a success case, where commercial sex workers managed to control HIV/AIDS with their own bodies. It is now a subject of research which might eventually produce medicine for inoculation and other purposes.

Mr. Speaker, Sir, so, Prof. Anyang'-Nyong'o is quite right that the effect of this legislation is to enable our people to benefit from their intellectual knowledge of herbal medicine and other aspects of knowledge. For example,

in the Trade Marks (Amendment) Bill---

**Mr. Speaker:** Mr. Biwott, you do realise that we denied Mr. Mwiraria the chance because we said that we had earlier on passed that law? Why should I allow you such a long time and I did not allow Mr. Mwiraria?

**The Minister for Trade and Industry** (Mr. Biwott): I will oblige, Mr. Speaker, Sir. I would like to just touch on a few things. The Kenya Medical Research Institute was actually established for that purpose. I was the Minister in charge of science and technology, and if you go back, you will see that the very object of starting it was to do what we are discussing. The question of supplementary food is correct, but that happens to be easily accessible and you do not need compulsory licensing. Our aim is also to venture into manufacturing in order to get cheaper drugs.

On the question of the message to the Minister for Finance and Minister for Health with regard to grants given to missionary hospitals and the use of enroled community nurses, I will pass it on. I will also deal with the issue of the gazette notice.

Mr. Speaker, Sir, on the question of multinational corporations and their governments coming into play to support us to access medicine easily, I would like to say that, that is happening even now. I would also like to confirm that the World Health Organisation (WHO) Declaration was actually made in collaboration with them. Therefore, we are quite right. But, ultimately, the control of HIV/AIDS is not on the medicine but on abstinence and morality.

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

*(Question put and agreed to)*

*(The Bill was read a Second Time and  
committed to a Committee of the  
whole House today by leave of the House)*

*Second Reading*

THE CONSTITUTION OF KENYA REVIEW  
(AMENDMENT) BILL

*(By Leave of the House)*

**Mr. Munyasia:** On a point of order, Mr. Speaker, Sir. I rise on a point of order under Standing Order No.99 to deny leave to discuss the second stage of this particular Bill.

*(Dr. Kituyi, Mr. Kihoro and Mr. Angwenyi  
stood up in their places)*

**Mr. Angwenyi:** Mr. Speaker, Sir, I beg to support.

**Mr. Speaker:** Order! There is no problem at all. We will proceed. That is the number which is required. We will go to the next Order on the Order Paper until the end of the day. There is no problem. We will not discuss the Constitution of Kenya Review (Amendment) Bill. We will skip, therefore, even its Committee Stage, because the three hon. Members have opposed it for no reason at all.

**Dr. Kituyi:** But, Mr. Speaker, Sir---

**Mr. Speaker:** Order! This House has adopted the report of the Committee of this House charged with that responsibility. Anyway, we have not, as a House, had reasons for this. But that notwithstanding, we will now go to the Committee of the Whole House on the Trade Marks (Amendment) Bill.

*(Leave for Second Reading Denied)*

**Mr. Wamae:** On a point of order, Mr. Speaker, Sir. When I looked round, I only saw two hon. Members rise in their places and not three.

**Mr. Speaker:** Mr. Wamae, three hon. Members stood in their places and that is the required number. But as you know, the House can reverse its decision if moved. You can actually reverse that decision if you please, but if you do not, I will go to the next Order.

**MOTION**

RESCINDMENT OF DECISION TO  
DENY LEAVE OF THE HOUSE

**Mr. Wamae:** Mr. Speaker, Sir, I beg to move that we rescind that decision.

**Mr. Speaker:** Do you have a seconder?

**The Minister for Transport and Communications** (Mr. Mudavadi): Mr. Speaker, Sir, I support, and I believe that he is moving that Motion under Standing Order No.42.

*(Question proposed)*

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir. To reverse the decision of the House means that you will again seek leave of the House a second time.

**Mr. Speaker:** No! The Motion now being put here is that the House refused leave for the Constitution of Kenya Review (Amendment) Bill to be read a Second Time. So, the effect of this Motion is to allow leave---

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir. Under which Standing Order? If you ask the House to revisit a matter, it means that the decision is put aside and you move a Motion again with leave of the House.

**Mr. Speaker:** Order! The three of you objected and the House made a decision to deny leave for this Bill to be read a Second Time. The decision of the House is that leave is denied. What Mr. Wamae is urging the House to do is to put aside that decision of refusing leave for this Bill to be read a Second Time. If the House does agree that it be put aside, then it will be taken that the House has given leave and we will proceed.

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! Now, the Motion is before the House. Is there anybody who wants to contribute or I put the Question?

**QUORUM**

**Dr. Kituyi:** On a point of order, Mr. Speaker, Sir. Denying leave is by hon. Members. If hon. Members who deny leave withdraw their denial of leave, you can say that they have rescinded their position, but you cannot use majority numbers to grant leave when more than three hon. Members denied it. There is no provision in our Standing Order to provide for that. But even before you rule on that, there is no quorum.

**Mr. Speaker:** Order! First of all, it is very interesting.

*(Laughter)*

We have heard things called filibuster and they are all legal. Everything is perfectly legal within the rules. If the hon. Member claims that there is no quorum, I will not deal with any other business until I have established that, indeed, there is a quorum. So, do we have a quorum? I am told there is no quorum. Ring the Division Bell.

*(The Division Bell was rung)*

**An hon. Member:** Mr. Speaker, Sir, there are some hon. Members who are preventing those who are out from coming in!

**Mr. Speaker:** Order, hon. Members! I do understand that some hon. Members have moved out to obstruct those hon. Members who are out there from coming in. That is a criminal offence and they can be taken to prison. I direct the Serjeant-at-Arms to proceed out there and ensure that any hon. Member who is obstructing another hon. Member from coming to the House is arrested. Take my orders!

*(Applause)*

Order, hon. Members! We now have a quorum, but before we proceed further, an allegation was made that, indeed, there were some hon. Members out there preventing other hon. Members from coming to the Chamber. I would like to know who they are, so that I take immediate action on them now. Would any hon. Member volunteer that information? If nobody is volunteering, I hope those preventing others from coming to the House are listening to me. They are living a very perilous life. They should not attempt it again because it is a criminal offence, and I can order

their arrest and prosecution.

Mr. Attorney-General, in fact, I may order you to do so!

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, it is, indeed, under the National Assembly Powers and Privileges Act, that the Attorney-General can, on request, give consent. You can rest assured that on this particular occasion, it is a very serious matter for a Member of Parliament to obstruct other Members of Parliament from coming into the House.

Mr. Speaker, Sir, you asked whether any Member of Parliament could volunteer the names of those Members of Parliament who are preventing others from coming into the House. You have the machinery and I am quite sure that you ordered them to go out and make sure that hon. Members have access to this House. That machinery can be used to identify those Members of Parliament who have been obstructing other Members of Parliament from coming to the House, so that appropriate warning and action is taken now. If those who have been obstructing other Members of Parliament from coming to the House come here now, I suggest that action be taken against them now!

**Mr. Speaker:** Order, hon. Members! I will not just stop at that. If it is, indeed, established that some hon. Members were obstructing other hon. Members from coming to the House to do what they are lawfully paid and elected to do, I will definitely request the Attorney-General to prosecute them under the Powers and Privileges Act. I think there is too much play around with Parliament. That must cease now! No single Member of Parliament or a group of Members of Parliament can hold this House to ransom, or blackmail the whole House to a particular position which they want. This House will not be blackmailed. I will order the Serjeant-at-Arms to do the investigation and give us the results, which I will forward to the Attorney-General, with instructions that they be prosecuted. Thank you.

We have a quorum now, and we are debating the Motion. Is there any hon. Member who wants to contribute? There being no hon. Member wanting to contribute---

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I just want to move, before you put a question---

**Mr. Speaker:** You had moved, and I was going to put the Question; is it not?

*(Question put and agreed to)*

*Second Reading*

THE CONSTITUTION OF KENYA  
REVIEW (AMENDMENT) BILL

*(By Leave of the House)*

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I beg to move that The Constitution of Kenya Review (Amendment) Bill be read a Second Time.

I am cognizant of the time that I have to move. All I can say is that, this is a matter that follows the request by the Constitution of Kenya Review Commission (CKRC), which went through the Select Committee of this Parliament, and which made a Report on it and it was unanimously passed last Thursday, 1st August, 2002. The Report included a schedule of the amendments to be made and these are the amendments that this House has already agreed upon. The wish of the people of this country is to have the General Elections under a new Constitution.

*(Applause)*

The proposed amendments are meant to achieve that.

It is good that we are moving this Motion on the Bill on the 8th August, 2002, because the last stage of getting hearing from all constituencies in Kenya ends on this day. As I speak here now, the Commission is at Kakamega doing the round-up of Western Province. The next stage is for the Commission to compile its report and make a draft Bill. When the Bill is published - previously, it was two months for public discussions, but we are reducing that to 30 days - we will then go straight into the National Consultative Forum.

Mr. Speaker, Sir, the amendments will not, in any way, alter the thrust of the Act, which was people-focused. The people of Kenya have given their views in all the constituencies of this country. It is now the drafting stage and other stages, are just to verify that what they said is truly reflected in the draft.

Mr. Speaker, Sir, the amendments speak for themselves. I beg to move.

**The Minister for Trade and Industry** (Mr. Biwott): Mr. Speaker, Sir, I beg to second.

*(Question proposed)*

**Mr. Wamae:** Mr. Speaker, Sir, I would like to contribute and say that, now that we are proposing this Motion on the Bill, we hope that the CKRC will act expeditiously and ensure that we have a new Constitution before the General Elections, which are to take place this year. It is very important that the review is completed so that the views of Kenyans, which have been collected from all over the country, can be incorporated in the new Constitution, and we can go to the General Elections with that requirement.

With these few words, I support the Bill.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House today by leave of the House)*

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[Mr. Speaker left the Chair]*

IN THE COMMITTEE

*[The Temporary Deputy Chairman (Dr. Anangwe) took the Chair]*

THE CONSTITUTION OF KENYA  
REVIEW (AMENDMENT) BILL

*Clauses 2, 3 and 4*

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Chairman, Sir, whereas I support that clauses 2, 3 and 4 be part of the Bill, we need assurance from the Attorney-General that, as we pass these very critical clauses in the Bill, without which the Bill will not be in operation, we will get an assurance from the highest office in this land; that is, from the President. The President is on record as having said that Parliament can be dissolved any time before October. We realise that by passing these clauses, we are giving Prof. Yash Pal Ghai's Commission time to be in office until 3rd January, 2003. How will this happen if Parliament is not sitting to ensure that the CKRC fulfils its duty in the time that this Parliament is allocating?

Mr. Temporary Deputy Chairman, Sir, secondly, the President has ordered civil servants to resign because elections are around the corner. Where, in the Laws of Kenya, is the President given powers to threaten civil servants to resign before any election? Could the Attorney-General give us clarity on those issues?

**The Attorney-General** (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, the issues did not arise from Clauses 2, 3 and 4. The issue of the extension of the period when the CKRC is supposed to finish its work was decided by a resolution of this House on Thursday last week, 1st August, 2002. That is why there is no mention of that issue in the Bill. The law says: "Parliament can grant the extension by a resolution of the House" That resolution was passed last Thursday. Therefore, those issues should have been raised then.

**The Temporary Deputy Chairman** (Dr. Anangwe): No, I think the assurance the hon. Member is raising is from the high office; that Parliament will not be dissolved after this Bill has been passed. That is what I got from him. That is the assurance he is talking about!

**The Attorney-General** (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, the President has the powers to dissolve Parliament at any time. The President is also a man of great experience and he has been in that job for almost a quarter of a Century. I know that the President will exercise those powers in good faith; taking into account all these issues that we are dealing with now. I cannot be---

**Prof. Anyang'-Nyong'o:** On a point of order, Mr. Temporary Deputy Chairman, Sir. With due respect to the Attorney-General, we as a Parliament are handling a very important responsibility of ensuring, as he has said, that we will go to the General Elections with a new Constitution. Those were the Attorney-General's words when he was moving this Bill; that, "we will go to the General Elections with the new Constitution." How can we go to the General

Elections with a new Constitution if the CKRC does not finish its work before this Parliament is dissolved?

**The Attorney-General** (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, let us not engage in speculation. I believe that it is the wish of the whole country that we go into the next General Elections under a new Constitution. The enactment of Clauses 2, 3 and 4 of the Bill by this House will not only enable the Constitution of Kenya Review Commission to achieve this objective, but will also send a very strong signal that it is the wish of Parliament that we go into the next election under a new Constitution. I think such signals will be taken into account in the course of making other decisions.

*(Clauses 2, 3 and 4 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Attorney-General** (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Constitution of Kenya Review (Amendment) Bill and its approval thereof without amendment.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Dr. Anangwe): Hon. Members, we shall proceed to consider the Trade Marks (Amendment) Bill.

#### THE TRADE MARKS (AMENDMENT) BILL

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,  
12, 13 and 14 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Minister for Trade and Industry** (Mr. Biwott): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Trade Marks (Amendment) Bill and its approval thereof without amendment.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[Mr. Speaker in the Chair]*

#### REPORTS AND THIRD READINGS

##### THE CONSTITUTION OF KENYA (AMENDMENT) BILL

**Dr. Anangwe:** Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered The Constitution of Kenya Review (Amendment) Bill and approved the same without amendment.

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Minister for Transport and Communications** (Mr. Mudavadi) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I beg to move that The Constitution of Kenya Review (Amendment) Bill be now read the Third Time.

**The Minister for Transport and Communications** (Mr. Mudavadi) seconded.

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read  
the Third Time and passed)*

#### THE TRADE MARKS (AMENDMENT) BILL

**Dr. Anangwe:** Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered The Trade Marks (Amendment) Bill and approved the same without amendment.

**The Minister for Trade and Industry** (Mr. Biwott): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Minister for Transport and Communications** (Mr. Mudavadi) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Trade and Industry** (Mr. Biwott): Mr. Speaker, Sir, I beg to move that The Trade Marks (Amendment) Bill be now read the Third Time.

**The Minister for Transport and Communications** (Mr. Mudavadi) seconded.

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read  
the Third Time and passed)*

**Mr. Speaker:** Hon. Members, we shall now proceed to the next Order, which is the Motion for Adjournment. The time now is 6.15 p.m., and the debate on this Motion will continue for three hours, unless it is terminated earlier due to lack of speakers. Therefore, debate on this Motion should end at 9.15 p.m. at the very latest.

#### QUORUM

**Mr. Githiomi:** On a point of order, Mr. Speaker, Sir. I want to bring to your attention the fact that there is no quorum in the House.

**Mr. Speaker:** Clerks-at-the-Table, could you find out whether we have a quorum? I am informed by the Clerks-at-the-Table that we do not have a quorum. Ring the Division Bell.

*(The Division Bell was rung)*

**Mr. Speaker:** Order, hon. Members! We now have a quorum. Proceed, Mr. Mudavadi!

#### MOTION FOR THE ADJOURNMENT

ADJOURNMENT OF THE HOUSE TO A DAY OTHER  
THAN THE NEXT NORMAL SITTING DAY

**The Minister for Transport and Communications** (Mr. Mudavadi): Mr. Speaker, Sir, I beg to move that this House do adjourn until Tuesday, 1st October, 2002.

Mr. Speaker, Sir, this is not anything new because we have always adjourned the House at this time of the year, primarily to allow the two watchdog Committees of the House, namely, the Public Accounts Committee (PAC) and the Public Investments Committee (PIC), to undertake their work before the House resumes in October. This is an annual item in our parliamentary calendar and I would like hon. Members to support it, so that the two Committees can have time to function and complete their review of the management and expenditure programmes of the Government and public institutions.

Secondly, I would like to express my concern that a few minutes ago, this House nearly made a very fatal decision. The country is desirous of a new Constitution before we go to the polls, and we needed to adjust some clauses in the Constitutional of Kenya Review Act. Unfortunately, some hon. Members, for very flimsy reasons, went out of the way to derail that process. It is really unfortunate, and I just want to commend you for the position you took to ensure that such important matters that come before the House are not derailed by frivolous excuses from hon. Members who may not realise the implications of their actions.

Mr. Speaker, Sir, I would also like to urge hon. Members to go and have an opportunity to renew their acquaintance with the electorate. We now know that the general election is not too far away, and this is a good opportunity of two months to allow hon. Members to interact effectively with the people who elected them to this House and gave them a five-year contract almost five years ago. It is important to interact with our constituents at this time of the year, particularly when we are about to face a general election because it may determine the fate of many hon. Members of this House. I would really urge hon. Members to use this opportunity to endear themselves once again to the people who elected them, so that they could be re-elected in order to pursue the necessary matters of the State.

As the election fever begins to pick up all over the country, I would like to urge all Kenyans to exercise as much caution as possible during this period. Any excitement or incitement could spark off problems which could derail what we look forward to, namely, a free and fair general election. So, I would like to urge all hon. Members to exercise restraint, and ensure the people they serve and interact with exercise maturity and responsibility, so that this country can have a smooth transition period.

I would also like to take these few minutes to urge Prof. Ghai's Commission - now that we have extended its life and amended the law to make its work slightly easier - to expedite its work but, at the same time, ensure that it does it as thoroughly as possible so that by the time we resume, we can look at the basic tenets of a new Constitution. In fact, I am sure this House will not be averse to resuming earlier if the Commission could speed up its work and say that it has something that it would like to present to the House. This will enable Kenyans to quickly deal with the issues that have been disturbing them for many years. We need to have in place an all-embracing Constitution, and one that will allow broader participation of all Kenyans in the governance of our nation.

With those few remarks, I beg to move.

**The Minister for Trade and Industry** (Mr. Biwott): Mr. Speaker, Sir, I beg to second the Motion for Adjournment.

In seconding the Motion, I would like to emphasise the point which the Deputy Leader of Government Business has highlighted. I need to convince the hon. Member for Budalangi Constituency that there is enough reason for us to go on recess at this time.

First of all, this is a tradition of the House, and is in keeping with the timetable that this House has set. The Business of the House started when the House started this Session and it will be interrupted today. As the Deputy Leader of Government Business has said, this break will enable the PAC, PIC and any other House Committees to function. The Committees require the services of specialised officers such as the Clerks-at-the-Table. So, it is quite appropriate for us to go home and explain to the people what is happening especially now that the succession war is really coming into the front and especially now that we are witnessing the final product of the "Young Turks" where they have been talking about leadership which is now coming. So, we should be able to go home and explain exactly what is happening. However, in doing so, I think it is very important to realise that Kenya has been a successful country. It has been successful over the last 40 years and it should, therefore, propel itself into the future with that unity, stability and security in this country.

Mr. Speaker, Sir, to do that, we need to be sober and talk to our own constituents in a manner that will enable them to consult with their hon. Members with a view to hopefully returning them to the House next year because it is only four to five months before we go to the ballot box. So, the hon. Members should see this as an opportunity for

them to also go and talk about trade and the economy. They should come to my own Ministry, discuss about the medium and small-scale enterprises and how they can access to macro-economic trade and so on and, perhaps, also talk about the New Partnership for African Development (Nepad) which is becoming a very important---

**Mr. Gatabaki:** On a point of order, Mr. Speaker, Sir. I hate disturbing hon. Biwott because he is a very authoritative and articulate person. However, is it in order for him to tell this House that we have got five months to go to the elections when we know it is the constitutional mandate of His Excellency, the President to determine when to go for elections?

**The Minister for Trade and Industry (Mr. Biwott):** Mr. Speaker, Sir, I have no quarrel about that. I think his guess is as good as mine. I do not know exactly when the elections will be held, but it is very, very close. We know that we are already experiencing an election fever. So, I do not think I have any right, whatsoever, to say when it will be held, but it will be in that order of things.

Mr. Speaker, Sir, as concerns the making of the Constitution, I hope that as the Attorney-General has said, that time will allow for the making and introduction of a new Constitution so that Kenyans can go into the elections with a new Constitution and, hopefully, with enough positions to justify or, at least, to pacify all those who are interested in power so that Kenyans can have a good balanced, stable and effective Government in future. We hope that, the focus in future will be on the economy which is the real need, to ensure that Kenyans are empowered in order to have food security and live in a civilised way where everybody, at least, has a shelter, home and a hope.

With these few remarks, I beg to second.

*(Question proposed)*

**Mr. Mwiraria:** Thank you, Mr. Speaker, Sir, for the opportunity to contribute to this Motion of Adjournment. As we prepare for the adjournment, I look forward to the period when all of us, hon. Members of Parliament, will have an opportunity to go back home and attend to some of the urgent problems which face our constituents.

Mr. Speaker, Sir, personally, I am looking forward to the recess so that I can understand some of the peculiar problems of North Imenti. One of them is a problem relating to the Ngare-Ndare Forest which affects you as it affects me in North Imenti. Recently, trustees have been established for the Ngare-Ndare Forest. If their purpose is to look after the forest, I have no problem at all. However, some of the things these trustees have recently done leave me wondering what the purpose of the trusteeship is. I am informed, reliably, that last month these trustees took some members of our community; the Samburu, Ndorobo and a few Meru to Isiolo, bought them drinks, made them sign a document which they did not read, and this reminds me of the old Lenana, and paid for them to go to a disco. Later on, I heard that these people want to take control of the Ngare-Ndari Forest so that they can deny our people the traditional use of that forest. I would really like to ask the Minister for Environment to find out exactly what the trustees established for the Ngare-Ndari Forest are going to do. We do not want them to push our people out of the *msitu*.

Mr. Speaker, Sir, the other issue which I hope the Minister for Agriculture will have the opportunity to address is the fact that a large-scale farmer in Timau, while spraying his farm with round-up to kill the weeds before ploughing, sprayed the farms of 277 small-scale farmers who now are not going to harvest wheat or vegetables which they had grown. The Ministry has done a good job by sending experts to see what happened but, as I speak now, some of these people are faced with starvation and I do hope that the large-scale farmer will be called upon to compensate the people whose crops he destroyed.

Mr. Speaker, Sir, let me now address the question of security. The Kirua-Ruiru-Rwarera locations of North Imenti are still areas of maximum insecurity. The other day, I had the opportunity to ask the Minister of State, Office of the President, in charge of internal security, what can be done to stop harassment of inhabitants of Kirua, who cannot sleep in their houses now because every week, thugs go to collect money. In the latest instance, these thugs broke into Mr. Karuma's house, took one of his children, put a knife across her throat and threatened to cut it unless they were given Kshs50,000. This would not be a very serious matter were it not for the fact that when the matter is reported to the police, there is no action taken.

With those few remarks, I beg to support.

**The Attorney-General (Mr. Wako):** Mr. Speaker, Sir, I will be very brief. I rise to support this Motion, which has come at a time when one of the first levels in review of the Constitution is being completed; the level of visiting all the constituencies in the Republic of Kenya, which is being finalised today. As we go into recess, the Constitution of Kenya Review Commission (CKRC) will be going into the second stage as required under the Act; to analyze the information they have received and to draft a report and a Bill which will be the new Constitution of Kenya when it is enacted.

Mr. Speaker, Sir, I am a commissioner and I just want to take this opportunity to once again assure this House

that the Commission is united and is working very hard. It is aware of its grave responsibilities which have been bestowed on it by the people of Kenya; to come up with a new Constitution. Consequently, by 15th September this year, or thereabouts, we should be able to have that draft report and the draft new Constitution which will form the basis of further consultations for one month. That is the period that this House has now given to it and thereafter we shall have a National Consultative Forum. I want to speak on this issue because, obviously, one can see that there is a lot of heat which pertains to any general election. It is expected. But for this year, it will be more than the heat because of the obvious change in leadership. If KANU wins, it will be under a new President. If the Opposition wins, it will be, again, a new person. So, in this transition stage, we expect to have a lot of heated discussions, taking of positions and so on. I want to plead with the elected Members of this House, since they are at the very heart of electioneering - fortunately, I am just an *ex-officio* Member, I am not elected - that as they carry out this, they should bear in mind that general elections come and go. Under the current Constitution, which we want to change, we have had more than eight general elections.

In the new Constitution that we now want to bring, which will be the first Constitution that the people of this country have actively participated in, we expect it to be for all times. Therefore, many general elections will be held under the new Constitution. I am saying this because it is important also that, even as they engage in those activities, they approach the constitutional issues not with that emotion, but with sober and rational minds always bearing in mind that we are creating a new document which is there for posterity. All of us have a responsibility to ensure that the end product is excellent and it will serve this nation well. You will be actively participating in the National Consultative Forum.

We are due to resume, again, on 1st October. It may well be that the National Consultative Forum, if all goes according to plan, will begin around the middle or towards the end of October. I want hon. Members to use this recess also to be thinking very hard on the bigger issues which we shall be discussing in the National Consultative Forum so that the document that comes from there will be a document that will stand the test of time.

Mr. Speaker, Sir, I want also to state that the security of the people of this country will not depend on who will be elected as a leader. I agree they play a very important role, but the security of the people---

**Mr. Speaker:** Your time is up!

**Mr. Imanyara:** Thank you, Mr. Speaker, Sir, for giving me the opportunity also to contribute to this Motion and support it. In supporting this Motion of Adjournment, which is the last recess before we have a general election in this country, and given the shameful events of this afternoon when this House could not raise even the constitutional quorum to deliberate on a matter that had generated so much interest; it is not clear to me whether the constitutional reforms will take place despite what the Attorney-General has said. Even if the Commission does publish that draft report by 15th September this year, all indications are that the National Consultative Forum will be manipulated to such an extent that they will be unable to reach any decisions; the intention being to conduct the next elections under the current Constitution.

Mr. Speaker, Sir, that explains why there is so much disquiet among my colleagues on the opposite side. They know that the positions that they had been promised about the Prime Minister and other positions that were to go under the new Constitution are not coming. We know clearly that those who have been fighting for these positions now know that there is no intention whatsoever to let them occupy them because there will be no constitutional reforms. The current Government wishes to succeed itself with the same powers that it had so that it can continue governing this country. Of course, it is going to fail despite what my colleague, Mr. Ruto, may want to believe.

Mr. Speaker, Sir, as I go to my constituency during this recess, I know the circumstances under which---

*(Mr. Ruto stood up in his place)*

**Mr. Speaker:** Order! Mr. Minister, what is wrong? Would you sit down?

**Mr. Imanyara:** I think there is a problem with this Minister, Mr. Speaker, Sir! He should be asked to sit down!

**Mr. Speaker:** Order! Mr. Minister, why are you standing? Are you on a point of order?

**An hon. Member:** Kones is there!

**The Minister for Vocational Training (Mr. Ruto):** On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member to bring rumours to the House by alleging that the National Consultative Forum might be interfered with?

**Mr. Imanyara:** Mr. Speaker, Sir, there are no kiosks here for him to hide!

*(Laughter)*

Mr. Speaker, Sir, as we go to our constituencies, I know that hon. Members on this side of the House are going to be subjected to a great deal of harassment from the Provincial Administration whereas hon. Members on the opposite side will be able to proceed as if the law applies only to one side of the House and not the other. Let them know that, as we go to this recess, we are going to use every means--- If Mr. Ruto does set foot in Central Imenti, he will have to go through the same procedures that I will have to go through in order to address public meetings.

Mr. Speaker, Sir, the Office of the President should desist from the practice of warning chiefs who are performing their tasks of being chairmen of locational development committees. I say this because, over the last few weeks, we have had many Harambees that have been conducted throughout the country, all meant to campaign for various persons to succeed President Moi. When we in the Opposition do conduct Harambees and members of the Provincial Administration, who happen to be chiefs attend in their capacities as chairmen of the locational district committees; they are subjected to disciplinary action for the simple reason that they are attending those functions. As I speak now, one of my chiefs has been interdicted because he attended a Harambee in which Mr. Kones was the guest of honour. Last weekend, I was attending a social function where one of the aspiring candidates for the local authorities was having people in his place preparing for a wedding. It so happened that the chief of the location passed through there and, because I was there, the following day, he was grilled by the Special Branch, who wanted to know what he was doing there where the area Member of Parliament was. It is as if in this country Members of Parliament are subjected to two different sets of law. We want the Minister in charge of internal security in the Office of the President to know that we will not accept a situation where they feel that they are the only ones who can conduct public functions within our constituencies, whereas we, elected Members of Parliament, are not allowed to participate in development activities. I wish to let them know that should they try it in my constituency, they will see fire. We will not allow anyone to---

**Mr. Speaker:** Your time is up!

**Mr. Imanyara:** With those few remarks, I beg to support.

**The Assistant Minister for Finance and Planning** (Mr. Lomada): Asante sana, Bw. Spika, kwa kunipa nafasi hii ili niunge mkono Hoja hii kuhusu mapumziko. Hoja hii ni muhimu kwa sababu tutapata nafasi ya kwenda nyumbani kukaa na watu wetu, hasa matajiri wetu ambao walitupa kura na uwezo wa kuja hapa kuwawakilisha. Tutapata nafasi ya kakagua kazi tuliyofanya huko nyumbani na kufanya michango, na kuona kwamba ile miradi iliyotakikana, kwa mfano, kujenga shule na zahanati na kuwasaidia watoto kuenda shule katika nchi za ng'ambo, inatendeka.

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

Bw. Naibu Spika wa Muda tuna shughuli nyingi. Tumeona shida za wananchi kila mahali. Sisi huja hapa siku nne kwa wiki na huko nyumbani tunakaa siku mbili tu. Siku ya tatu tunarudi hapa tena. Kwa kweli, ningependa Wabunge waunge mkono Hoja hii kwa sababu inaweza kutupa nafasi ya kukutana na watu wetu.

Ningependa kuongea juu ya mambo yanayotokea katika Sigor Constituency. Mwaka huu, watu wa Sigor hasa wakulima wa sehemu ya Lelan, Topat na Chebor walipanda pareto kwa wingi na wakauza mazao yao kwa Halmashauri ya Pareto ya Kenya. Kwa bahati mbaya, hawa wananchi wangu hawajalipwa pesa zao mpaka sasa. Nimeghadhabika kabisa kujua ya kwamba kutoka mwezi wa Januari mwaka huu mpaka sasa wakulima wa pareto hawajalipwa pesa zao. Ningetaka kushutumu Halmashauri ya Pareto ya Kenya kwa hali na mali kwa kunyanya watu wa sehemu nilizotaja. Watu hao wameumia na hawana pesa za kuwapeleka watoto wao shule, au kuwalipia jamaa wao wagonjwa huko hospitalini, hali hizi pesa ni zao.

Pareto inayopandwa katika sehemu ya Tapat Division ni ya hali ya juu katika ulimwengu. Hakuna pareto inayoweza kushinda ile ya Tapat Division kwa uzuri. Hawa wakulima wanaweza kuinua uchumi wa nchi hii. Kwa hivyo Serikali inastahili kuwalipa haraka iwezekanavyo. Ningependa kuomba Wizara ya Kilimo iangalie jambo hili mara moja, kwa nia ya kuwalipa.

Jambo lingine linalowasumbua wananchi wa Kenya ni ugonjwa wa malaria. Malaria imewaumba watu wetu. Malaria ni janga baya zaidi linaloweza kumaliza maisha ya wananchi katika nchi hii. Hata inaweza kushinda ukimwi kwa sababu idadi ya watu wanaokufa kutokana na malaria ni kubwa sana. Sijapata kusikia kwamba madawa ya kutibu malaria yamepeleka katika Wilaya ya West Pokot. Kwa hivyo ningependa kuuliza Wizara ya Afya ipeleke madawa hayo huko West Pokot mara moja kwa sababu zaidi ya watu 100 wamekufa kutokana na malaria.

Kwa hayo machache, ninaunga mkono.

**Mr. Nyanja:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity before I go for my last recess in this Eighth Parliament. Before I make my contribution, I would like to respond to some unfortunate

remarks made about two weeks ago by an hon. Member in this august House in the name of Dr. Mukhisa Kituyi. Let us not ambush each other. Members were told that some oathing was conducted in my own house to Members of this august House. If we are hon. Members, we should act honourably. This is the only way respect is earned. I want to deny in the strongest terms that my family has never hosted Members of Parliament in this Eighth Parliament. I was shocked because I was outside the country, only for my family members to call me and they told me to take care of this matter when I come back.

This is a very serious matter and I want to thank Mr. Muite and Mr. Munyasia because they tried to ask the hon. Member to substantiate his allegations, but he refused to do so. He was not forced by the Chair to withdraw his remarks, whereas what he said amounted to character assassination. It was scandalous, callous and malicious. This is very serious. We are approaching election time. We are talking about unity in the National Alliance for Change (NAC) and the Opposition parties, and yet we are talking ill of each other. Falsehoods will not take us anywhere. Somebody is trying to abuse the privileges accorded to him as a Member of this august House because he knows that he cannot be asked by the police to record a statement, and I cannot take him to court over the remarks he made. It is very unfortunate. I challenge the hon. Member to repeat his remarks outside this House or to report this matter to the police.

I would like at this particular moment in time to ask the Minister in charge of internal security in the Office of the President to issue a Ministerial Statement in this august House when we come back. He has now time to conduct investigations, see the chief, OCS and everybody in charge of security. Nothing of the sort has ever taken place in my home or constituency. It is very sad that I will have to reconsider being in the same party with Dr. Kituyi because the remarks he made are an indication of hatred and malice. I do not know what to say about him, but one day God will---

**An hon. Member:** Forgive him.

**Mr. Nyanja:** Mr. Temporary Deputy Speaker, Sir, this is a very serious matter. It is not a question of forgiving when somebody is trying to kill you politically, especially since election time is approaching. Already, my political opponents have been quoting one newspaper which reported the unfortunate utterances by Dr. Kituyi. I am already told that this rumour was targeted at me. It was circulated by the Special Branch people because already the "Kibaki Succession"--- Already, people are saying who should also be cut to size before the 2007 General Elections. I have also been told reliably by Mr. Kimani that in 1998, Dr. Kituyi told President Moi in his presence about what he said here. Maybe, he was rewarded heavily.

Mr. Temporary Deputy Speaker, Sir, you will remember that in 1998, about 50 police officers raided my home very early in the morning; at about 6.00 a.m. They were told that there were 200 guns in my home. The Government was ashamed because there was not even a toy pistol. I have four boys and four girls, but nothing like that was found. So, these things started a long time ago, and I do not know what to say because I thought Dr. Kituyi is an hon. Member and educated. But I am reliably told that, last week, he was seen with my arch rival, Mr. Kanyingi, at Inter-continental Hotel. It is very unfortunate that some of our hon. Members are not well endowed. They are poor and, perhaps, therefore, very cheap. But some of these things should be said outside, if men are men, so that we can face each other. But I challenge the Government, through the Minister of State, Office of the President, in charge of internal security, to clarify this issue so that he can cleanse my name.

Oathing, if it is illegal--- First of all, when hon. Members assemble in this House after the General Elections - including the President - the first thing that we do is take an oath of office. When you get married, you also take an oath with your spouse.

I support the Motion.

**The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey):** Thank you very much, Mr. Temporary Speaker, Sir, for also giving me this opportunity to contribute to this very important Motion. As we adjourn, I just want to appeal to hon. Members to preach national reconciliation and peace. This country is at crossroads; we are in a transitional period, and we are going to have our General Elections towards the end of this year. Already, sufficient heat has been generated in the country. There is a lot of tribal balkanisation that is taking place, and I think we, as leaders in this country - this Parliament - must show the way. We need to go out to our constituencies and countryside to preach national reconciliation; that Kenya is much more important than individual communities and persons.

We in, KANU, are now going through what I call "internal democracy." There has been a lot of debate in the last few months. We are trying to sieve very carefully so that we can get the KANU flagbearer during the General Elections. That should not mean that we balkanise our communities; it should not also mean that we divide the country into ethnic groupings. I just want to congratulate and thank Mr. Ngala, who is one of our Vice-Chairmen, for stating that this country can only have one President and not everybody who wants to become a President in this country can be one. Therefore, I would like to say that---

**Hon. Members:** He is a coward!

**The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey):** Mr. Temporary

Deputy Speaker, Sir, when you see people talking the way they are and heckling when hon. Members are contributing, they are the kind of hon. Members who will not come back to this Parliament because Kenya needs them least.

*(Applause)*

They have wasted the--- Therefore, I---

**Mr. Mwenje:** On a point of order, Mr. Temporary Deputy Speaker, Sir. He has been provocative. Although he was not referring to a particular hon. Member, is he in order to try and insinuate that an hon. Member would not come back to this House as if he has a gauge to show who will come back and who will not?

**The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey):** Mr. Temporary Deputy Speaker, Sir, he is a "warlord" because he has even confessed that he has a *Jeshi la Mzee* and he is going to be the first casualty.

Therefore, I just want to say that let us preach national reconciliation. Kenya is more important than political parties and personalities. Secondly, as we are going towards the General Elections, I would like to appeal to the Constitution of Kenya Review Commission (CKRC) to ensure that we have a new constitutional order before the General Elections. We have put too much efforts and national resources in the CKRC that we would be disappointed if they do not complete the work before the next General Elections. I know they are working quite very well, but I am only appealing to them that they need to expedite their work so that we go to the General Elections under a new constitutional dispensation.

Therefore, with those few remarks, I beg to support.

**Mr. Wanjala:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to support the Motion for the Adjournment. It is true that we are going for our recess - and it is a long one - and this is an electioneering year. As we are also campaigning, we, in the Opposition, are campaigning against the Government which has impoverished Kenyans.

Today, this Government has exposed itself to Kenyans, the way it has impoverished them. The whole of this week, helicopters and vehicles were mobilised in North Eastern Province (NEP) for campaigns. As they were campaigning, they were using Government resources. Sometimes we wonder how much more money some of these Ministers and hon. Members in KANU earn more than other hon. Members in the Opposition. This is because how do they manage to give Kshs300,000 every week for four weeks when their salary is Kshs395,000? This is why we say that they steal. Where do they get this money from and how do they return it? We are talking about ill-gotten money because they steal it. Who fuels that GK vehicle with a flag? Why should an army helicopter be released to go to NEP just to campaign for an individual? As they are campaigning on the other side, you will find another Minister in West Pokot with a GK vehicle fuelled by the Government with Government security personnel all over. This is unfair, when we have no drugs in hospitals because of this same Government. Today, a Minister like Mr. Ruto, who was very poor, goes to a Harambee and gives a Kshs100,000 donation. Where has he got this money from? Every week, he gives a Kshs100,000 donation. We are surprised!

**The Minister for Vocational Training (Mr. Ruto):** Mr. Temporary Deputy Speaker, Sir, I would not mind if I had that kind of money, but is the hon. Member in order to impute improper motives on the good spirit that we show in assisting the various projects in this country? Various hon. Members have friends, and Mr. Wanjala even goes round asking for donations. Is he in order to impute improper motives on me?

**Mr. Wanjala:** Mr. Temporary Deputy Speaker, Sir, we also have friends, but for him to get that kind of money from them, he must be promising to do some favour for them. This is an issue of concern to Kenyans.

Mr. Temporary Deputy Speaker, Sir, there is harassment in Lake Victoria. Our fishermen are not able to go to the lake freely because there is no security. This Government does not serve Kenyans equally. You will find that in pastoral communities, homeguards are given guns, but in the fishing communities, fishermen have no protection in the lake, and they are not provided with guns when they go to the lake.

I beg to support.

**The Assistant Minister for Agriculture and Rural Development (Mr. J.D. Lotodo):** Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to the Motion of Adjournment.

I would like to echo the sentiments of my colleagues by talking about ideas which we share in this country. We know at this particular time the general elections are around the corner. I would like to urge hon. Members and Kenyans at large to stay calm and face the elections with confidence. Those who are going to lose the elections should not incite their people against others, for bloodshed is against God's will.

Mr. Temporary Deputy Speaker, Sir, a lot has been said in this country for the last six months or so. I hope God is going to provide us with a leader and, therefore, the succession debate should be treated with maturity. Every Kenyan is free to express his opinion on who should be the next president, but ultimately, the election will determine

who will be the president. It is, therefore, necessary that we respect each other as Kenyans and express our opinions on who could be the next leader freely.

Mr. Temporary Deputy Speaker, Sir, this Parliament has deliberated on many issues which are of help to this country. We should emphasise the idea of the constitutional review exercise. I would like to call upon the Ghai Commission to ensure that we have a new Constitution before we go to the general election. Now that we have extended the time, within which they are supposed to complete the exercise, to 3rd January, 2003, I hope all the views of Kenyans should not go to waste. The amount of money used to finance the Constitution Review Commission is so much that we cannot afford to leave that process. In any case, this is the first time Kenyans have participated in the Constitution making process, because the Lancaster Constitution was drafted outside this country, and very few Kenyans contributed to it.

Mr. Temporary Deputy Speaker, Sir, the current political heat in the country should be taken in good spirit. Respect and reason should prevail. If we incite our people to fight among themselves, it will be bad for the country and especially for the leaders. I know that Kenyans are mature enough; they have been independent for the last 40 years, and they know the benefits of leaving in peace amongst themselves. Development in the country can only be attained if all Kenyans come together and ensure that a reconciliatory approach is adopted so as to ensure that there is no animosity between Kenyans. We know that all human beings are equal and, therefore, I pray that God will lead us to a peaceful election, and give us a leader who Kenyans will elect through the vote. People should not believe in conglomerations, for example, the NAK, for the Opposition parties. This should not be done on tribal basis, because there are 42 tribes in this country. In any case, God shall provide the president of this country. I would like to urge everybody to respect one another so that this country can get a leader of the people's choice.

Mr. Temporary Deputy Speaker, Sir, I would like to touch on an issue with regard to general development. The people in Baringo East Constituency are so calm and we expect development to be achieved, particularly, with regard to the road network. At the moment, peace is prevailing between the Marakwet and the Pokot, and I would like to congratulate hon. Members from those communities for realising that peace will ensure that they get development like the rest of Kenya.

Mr. Temporary Deputy Speaker, Sir, we should invest in the agricultural sector of this country to ensure that we get enough food. If we depend on relief food all the time, we are not going to develop faster, because the little money that we have is being used to purchase the food. I would like to call upon Kenyans to ensure that they concentrate on the agricultural sector for this is what our economy depends on.

I beg to support.

**Mr. Kitonga:** Asante sana, Bw. Naibu Spika wa Muda, kwa kunipatia nafasi ili niunge mkono Hoja hii. Wakati tunapoenda likizoni kule nyumbani, ningependa Serikali itambue kwamba tunapata matatizo mengi sana. Kwa mfano, nikizungumzia juu ya National Cereals and Produce Board, wananchi wanauliza ikiwa Serikali inaweza kukubali kununua chakula kwa wale watu ambao wanaishi karibu na NCPB. Kama sehemu yangu ya uwakilishi Bungeni, Mutito, chakula kinaharibikia nyumbani kwa sababu NCPB imeshindwa kununua hicho chakula. Haya ni matatizo makubwa sana. Tunaomba kwamba chakula kichukuliwe na NCPB. Na hata ikiwa hakuna pesa watulipe baadaye badala ya chakula kuharibika.

Bw. Naibu Spika wa Muda, wakati wa likizo ni wakati muhimu sana, na inafaa tuwaelimishe Wakenya mambo mengi sana, kwa mfano, juu ya ugonjwa hatari wa Ukimwi. Kulikuwa na mpango wa kufanya semina kule Mombasa ili tujadiliane juu ya Ukimwi, lakini hiyo safari ilikatika. Zile pesa Serikali ingetumia kutuwezesha sisi Wabunge kuenda Mombasa, ingefaa tupewe wakati huu ambao tuko katika likizo ndiyo tuendelee kuelembisha jamii na wale walitotuchagua juu ya ugonjwa hatari wa Ukimwi badala ya kuwekwa katika Ofisi ya Rais na huku hatujui vile zinavyotumika.

Bw. Naibu Spika wa Muda, ningependa kuzungumza juu ya usalama. Tunajua kwamba wakati huu tunapoelekea kwa uchaguzi, kutakuwa na mambo mengi sana, na watu wengine watachukua hiyo fursa kuwababaisha wengine. Kama kule Mutito hali ya usalama inazoroteka sana. Mara kwa mara tunavamiwa na watu kutoka upande wa Somali; *shifas*, ambao huja kuiba ng'ombe upande huo kwa sababu hatuna ulinzi. Bali na kuchukua hao ng'ombe, vile vile wanawajeruhi wananchi. Hiyo ni hali ya hatari sana kwa watu wa kutoka Mtito kwenda mpaka Amudha na Boo. Kwa hivyo, ningependa Serikali izingatie hayo mambo.

Ningependa tuangalie vile Serikali hii inavyotumia pesa. Wakati kama huu tunapoelekea kwenye uchaguzi, Serikali imekuwa ikichukua pesa na kuzitumia kwa njia ambayo haifai. Hii ni hali ya kumangamanga ovyo ovyo wakitumia pesa za wananchi. Tumeona Rais Moi na lile kundi lake wakizuru nchi hii wakitumia helikopta za polisi na magari ya Serikali (GK) kwa shughuli ambazo si za kiserikali bali ni za kisiasa. Ningependa kutoa mfano, kwamba, mwaka wa 1978, Bi Indira Gandhi alipoteza kiti chake kama Waziri Mkuu baada ya mahakama kutambua kwamba alitumia rasilimali ya Serikali kama magari na ndege akifanya siasa yake binafsi. Kwa hivyo, ningependa Rais Moi asimfanyie Mr. Uhuru campaign akitumia pesa za umma. Ikiwa siyo hivyo hata wale wengine wanaogombea viti vya

rais, pia wapewe hizo helikopta za polisi. Labda mimi nitakuwa mmoja wao, na inafaa nikubaliwe kutumia ndege ya Serikali.

Wakati tunapoenda likizoni, ingekuwa vizuri kabisa ikiwa Rais Moi atalivunja hili Bunge. Haina maana kurudi hapa tena. Tutaenda kwa uchaguzi ili tung'ang'ane na hii Serikali kwa sababu tumechoka kuiongezea muda. Wakenya hawaitaki! Tunasema kwamba malipo ya kustaafu ya Rais Moi ni jambo la kustaajabisha sana. Nchi yetu inaumia, Wakenya wanalia na damu inamwagika. Kuna umaskini na wazazi wengi hawawezi kupata karo ya shule. Halafu, tunasema Rais Moi apewe watu 15 wa kumpikia chakula na magari sita! Ikiwa amezeeka--- Mtu akizeeka si anaenda kupumzika nyumbani? Serikali haitaweza kufanya hivyo.

Kwa hayo machache, naunga mkono.

**Mr. Badawy:** Ahsante sana, Bw. Naibu Spika wa Muda. Naunga mkono Hoja hii kwamba twende nyumbani. Twahitaji kuwa nyumbani kusisitiza na kukamilisha yale ambayo tumepitisha katika kamati tofauti za maendeleo, hasa kwa upande wa kuwasaidia wananchi katika hali ya umaskini na njaa. Wakati huu, wengine wetu tukienda nyumbani katika Mkoa wa Pwani, nyanda za juu mbele ya coastal strip ya mwambao wa pwani, kilomita kumi kutoka baharini, mvua ya kusi haikunyeshwa kabisa, kiasi cha kwamba mpaka sasa, ardhi imekaa kavu na watu wanangojea rehema ya Mwenyezi Mungu kupanda. Wakati huo huo, tukiwa tunangojea kupanda, naisihi Serikali izingatie kwa marudufu, usaidizi wowote unaoweza kupatikana ili kuokoa watu na janga la njaa, ili wawe makini kushiriki katika mipangilio ya kitaifa inayokuja kuchagua Serikali mpya itakayoongozwa na mapenzi ya raia.

Bw. Naibu Spika wa Muda, nikizungumzia hilo jambo, nataka hatua iliochukuliwa na kiongozi wetu wa Pwani, Bw. Ngala, kwa busara yake mwenyewe, iheshimike. Hakufanya hivyo, kama ambavyo wengine ambao hawakupenda kumwekea heshima yake anayostahili kupewa kama kiongozi wetu, kwa uwoga wala kwa kushawishiwa. Ni busara yake mwenyewe. Wapwani wanamheshimu, vile wanavyomuelewa na wameunga mkono hatua yake, wakiamini bado wana nafasi na fursa ya kuitumia na ambayo lazima iheshimike na wale Wakenya wengine ambao wanafikiri wanguweza kuongoza zaidi kuliko Bw. Ngala. Kwa hivyo, hatua aliochukua isilete aina yoyote ya dharau kwa Wapwani, wawe ni Wabunge au raia wa kawaida. Huo sio mwisho wa barabara. Maoni yaliyotolewa na Bw. Ngala ni ya kweli na yaliungwa mkono. Waliounga mkono wako na sababu zao za kuunga mkono, lakini nakariri ya kwamba huo sio mwisho wa maoni ya Wapwani katika kuchangia mustakabali wa taifa hili. Kwa hivyo, kama waliovyosema wengine, kitu muhimu ni kuheshimiana kimawazo, uhuru wa fikira na uhuru wa kutenda.

Bw. Naibu Spika wa Muda, mara kwa mara, twakariri mambo ya kusaidia wananchi kutokana na janga la umaskini. Lakini wakati ambapo tunangoja kutekeleza ile miradi iliyopangwa chini ya Poverty Reduction Strategy Paper (PRSP) ya kuondosha umaskini, nakariri tena kwamba kuna mambo ambayo yanaweza kurekebisha moja kwa moja. Pengine, ni vikwazo vimewekwa bila kutumia fikira, maongozi na akili za kibinadamu katika kutekeleza baadhi ya hatua hizo. Utaona ya kwamba janga la njaa halingetokea ikiwa kilio chetu cha kufanywa marekebisho ya miradi ya kunyunyiza maji mashambani pembeni za mito ya Galana na Sabaki, na sehemu zile ambazo wananchi wenyewe wameonyesha nia ya kujisaidia na mipango kama hiyo, kingesikilizwa. Tungefanya hivyo, tungeweza kuwasaidia kwa hali ya juu sana. Kwa hivyo, tunaomba mambo kama hayo na matatizo yanaokabili watu wa Lokesheni ya Gede katika ukataji wa miti ya mikoko. Tunashangaa kwamba Wizara ya Mazingira inasema kwamba msitu wa mikoko katika Gede unastahili kupunguzwa, lakini "serikali ndogo" ya shirika la wanyama wa pori (KWS)--- Wabunge wote wanakubaliana kwamba KWS ni kama "serikali ndogo". Ni kama kwamba sheria za makazi, ukaaji, utenda kazi na ulinzi wa haki za kibinadamu za raia katika nchi hii haziwahusu! Ndovu wanamaliza mashamba ya watu katika Lokesheni ya Gede, Mida, Jilore na Mijomboni; hakuna hatua yoyote inayochukuliwa kuwasaidia wananchi, mbali na kwamba kilio cha kulipwa ridhaa cha wale walioumizwa na kuawa na wanyama wa pori kama ndovu katika Wilaya ya Malindi, hawajalipwa kama wanavyostahili.

Bw. Naibu Spika wa Muda, tumefurahi kusikia kwamba ndugu zetu Wasomali watapewa vitambulisho bila ubaguzi. Lakini tatizo hilo haliko kwa Wasomali peke yao. Liko katika Mkoa wa Pwani kwa jumla. Watu wa asili fulani wenye majina ya Kiislamu wanabaguliwa na tumesema hivyo mara kwa mara. Tungeomba kwamba vile walivyofanyiwa Wasomali kwa sababu ya usalama, sidhani kuwa watu wa Malindi, Lamu, Kilifi, Takaungu na Kwale wamekuwa na matatizo ya kiusalama na Serikali hii, au na raia wenzao. Vikwazo vyote ambavyo vimewekwa raia wa asili ya Kiislamu katika sehemu ya Mkoa wa Pwani kwa upande wa vitambulisho, tungetarajia kwamba Ofisi ya Rais itaheshimu na kufuata mtindo ule ambao Rais mwenyewe alitangaza jana alipokuwa Mkoa wa Kaskazini Mashariki kwa sababu yoyote ile, ikiwa ni huruma au sababu nyingine, tuzingatiwe na sisi wakazi wa sehemu hiyo.

Naunga mkono kwamba twende likizo.

**Mr. Kihoro:** Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Motion for Adjournment and say that Kenya is going through a very important period, unprecedented in our history of 39 years. There is a lot of responsibility on the Government, and especially President Moi, to steer this country, hold the balance and not act in a partisan way. It is very important to have the balance in that process because unless that happens, I can

foresee a situation where KANU can break up. We are going to have an inconclusive election and if that happens, where the next President is not going to be acceptable to a bigger section of the Kenyan community, I can see a lot of chaos ahead of us. It is very important that the process of electing the next President of this country is done the right way. If it is not done the right way, there is a possibility of rejecting the next President. If that is going to happen, it is going to be a very sad day for us.

Therefore, it is incumbent upon President Moi to do that as he retires. Peace for him can only be guaranteed if he is going to guarantee peace to Kenyans. That is very important. He has to give Kenyans peace for the next five years, even during his retirement. The retirement of the President is not an act of committing suicide. He is going to be in this country in the year 2003, 2004 and 2005. My hope is that he will want to see this country continuing in peace and acceptance of the next Government of the day. It is, therefore, very important that he should not be seen to be over-campaigning for a single individual, however beloved son he could be to him. I know that the President has got his own sons. It is important that he holds the balance that is going to enable us to elect the next President. We should accept the next President as fairly elected. There should be no allegations of the President using public funds to campaign for an individual. That would be very wrong and totally unacceptable. As the Member for Mutomo has said, the President has used public funds to campaign for an individual. That is totally unacceptable and it is time that he relented on that aspect.

Mr. Temporary Deputy Speaker, Sir, as we go into recess, one aspect that concerns me is the question of the value of the Kenyan currency. I have been looking at the exchange rate consistently for the last three months and I have found that the Kenyan currency against Britain's Sterling Pound and United States of America's Dollar has been losing a lot of value. Currently, the Kenyan Shilling is exchanging for Sterling Pound at Kshs125. Therefore, it has lost value of more than 10 per cent. It is important that the Government looks into that matter. I know that it has got problems and as soon as you start running a budget deficit of nearly Kshs65 billion; as soon as there is no productivity in this country; as soon as you run an economy with a negative growth rate, then you also start thinking about how you can reduce your money in circulation. But we do not want the Government to ignore everything as we go through this process of succession. That is how it appears to me. Security has deteriorated. The management of the Government has also deteriorated. Let us not be intoxicated with the Uhuru saga in this country. He will come and go too. I can see that this is going to happen---

#### QUORUM

**Mr. Maitha:** On a point of order, Mr. Temporary Deputy Speaker, Sir. We are listening to a very important contribution by my friend, Mr. Kihoro, but there is no quorum in the House.

**The Temporary Deputy Speaker** (Mr. Imanyara): Indeed, we do not have quorum! Ring the Division Bell!

*(The Division Bell was rung)*

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

*[Mr. Speaker resumed the Chair]*

**Mr. Speaker:** The Division Bell has rang for five minutes! Let it ring for another five minutes!

*(The Division Bell was rung for  
a further five minutes)*

**Mr. Speaker:** Order hon. Members! We now have a quorum. For your information, this Motion does not require any response. So, it will continue until there is nobody speaking. If there will be no one contributing, I will adjourn the House.

**Mr. Kihoro:** Mr. Speaker, Sir, the President should not use public resources to campaign for an individual. We would like to see an even-handed approach to the next General Elections by the President. He will earn a lot of respect if that happens. We know that he has got an interest in the whole matter but he must keep it to himself, so that the consequence of the elections, come December this year as indicated by Mr. Biwott---

**The Minister for Vocational Training** (Mr. Ruto): On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member to discuss KANU business when he is not a Member of KANU?

**Mr. Speaker:** Order, Mr. Ruto! You can also discuss the DP!

**Mr. Kihoro:** Mr. Speaker, Sir, the hon. Minister can debate DP matters as much as possible.

In conclusion, I would like to say that hon. Members should work for the unity of this country as we go on recess. They should uphold the principles of peace and unity of our country. It is incumbent upon us that before we go into retirement--

**Mr. Angwenyi:** Mr. Speaker, Sir, I rise to support the Motion for Adjournment, so that we can go home and meet our constituents.

Mr. Speaker, Sir, I would like to urge the Constitution of Kenya Review Commission to de-link the review of the Constitution from the impending General Elections, which are going to be held at the end of this year. We should give the Commission adequate time, so that they can do their work thoroughly by collecting and collating the views of our people.

There is one aspect of the Constitution which is very difficult to understand. This Parliament is subordinate to the other two branches of the Government. The National Assembly of Kenya is subordinate to both the Executive and Judiciary arms of the Government. Today, we wanted to empower this House so that it could be at the same level with the other branches of the Government, but I was astounded that Members of this House were not able to rise above petty personal interests and make Parliament equal to the other branches of the Government.

Mr. Speaker, Sir, as we proceed on recess, I would like to emphasise the fact that all the organs of the Government should follow the rules and regulations as stipulated by the Constitution to the letter. Electioneering has started in earnest. Therefore, I urge the Electoral Commission of Kenya to begin managing the electioneering process in Kenya. They should control and manage the Kenya Broadcasting Corporation's (KBC) coverage of our leaders. We want a fair coverage of our leaders. Since KBC is a monopoly in both radio and television broadcast throughout the country, they should be under obligation to cover Presidential aspirants equally. Today, I employed a clerk to be recording how much time is allocated to the various leaders of this country by the KBC. If they fall short of being fair, I intend to take them to court.

Mr. Speaker, Sir, our economy is in shambles because we have not taken care of our agriculture, livestock and tourism. The Ministers should go back to their offices and begin programmes that can rejuvenate our economy. We are about to writeoff loans to small-scale farmers through the Agricultural Finance Corporation. I would like that to be extended to cover other sectors of agriculture like coffee.

Mr. Speaker, Sir, HIV/AIDS is destroying this nation. About 15 per cent of our population are HIV-positive. I would like the National AIDS Control Council to take up its mandate and begin to handle effectively, the control of HIV/AIDS.

Mr. Speaker, Sir, we are going to conduct meet-the-people tours during the recess. The Provincial Administration should remain in their offices and ensure that there is security for everybody, so that our leaders can meet the people. We would like Mr. Uhuru Kenyatta to travel to Marani without any problems, or Mr. Nyachae to travel to Laikipia without any problems. We would like to see people like Mr. Kibaki in Mandera, or Mrs. Ngilu in Trans Mara, "*kwa Baba Dennis*." We know that he can handle her well. We would like to see our leaders travel to all parts of the country.

Mr. Speaker, Sir, we must accord our President a very good farewell. He has been able to keep this country together for the last 25 years. As a matter of fact, I would like to encourage him to travel throughout the country to bid farewell to our people. That will show our recognition of his service. To recognize the service which you, Mr. Speaker, has rendered to this House, we should change the name of Continental House to "Ole Kaparo House"!

With those remarks, I beg to support.

**Mr. M.M. Galgalo:** Thank you very much, Mr. Speaker, Sir, for being very considerate, because you have recognized a Member of Parliament from Moyale District.

Mr. Speaker, Sir, I would like to talk about the state of the road between Isiolo and Moyale. For the last three weeks, transporters from Moyale, who traditionally use the Marsabit-Isiolo Road to travel to Nairobi have been travelling through Wajir-Garissa Road. The reason for that is because the Isiolo-Moyale-Marsabit Road is in a very bad state. Transporters have incurred a lot of costs because of repairs. They have, therefore, opted to cover an additional distance of over 100 kilometres because of that. I appeal to the Minister for Roads and Public Works to ensure that the road is graded properly, to enable our people to travel comfortably.

The other reason is that, there are numerous barriers between Moyale and Isiolo. After a meeting which was held between the PCs and leaders of Eastern and North Eastern Provinces at Modogashe, there are no barriers in the North Eastern Province. But between Isiolo and Moyale, there are numerous barriers. These barriers waste the time of travellers and transporters, while they do not perform the function for which they have been put there, which is security. Guns have been coming from our neighbouring countries into this country, yet the police have not captured them. This business of the police barricading roads should come to a stop, and this road should be free of barriers so that people can use it.

The succession debate is what is occupying the minds of many Kenyans today, including the forthcoming General Elections. I am just doubting whether there is a good explanation on how succession will take place in this country, according to our Constitution. Succession is explained in the Constitution with regard to incapacity to run the Presidential Office, and due to the demise of the President, health reasons or because for one reason or the other, the President cannot serve in that office, and also due to a petition in court. I am appealing to the Chairman of the Constitution of Kenya Review Commission (CKRC) to ensure that, that section is covered properly, so that we can have a provision for handing over from the incumbent President to the President-elect. Under the current Constitution, such provision has not been made. So, I appeal to the Chairman of the CKRC to ensure that we have some consideration of that aspect, even when the overhauling of the Constitution is not possible.

Mr. Speaker, Sir, with regard to the retirement of the President and the compensation which is supposed to be done, I think this is petty party politics. Moi will not be in office for ever; another President will take that office. Therefore, I do not see the reason why hon. Members are opposed to the issue of compensation. The President should not be partisan; he should be a rallying point for national unity.

Thank you, Mr. Speaker, Sir.

**Mr. M.A. Galgalo:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Motion.

Mr. Speaker, Sir, I have a problem with the Press because whenever hon. Mohammed Galgalo contributes, they think it is me. The other hon. Member is called Mohammed Maricha Galgalo, from Moyale, nominated by FORD(K). I am Mohammed Abdi Galgalo, elected from Bura Constituency! I think the Press should get that difference clear so that they do not mix up the names. I remember, one time, Mr. Mohammed Maricha Galgalo was told to withdraw from the Chamber because his cellphone rang, but the KTN coverage showed that it was me who was thrown out. Having said that, let me now contribute to the Motion.

Let me start with the Constitution. We want to have a Constitution that guarantees the rights of minority groups in this country; the rights of pastoralists and marginalised people. We want a Constitution that guarantees equal development projects throughout the country. I am saying this because, we, the pastoralist community, have lost almost everything in this country. We have lost the Kenya Meat Commission, the holding grounds and the entire livestock market. Therefore, I do not foresee a way of rehabilitating all these facilities because the infrastructure has been destroyed. That is why we want a Constitution that guarantees the rights of the pastoralists, minority groups and worshippers.

Secondly, I would like to raise a point with regard to agricultural production in this country. We have seen that our neighbour, South Africa, has not had good rains and, therefore, they have not produced maize. Now, we are being given yellow maize grown on Genetically Modified Organisms (GMO), and I do not understand how that four million tonnes of maize has been produced. It is impossible to produce maize through such method, because the Ministry of Agriculture and Rural Development is not doing much for this country and, therefore, there is a possibility that we may have a similar situation. So, I would like to urge the Ministry of Agriculture and Rural Development - although I am not seeing a representative of the of that Ministry here - to release money allocated for projects for food production in this country, like in Bura, Ahero and West Kano. Money should be released immediately so that people can produce food. We have had yellow maize for a very long time. In fact, there are certain regions in this country that are virtually living on relief supplies year in, year out, to the tune of Kshs60 million, Kshs100 million and Kshs200 million. Instead of turning that money to benefit people through minor irrigation schemes; to enable them produce their own food, they have continuously been denied the opportunity to use the water from those rivers.

Mr. Speaker, Sir, the third point that I want to talk about is security. Until and unless we improve security in our towns, national parks and rural areas, people will not have confidence to invest in this country. We have been told severally that "if you want us to invest in your country, please, improve your security." So, very few people will be willing to invest in this country, including the local people.

If you go around in the streets, at around 7.00 to 8.00 p.m.---

I beg to support.

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, I rise to support this Motion of Adjournment. I would like to say that, the stake in this country is the soul of this nation. This is because, in whichever way we would look at it, the major crisis in this country is on legitimacy and confidence in the Government. This is because, for the last 23 years, this Government has tried, almost on a daily basis, to generate confidence in itself without succeeding. Election after election, the Government has tried to be legitimate. I do not remember any election since 1983, which has produced a legitimate Government in this country. In 1988, we had a queuing system of election, which produced an extremely illegitimate Government. In 1992, we had a Government which was produced under a Constitution which was extremely contestable. Although we had the Inter-Parties Parliamentary Group (IPPG) agreement regarding elections in 1997, the elections were held without adhering to that agreement. We are looking forward to holding another general election. We have just passed a Bill which promises that a new Constitution will be in place before then, and at

which general election we expect to elect a legitimate Government; yet there are voices in the horizon threatening the holding of elections under a new Constitution. That is very dangerous.

Mr. Speaker, Sir, what is important to investors is not that an election is held and a majority Government formed, but rather that a Government in which the people have confidence is formed. In 1994, when South Africa held its independence general election, the African National Congress (ANC) won 67 per cent of the total vote cast, but former President Nelson Mandela, who was the leader of the ANC then, thought that legitimacy alone was not enough; he said that the people must have confidence in the Government. So, he went out of his way to include all other political parties in his Government in order to ensure that the Government had the confidence of all South Africans as well as that of the international community. It is, therefore, no wonder that today one of the countries that have attained the highest levels of economic growth on the continent is South Africa; it is a country which can control and bring leadership to this continent. President Thabo Mbeki is respected nationally and internationally, whereas Kenya, which has been independent for many years, is not even heard of in the NEPAD.

We must, therefore, question ourselves. Let us not agree to be led like sheep. We should stand and up, speak for ourselves and say what is good for us. I get completely frustrated when I look at the television everyday. I see men who are well-educated and brought up, speak as if they mean whatever they say. However, when I meet them later, they tell me that they only said whatever they said just for the sake of saying it. That is a high degree of hypocrisy and inadequacy. Let us mean what we say, and say what we mean. Let us not go alone saying things as if we are sheep in this nation. A very short while ago, I was speaking to one of Kenya's oldest nationalists, Mzee Oselu Nyalik from Kisumu. He was at one time the chairman of a Kisumu Commission. He told me that if the whiteman were to come back and rule us again, we would never become independent because Kenyans of today love money, and the whiteman has a lot of money.

It is because nationalists like Mzee Nyalik did not love money that we got our Independence. We now have a nation which believes in monarchy rather than in democracy. It is a nation which is being ruled by money rather than by people. Mzee Nyalik told me that if today the whiteman were to come and rule us, we would never get Independence. We are now fighting for a new Constitution, but all that I see happening everyday is people chasing money all over the Republic. When you listen to the debate in KANU as to who is going to succeed who, you hear people asking who has the most money to finance the elections, and not who has the confidence of the people and the integrity to lead this nation out of its current state of under-development to development.

Mr. Speaker, Sir, this Government stands condemned by the youngest and oldest persons of this country for not giving this nation proper value. This nation has been perverted by values of worshipping money and naked power, and not principles. Therefore, as we proceed to recess, let this Government be on notice that the people of Kenya are fed up with the worship of money and lack of principles, and that they would like this Government out and into a hole.

Thank you, Mr. Speaker, Sir.

**The Assistant Minister for Roads and Public Works (Mr. Mokku):** Bw. Spika, nimeshukuru kwa kunipa nafasi hii ili nichangie Hoja hii. Kwenda likizoni ni bora kwetu kwa sababu tutajumuika na jamii zetu na kuweza kujua mahitaji ya wakazi katika sehemu zetu za uwakilishi Bungeni. Tutakaporejea Bungeni, tutaweza kueleza mambo mbali mbali yanayohusu watu wetu.

Ningependa Mawaziri wa Serikali watumie likizo hii kutembelea sehemu tofauti nchini ili wajifahimisha jinsi miradi ya Serikali inavyotekelezwa wilayani. Mara nyingi, Bunge linapoendelea, Mawaziri hawapati nafasi ya kutembelea miradi ya Wizara zao wilayani.

Ningependa kuchukua nafasi hii kujiunga na wenzangu waliosema kwamba nchi hii ni yetu sote. Mwenyezi Mungu ameipa kila sehemu ya nchi raslimali fulani. Wakazi wa sehemu fulani nchini hukuza kahawa na chai, hali wakazi wa sehemu nyingine huweka mifugo. Ningependa bidhaa za mifugo zitafutiwe soko. Wafugaji ng'ombe na ngamia wana shida ya mahali pa kuuza mifugo wao. Hiyo ndio sababu umaskini ni mwingi sana katika sehemu za wafugaji. Kama kungekuweco na soko la mifugo wao, kiwango cha umaskini hakingekuwa juu. Kwa hivyo, ni ombi langu Serikali iwe na mwongozo utakaowezesha kuweco kwa soko la bidhaa za mifugo sawa na hali ilivyo sasa katika sekta za kahawa na chai.

Bw. Spika, mimi ni mkazi wa Mkoa wa Mashariki, ambao umeanzia Mtito Andei hadi Moyale, ukiwa na jumla ya wilaya 13. Wilaya za Moyale, Isiolo na Marsabit ziko katika mkoa huu. Ninasikikita kuona kwamba kipande cha keki ambacho Serikali huupa Mkoa wa Mashariki huishia katika sehemu ya kusini mwa mkoa huu. Kunapokuwa na mabaki ya keki hiyo, mabaki hayo huishia katika sehemu ya Mlima Kenya; sehemu za Isiolo na Moyale kamwe hazihisi hata harufu ya keki hiyo. Kwa hivyo, ni ombi langu kwamba, katika mpango mpya wa kikatiba tunaotarajia, inafaa Wilaya za Isiolo, Moyale na Marsabit ziunganishwe na Wilaya ya Samburu na zifanywe mkoa mpya ili tuwe kama ndugu zetu wa Mkoa wa Kaskazini Mashariki, ambao ulikuwa na wilaya tatu, na ambazo ziliongezeka na kuwa nne kufuatia kubuniwa kwa Wilaya ya Ijara. Wakazi wa Wilaya za Moyale, Isiolo, Marsabit na Samburu ni wafugaji, hali wenzetu katika sehemu za Mlima Kenya na kusini mwa mkoa ni wakulima. Kwa sababu ya idadi yetu ndogo, sisi

wakazi wa kaskazini mwa Mkoa wa Mashariki hatufikiwi na kipande cha keki kinachopewa mkoa huu.

Ningependa kuiomba Serikali ihakikishe kwamba mifugo, na hasa mbuzi na ng'ombe, wamepata matibabu. Kwa sasa, kuna maradhi kutoka nchi jirani ambayo yanaikumba mifugo hawa. Ng'ombe walioambukizwa maradhi huingia nchini kutoka Ethiopia na Somalia, na hivyo kuambukiza mifugo katika nchi hii. Kwa hivyo, ningependa madaktari wa mifugo katika wilaya zinazopakana na nchi jirani wazuie mifugo kutoka nje kuingia nchini.

Bw. Spika, tunaelekea likizoni, na huu ukiwa wakati wa kampeni, kuna uwezekano wa kuweko kwa ghasia. Kwa hivyo, ningependa kuwaomba Wabunge wenzangu na viongozi wengine nchini kuhakikisha kwamba tumedumisha amani kote nchini, ili wakati wa uchaguzi ukifika, tuiendeshe shughuli hiyo katika hali ya usalama.

Kwa hayo machache, naiunga mkono Hoja hii.

### QUORUM

**Mr. Mwenje:** On a point of order, Mr. Speaker, Sir. Although we are about to make a very important decision, we do not have a quorum in the House.

**Mr. Speaker:** Mr. Mwenje is right. We do not have a quorum. So, could the Division Bell be rung?

*(Mr. Mwenje withdrew from the Chamber)*

*(The Division Bell was rung)*

**Mr. Speaker:** Order, hon. Members! We are unable to raise a quorum to proceed with the business of the House. I would just like to observe the following. I am very sad that an hon. Member comes from outside, raises an issue of no quorum and goes out. That is not in the interest of the House. It is a deliberate attempt by such an hon. Member to prevent the business of the House from being transacted.

I think there should be a rule that for an hon. Member to raise the issue of no quorum, he must have been sitting in the House for a considerable time, and that after raising the issue of quorum, he will not walk out. He should remain in the House until a quorum is raised; otherwise, if we continue like this, we will be abusing the rules of **[Mr. Speaker]**

this House. I hope what has happened will not happen again. We must have the honour not to sabotage our own House. What has happened actually amounts to sabotage of the House. We are unable to raise a quorum and yet we have one hour left to complete debate on this Motion.

**Prof. Anyang-Nyong'o:** We now have a quorum!

**Mr. Speaker:** Time was up. I announced that we did not have a quorum after the lapse of the time allowed for raising a quorum and that was the end of the matter.

We have discussed this Motion for two hours and we have one hour to go before we complete this debate. The debate will continue next Tuesday, for one hour only. You can imagine how much it will cost the nation for us to go upcountry, return to debate this Motion for one hour and then go away. I think hon. Members must think about that.

### ADJOURNMENT

**Mr. Speaker:** Hon. Members, there being no quorum, the House is now adjourned until next Tuesday, 13th August, 2002, at 2.30 p.m.

The House rose at 8.10 p.m.